MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1308

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1308

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1795

Committee Clerk Signature	Stephanie N Thomas

Minutes:

Vice Chair Johnson opened the hearing on HB 1308.

Rep. George Keiser, District 47: This bill is a bill relating to fire property and casualty insurance rates, and rate filing. It is the Encoil model that we've developed through the Encoil organization, and is considered to be the Insurance Modernization Act. From my perspective as a policy maker, we have historically at the state level had control of setting the policy for insurance regulation. I told you two years ago, if we fail to modernize our insurance process at the state level, we will have federal action taken. I come back to you two years later, and I will tell you we have had federal action. The feds have, and they are going to continue to move until states come to the recognition that they have a responsibility to create modernization in this industry, much as we've done in the financial arena and in other regions. There is still in Congress a very strong movement for an optional federal charter. Once the optional federal charger is passed, insurance companies will go to the feds, they will be chartered, and the states will lose control. There is the smart act that's no longer alive in Congress, but in the present session of Congress, there are several people who are introducing legislation similar to the smart act. The compact has already been enacted. It was an attempt by the states and the NAIC and Encoil. It was an attempt to circumvent or prevent federal intervention into the insurance industry, and it required 26 states to agree to join the compact. There are now 26 states in the compact. The compact has been formed, and is operating exactly as the tax compact. You saw the tax compact in operation in the bill on our floor the other day. ND had a perfect law. We have a federal compact, so now I have to charge my customer all the tax on the entire bill, and then that customer has to file a form with the tax department to get their money back. I believe the state of ND is improperly taking people's money. If you're on the compact and it's comprised of a few members of the NAIC, and very few legislators, you have to sign an agreement that says if the compact reaches a decision that is a policy decision, if you are a member state, you must except that decision. You can opt out at your next legislative session of that provision, agreed to by the compact. It's an attempt to compromise, and it's one that I don't feel comfortable with, that we would have regulations opposed in ND. Another example of how the feds are starting to erode the rights of states, ND passed what I believe to be some of the best legislation relative to the partnership program. We passed it, had it in place, we kept asking for waivers from the federal Department of Human Services, and we couldn't get one. They kept saying Congress is going to act, and they never did. What we have now is portability, and I thought we had it really before. What we now have is a dollar for dollar policy rather than the wonderful attractive policy we had for the citizens in ND, and I will tell you that we'll be less successful selling long term care insurance under the current Federal Policy Partnership Program, then we would have been under the state policy. The insurance companies have two very large areas of frustration. One is in rate modernization. You have heard that we have to have prior approval here. It's not a bad process, but the bottom line is you have to have prior approval. It does create a lot of work for the insurance companies to come in and present their case and document it, but its good protection for the consumer. Where it sometimes breaks down is in the case like the hailstorm in Bismarck. It took a long time for them to go through the process to get the approval, and as a result when the rates went into affect, they may have been larger than they needed to be, in they could have responded more quickly. The other thing is market conduct. We don't have a bill in this session, but if you want to see insurance companies go ballistic, get into the market conduct arena. We had testimony in an Encoil meeting; one insurance company had five states in doing market conduct exams on the same insurance company at the same time, and guess that pays for that, the insurance companies. Their point was why five? Why can't we have one representing your group, and defer them. Make some rules at the NAIC. Make rules on what's expectable in terms of a market conduct exam, and if you've got the rules, and state A does it, why can't state B, C, D, and E except those. The states can't get together and agree that when we do a market conduct exam, we should come up with standards and use them, and when it comes to rate modernization, we have to go to all 50 states and go through the process of getting the rate adjustment. Currently, we have a prior approval process. It requires 60 day filing period for rate consideration. Not unreasonable, and I think our insurance department does it much faster then that, but it's still the process that must be followed. In this bill we have a file in use for insurance companies approved to do business in ND, and no company is doing business in ND unless it has been demonstrated to the Commissioner and the Insurance Department that they are fiscally tact and that they are a good company. This bill allows them to file a rate increase to use it, and then requires the Commissioner to review it, and if the Commissioner believes that it's inappropriate, you then challenge it. Whoever deems it to be noncompetitive, gets to pay the bill. So, what we are concerned with is trying to create a more hospitable market, we want more competition in the state. I believe that a file and use approach, that would transition into a use and file system after two years is an appropriate strategy for ND. In both cases when they went to what is purposed in HB 1308, the number of companies who invest in their state increase dramatically. If we want more competition, this very well maybe one of the tools that we need to consider. The Commissioner still maintains regulatory control over every rate. The Commissioner can still disapprove rates, the Commissioner determines what is competitive, versus noncompetitive in this bill however, the burden of proof lies on the party advocating the position that competition does not exist in a particular market. The Commissioner has proposed in a Senate bill an approach to this very same issue. In that approach the average premium rate cannot increase more than 5%. Also, in his bill he has a different way of defining competitive market, but it's really not that different than in this bill. In the Senate bill it's a use and file, and it's where HB 1308 would be in the second phase. I do see some pitfalls, and one is when you tell people without any hassle they can go up a fixed percent, there is a tendency to go there potentially, now that may not be true, because it is a competitive market. This is a very important policy question for the state.

