

2023 SENATE INDUSTRY AND BUSINESS

SB 2365

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2365
1/31/2023

A bill to provide for a legislative management study regarding township participation in the national flood insurance program.

9:00 AM Senator D. Larsen opened the meeting on SB 2365. Members present Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- Policyholders
- Existing agreements
- Federal law
- Ineligible NFIP coverage

9:00 AM Chairman D. Larsen called the meeting to order.

9:01 AM Senator Klein introduced SB 2365 and testified in favor. (verbal)

9:03 AM Aaron Carranza, Regulatory Division Director, North Dakota Department of Water Resources, testified in favor of SB 2365. #17978

9:09 AM Johannes (Johnny) Palsgraaf, General Council, North Dakota Insurance Department, testified in favor of SB 2365. #17984

9:24 AM Greg Larson, National Association of Realtors, testified in favor. (verbal)

9:29 AM Larry Syversen, ND Townships Officers Association, testified in favor. (verbal)

9:30 AM Chairman D. Larsen closed the hearing.

9:31 AM Senator Klein moved to DO PASS SB 2365.

9:31 AM Senator Boehm seconded the motion to DO PASS SB 2365.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0 Motion for a DO PASS. Senator Boehm will carry the bill.

9:31 Chairman D. Larsen closed the hearing on SB 2365

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2365: Industry and Business Committee (Sen. Larsen, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2365 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE POLITICAL SUBDIVISIONS

SB 2365

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2365
3/2/2023

A BILL for an Act to provide for a legislative management study regarding township participation in the national flood insurance program.

11:00 AM Chairman Longmuir opened the hearing. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager. Absent: Rep. Ostlie

Discussion Topics:

- FEMA information.
- Participating counties and townships.
- Organized and unorganized township information.
- Counties not listed on study.

Senator Klein: Introduced the bill (no written testimony).

Santana Edison, Staff attorney, ND Insurance Department: Testimony #21698

Aaron Carranza, Regulator Division Director, Department of Water Resources: Testimony #21645

Larry Syverson, Executive Director, ND Township Officers Association: Testimony #21692

The hearing closed at 11:29 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

SB 2365
3/2/2023

A BILL for an Act to provide for a legislative management study regarding township participation in the national flood insurance program.

1:07 PM Chairman Longmuir opened the meeting. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager. Absent: Rep. Ostlie

Discussion Topics:

- Committee action.
- Concern on flood insurance qualifications.

Rep. Klemin moved a Do Pass;
Seconded by Rep. Jonas

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	A
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Roll call vote: 13 Yes 0 No 1 Absent; Motion carried.
Carrier: Rep. Hatlestad

Meeting closed at 1:14 PM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2365: Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2365 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2365

Testimony
Senate Bill 2365 – Department of Water Resources
Senate Industry and Business Committee
Senator Doug Larsen, Chairman
January 31, 2023

Chairman Larsen, and members of the Senate Industry and Business Committee – I am Aaron Carranza, Regulatory Division Director of the Department of Water Resources (Department). I am here today to provide general support for Senate Bill 2365, which proposes a legislative study regarding North Dakota township participation in FEMA's National Flood Insurance Program (NFIP).

The NFIP operates on a quid pro quo standard (i.e., something for something). In exchange for a community with land use zoning authority voluntarily agreeing to adopt and manage federal and state minimum floodplain development standards, the community's constituents gain access to federally subsidized flood insurance, supported by the full faith and trust of the U.S. government.

Constituents that live within communities that choose not to participate in the NFIP do not have access to this same federal flood insurance and therefore, if the constituents chose to buy flood insurance, it must be through a private insurance provider. Compared to the NFIP, private flood insurance can be more expensive and there is a risk of having the policy dropped due to risk exposure.

During the summer of 2022, there was an issue where some North Dakota flood insurance policyholders were found to have been issued their policies in error as their community, the land use zoning authority where their property was located, did not participate in the NFIP. The main reason for this error was due to no formal process to determine which land use zoning authority has jurisdiction at a North Dakota parcel level.

