

CLERK: Madam President, Senator Wesely would move to amend the bill. Senator, I have your AM2065 in front of me. (See page 2479 of the Legislative Journal.)

PRESIDENT MOUL: Senator Wesely.

SENATOR WESELY: Did I put that one in the Journal? Is that the "and/or"?

CLERK: It's "and/or", yes, sir.

SENATOR WESELY: Yes, okay. Ladies and gentlemen, this amendment deals with the question of the guaranty fund. I've raised, on the first issue, the desire to have the Department of Insurance oversee this area of self-funding, but, due to concerns by the department about getting involved in this area and the desire to give greater clarity to that function than we had in that amendment, I withdrew that amendment. But, nevertheless, the issue remains of the role of the Insurance Department is nonexistent for the most part in self-funded plans, the exception being the NACO plan that they set up of a pool several years ago that provides property casualty coverage for counties and in that role the Department of Insurance has played an important function in overseeing it, one that they're not used to but one which they've carried out. But you take away that exception, I don't think they get involved in self-funded plans at all and that's a failing of those plans. You don't have that oversight. Now, in this proposal, the second issue I raised is the guaranty fund issue. When you self-fund, you remove yourself from the guaranty associations. Guaranty associations, as you are aware of, exist for property and casualty insurance in one area, life and health in the other. When you have...when you're a member of a guaranty association, which commercial insurance carriers are a part of, you have the liability of paying for failures that exist in property casualty or life and health. If another company in your field goes under, have beneficiaries in your state, your industry in the state needs to pool together and cover those costs which are then offset against the premium tax so the taxpayers ultimately provide the coverage. And, likewise, if your company is under a guaranty association and fails, your policyholders are covered under that guarantee. So there is the liability of covering other failures, but also the fact that your own potential failure is covered if that should occur. So