Rep. Kasper: On page 8 when we talk about the competitive market, if I understand this correctly, a competitive market is presumed to exist unless the Commissioner decides it doesn't exist for whatever reason. Then the Commissioner says there's no competitive market, the Commissioner's got to hold a hearing and prove that there was no competitive market based upon the standards in the bill on page 9. Who determines whether or not he proves his case that there is a noncompetitive market?

Rep. Keiser: I think the same guidelines for proving whether a competitive market exists or doesn't exist today applies to this section of the bill.

Rep. Kasper: I would think right now in ND we have a noncompetitive market in helath insurance based upon this criteria. So, if he says there is a noncompetitive market, and he proves his case, then what does he do?

Rep. Keiser: That's a decision the Commissioner has to make in the health insurance industry. This bill does not apply to health insurance. This bill applies to fire, property, casualty insurance rates, and rate filings, and it applies only to these.

Rep. Kasper: The bill states that the rule expires one year after issuance, unless it's rescinded earlier. So, therefore couldn't we face the possibility that the Insurance Commission would be in hearings all the time trying to prove that we have a competitive or a noncompetitive market?

Rep. Keiser: It could be. These things are not taken lightly. They're expensive for the parties involved, and they're going to make their ruling. I believe the Commissioner's bill on this area changes this section to a two year period, verses a one year period.

Rep. Kasper: When we looked at the noncompetitive marketplace, the Commissioner determines that we don't have a competitive marketplace, that's his call. What does he do then?

Rep. Keiser: As it reads, the Commissioner determines the competition does not exist, then the rates applicable to insurance sold in that market must be regulated in accordance with the provision, and there are provisions in the bill where rates are associated with a noncompetitive market.

Rep. Kasper: Would this then bind the Commissioner's hands on what he can and can't do with his ruling or would he make decisions on what he thinks is best for the market?

Rep. Keiser: I'm not sure how the Commissioner operates in the noncompetitive market in terms of his rulings.

Pat Ward, PCI & the Association of ND Insurers: See written testimony #1.

Joe Thesing, National Association of Mutual Insurance Companies: See written testimony #2.

Rep. Thorpe: I'm listening to all of your comparisons with the states losses, however, I think ND on these coverage's that you're talking about has been considerably low on the payment rates, but then you are comparing NY, and California, the large urban centers that are a lot higher rates. I'm having trouble comparing on basis with basis.

Pat: I agree that it's very difficult. ND's always had traditionally low insurance premiums. This bill also applies to homeowners, but the reason the rates are what they are in the various parts of the country has a lot to do with the amount of claims made.

Rep. Amerman: In SB 2296 where it says I suggest removal of farm policy from the noncompetitive market, would you enlighten me on exactly what farm policies they're referring to, and what this would do if they're removed from the noncompetitive market?