The NFIP generally portrays jurisdictional limits on flood risk mapping products at the county and municipality level. The State of North Dakota's nationally-unique local-first zoning authority designation, where organized townships have land use

zoning authority, isn't accounted for in the current national flood risk mapping protocol. With the national mapping protocol focused on county and municipality areas of jurisdictions, there is an information gap that this study could fill.

Additionally, the Department is aware of townships that have entered into agreements to yield township land use authority to a municipality or county jurisdiction. It is the Department's understanding that there is no current policy or protocol to track such agreements. As a result, FEMA is currently studying which organized townships have an existing agreement, or the potential for an agreement, within all ND counties to transfer land use zoning authorities. This is a one-time effort to create a snapshot of what exists today.

The proposed study provides an opportunity for North Dakota to transparently articulate and disclose known jurisdictional boundaries statewide. This will benefit not only those looking to purchase or issue NFIP flood insurance policies, but will also enable a more comprehensive understanding of what jurisdictional authorities exist to foster enhanced collaboration.

Thank you for the opportunity to comment and I would be happy to answer any questions you might have.

TESTIMONY SB 2365

Presented by: Johannes (Johnny) Palsgraaf
General Counsel
North Dakota Insurance Department

Before: Senate Industry and Business Committee and Senator Doug Larsen, Chairman

Date: January 31, 2023

Good morning, Chairman Larsen and members of the committee, my name is Johannes (“Johnny”) Palsgraaf, and I am general counsel for the North Dakota Insurance Department. I am here today testifying in support of senate bill 2365.

In December of 2022, a North Dakota insurance agent contacted our office to report a concern related to the National Flood Insurance Program (“NFIP”). This agent had two clients that had made claims on their NFIP policies, but their policies were cancelled. It turned out the policies of these two insureds were cancelled because their properties were situated in North Dakota townships that did not have participation agreements allowing the townships eligibility for NFIP coverage, which the Federal Emergency Management Agency (“FEMA”) administers.

After working with North Dakota’s Department of Water Resources and researching the issue we learned that the NFIP interpreted federal law to exclude coverage for organized townships that did not have participation agreements with the NFIP or did not have participation agreements with the county in which the organized township resides.

After further investigation we learned that North Dakota insurance agents do not have access to accurate township participation information that would permit them to correctly identify properties eligible for NFIP coverage. FEMA does have a website that lists participating communities, but the information on the website is not accurate or incomplete. See <https://www.fema.gov/cis/ND.pdf>

At this time, we have learned that approximately 90 to 100 NFIP flood policies sold in North Dakota may not be eligible for NFIP coverage due to lack of a township participation agreement. It our understanding that FEMA is currently conducting a study to identify which North Dakota townships have participation agreements. North Dakota will need to undertake this study in SB 2365 to make use of information provided by FEMA and to maintain accurate information following the FEMA study.

I urge the committee to give SB 2365 a do pass recommendation, and I will stand for any questions from the committee.

Testimony
Senate Bill 2365 – Department of Water Resources
House Political Subdivisions Committee
Representative Donald Longmuir, Chairman
March 2, 2023

Chairman Longmuir, and members of the House Political Subdivisions Committee – I am Aaron Carranza, Regulatory Division Director of the Department of Water Resources (Department). I am here today to provide general support for Senate Bill 2365, which proposes a legislative study regarding North Dakota township participation in FEMA’s National Flood Insurance Program (NFIP).

The NFIP operates on a quid pro quo standard (i.e., something for something). In exchange for a community with land use zoning authority voluntarily agreeing to adopt and manage federal and state minimum floodplain development standards, the community’s constituents gain access to federally subsidized flood insurance, supported by the full faith and trust of the U.S. government.