Pat: In SB 2296, the Commissioner has determined in that bill that certain markets are considered competitive markets, and certain markets are considered noncompetitive markets, but he has by definition included farm owners as a noncompetitive market. The farm owner's policies are a little bit different than homeowner's policies, because they include some additional risk for farm owners that the average homeowners probably don't.

Rep. Kasper: Earlier on in your testimony you cited some statistics on a state that has gone to make the changes, but I didn't catch whether or not they made a change in commercial, or personal lines, or both?

Pat: They all have done different things.

Rep. Johnson: What is the difference in the contentious points between these two bills?

Pat: I think that one of the biggest differences is shifting the burden of proof, as to whether a market is competitive or not. I think that if the Commissioner has a real problem with being forced to go to a hearing and prove that a market is not competitive, the flex rating bill allows him to determine whether or not a market is competitive. There's still procedures that he's got to go through in that process, but the burden is on the person contesting it, not on the Commissioner.

Dennis Prindaville, Dakota Fire Insurance Company in Bismarck: Support HB 1308.

Jim Poolman, Insurance Commissioner: The chairman is absolutely right in the fact that there is a federal threat of intervention in the regulation of insurance. I do disagree in some areas in the fact that much of the threat comes in the area of my concerns with the American Council of Life Insurers and some of the major large life insurance companies that are really pushing for an optional federal charter, specifically in the area of federal intervention insurance. That is because of the speed to market issue. When I started in the department on the life and health side, specifically in the life side, we had filings in our office that were over one year old. In my opinion, that does nobody any good. Currently, we have no filings in the life area that are over 60 days old, and the average turnaround time in making a rate filing specifically for an insurance company in the property casualty area is 17 days. That is down considerably from the era before I took over in 2001. We utilize the Serf system, which is the system for electronic rate and form filing, which allows companies to file their products electronically which allows us to turn around those products much faster. In the approach we have taken in the Senate side in a compromised bill that we've put forward with the industry is far more modern, and cautious in the approach that it takes. What many of the industry folks have said is that the ND Insurance Department is doing their job to move rates and policies to market quickly, and the fear is what happens if the current regime changes in the ND Insurance Department? This department cannot abuse its regulatory authority, and that's why we've put together a compromise effort to try and move us in the right direction, but if the next Commissioner of Insurance abuses that regulatory authority, you'll probably be visiting this again.

Rep. Ruby: Did you indicate that currently we're running under a flex rating, or is that in the other bill?

Jim: This particular bill that you have in front of you is not a flex rating system, it is an open rating system without any sort of prior approval.

Rep. Ruby: Currently, is the state under just regulated or are we under flex?

Jim: Our current system of regulating both commercial lines and personal lines of insurance is a prior approval system, so we are not at a flex rating system.

Rep. Kasper: Could you tell us the two or three major differences with your bill over in the Senate, and HB 1308.

Jim: I think the chunk and the major differences in our bill come on the personal line side. The chairman's bill moves towards a stepped approach, in the fact that I think that its 2011, and under this particular bill it's a true open rating system where a rate will go into the marketplace for your homeowners insurance, your auto insurance, and any other personal line without any review by the Insurance Department, and it will go into the use and file system. That rate will be in the market without any action. If I determine there is a noncompetitive market, the industry will have the right to appeal, and do whatever they need to do to make sure.

Rep. Kasper: On the noncompetitive situation in your bill, did you say the market is noncompetitive, and that ruling stands. In the current bill, you say if a market is noncompetitive, you got the whole hearings, they make their case, and then they make a decision on their own on what the hearings like?

Jim: Really, I still hold a hearing under our bill. We would do that anyway. If we're to determine it's a noncompetitive market we'd certainly take input from the industry , the consumers, and all interested parties, before I would go out and make a decision that a market is competitive.

Rep. Keiser: I thought you said that although commercial is currently regulated in theory, that functionally isn't as regulated, because they find a way to work around it currently.

Jim: You're absolutely right. What I said was that with the number of components that companies can use in rewarding consumers with different types of credits and those types of things, they're not necessarily having to follow the rate that are prescribed within the marketplace.