Constituents that live within communities that choose not to participate in the NFIP do not have access to this same federal flood insurance and therefore, if the constituents chose to buy flood insurance, it must be through a private insurance provider. Compared to the NFIP, private flood insurance can be more expensive and there is a risk of having the policy dropped due to risk exposure.

During the summer of 2022, there was an issue where some North Dakota flood insurance policyholders were found to have been issued their policies in error as their community, the land use zoning authority where their property was located, did not participate in the NFIP. The main reason for this error was due to no formal process to determine which land use zoning authority has jurisdiction at a North Dakota parcel level.

The NFIP generally portrays jurisdictional limits on flood risk mapping products at the county and municipality level. The State of North Dakota’s nationally-unique

local-first zoning authority designation, where organized townships have land use zoning authority, isn't accounted for in the current national flood risk mapping protocol. With the national mapping protocol focused on county and municipality areas of jurisdictions, there is an information gap that this study could fill.

Additionally, the Department is aware of townships that have entered into agreements to yield township land use authority to a municipality or county jurisdiction. It is the Department's understanding that there is no current policy or protocol to track such agreements. As a result, FEMA is currently studying which organized townships have an existing agreement, or the potential for an agreement, within all ND counties to transfer land use zoning authorities. This is a one-time effort to create a snapshot of what exists today.

The proposed study provides an opportunity for North Dakota to transparently articulate and disclose known jurisdictional boundaries statewide. This will benefit not only those looking to purchase or issue NFIP flood insurance policies, but will also enable a more comprehensive understanding of what jurisdictional authorities exist to foster enhanced collaboration.

Thank you for the opportunity to comment and I would be happy to answer any questions you might have.

Support SB 2365

House Political Subdivisions Committee

March 2, 2023

Good morning, Chairman Longmuir and Committee members.

I am Larry Syverson from Mayville, I am the Chairman of the Board of Supervisors for Roseville Township in Traill County, and I am also the Executive Secretary of the North Dakota Township Officers Association. NDTOA represents nearly 6,000 Township Officers that serve in more than 1,100 dues paying member townships.

When SB 2365 had its hearing in Senate Industry and Business Committee I attended to find out what it was about. When I heard the situation described I was dismayed that flood victims were denied coverage because of a federal requirement that nobody at this end knew existed and was not being met.

Clearly this is a situation that needs to be sorted out, please support this study.

Chairman Longmuir and Committee Members, that concludes my prepared testimony. On behalf of the membership of NDTOA, I ask that you give SB 2365 your favorable recommendation and I will try to answer any questions.

TESTIMONY SB 2365

Presented by: **Santana Edison**
 Staff Attorney
 North Dakota Insurance Department

Before: **House Political Subdivisions Committee, Representative Longmuir,**
 Chairman

Date: **March 2, 2023**

Good morning, Chairman Longmuir, and members of the committee. My name is Santana Edison, and I am a staff attorney for the North Dakota Insurance Department. I am here today testifying in support of Senate Bill 2365.

In December of 2022, a North Dakota Insurance Agent contacted our office to report a concern related to the National Flood Insurance Program (“NFIP”). This agent had two clients that had made claims on their NFIP policies, but their policies were cancelled. It turned out the policies of these two insureds were cancelled because their properties were situated in North Dakota townships that did not have participation agreements allowing for the townships’ eligibility for NFIP coverage, which the Federal Emergency Management Agency (“FEMA”) administers.

After working with North Dakota’s Department of Water Resources and researching the issue, we learned that the NFIP interpreted federal law to exclude coverage for organized townships that did not have participation agreements with the NFIP or did not have participation agreements with the municipality or county in which the organized township resides.

After further investigation, we learned that North Dakota insurance agents do not have access to accurate township participation information that would permit them to correctly identify properties eligible for NFIP coverage. FEMA does have a website that lists participating communities, but the information currently on the website is not accurate or incomplete. See <https://www.fema.gov/cis/ND.pdf>

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I urge the committee to give SB 2365 a do pass recommendation, and I will stand for any questions from the committee.