Rep. Keiser: Although it is currently quote regulated, it technically is?

Jim: It is regulated.

Rep. Keiser: In the hailstorm in Bismarck, there were $500 million in damages; did we have insurance companies pull out of the state at that time? Do you think that their ability to come back to the marketplace really was a factor in their pulling out?

Jim: That hailstorm was the largest insurance disaster in ND history. It was $250 million in payouts. The average homeowner's loss ratio in our state was 297%, so for every dollar a company took in premium; they paid out $2.97 in plans on homeowners insurance. The auto insurance loss ratio was less, but for the number of claims that were paid out, it was enormous. In some companies, they had almost a 400% loss ratio in payouts in 2001. Some of the smaller companies pulled up stakes and left. We lost about 14 companies, none of them were huge players, because they just couldn't afford the losses, and take the risk of having business in ND if they weren't going to have a large market share.

Rep. Keiser: It would have given them the opportunity to come back quickly to respond to that, and looking at their book of business, I think some of them may have said it's just not worth the hassle.

Jim: I think the larger reason for them leaving is that they didn't have a spread of risk in ND, and so if they were to be hit by another hailstorm, they may have had 1, 2, or 3 agents appointed in certain areas that wrote businesses in certain areas, so they were banking on Bismarck not being hit by another hailstorm. When you cannot adequately spread risk around the state that is a much larger factor in causing the ability to write business in ND.

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 30, 2007

Recorder Job Number: 2239

Committee Clerk Signature	Stephanie L Thomas

Minutes:

Chair Keiser opened the hearing on HB 1308. This bill simply says that insurance companies can file with the commissioner their proposed rate increase, and then begin to use it. The commissioner has a period of 60 days in which the commissioner can review the rate increase, and say no I don't think its right, and can challenge it, but the only way he can really challenge it is to say that it's in a noncompetitive market. If it's in a competitive market, the marketplace will take care of the rate increase. If you increase your rate by 10% and everybody else is not increasing their rate, the theory is the markets will manage that. So, this allows the insurance company to file their rate increase, begin to use it, and then the commissioner comes in and says I disagree with that rate, you're increasing it to much, because it's a noncompetitive market, then it's up to the person claiming it's a noncompetitive market to demonstrate that it is competitive. 26 states are currently practicing a competitive market approach similar to this. It's either file and use, or use and file. There are 20 states that have prior approval, and that's where ND is found.

Rep. Ruby: Under the use and file, if it's determined that it's noncompetitive and a company challenges, and loses, do they then reimburse the people?

Rep. Keiser: Yes, then the company pays.

Rep. Kasper: I think the contentious part of the commissioner was on page 8, line 23, where he said in order for there to be a competitive or noncompetitive market, the burden of proof is on the Insurance Commissioner. That's the part he doesn't like, where he has to prove there was a noncompetitive market, other than that the companion bill 2296 and this one might be quite similar.

Rep. Ruby: Who else would determine?

Rep. Keiser: Currently, the commissioner should just say it's not competitive, and you may disagree with me, but if you do you have to challenge me, and you have to pay for it. The companies nationally have said I win, you lose. It's frustrating if you declare it's not competitive, we prove it is, we still have to pay for it, and that's why companies don't like our regulations. They just want to be in a situation where they can't lose, but also can't win.

Rep. Ruby: I move a do pass.

Rep. Clark: Second.

Rep. Kasper: What happens is if there's a rate increase that is noncompetitive, people will start shopping.

Rep. Zaiser: The flipside is where people that are uninformed, or are not able to figure out some of these things are less apt to go shopping. I think I will support this, but I think it's important to note for people not informed, or have to make a change solidifies that it's too much of a bother for them to go through the hassle of canceling an insurance policy, and shopping for another one.

Rep. Thorpe: From everything I've heard, I think I'll oppose this bill, and hope the Senate bill comes over. The concept in the Senate bill is much better.

Rep. Boe: I'm going to oppose this to. The competition in the marketplace is a great theory, but if everybody was that savvy, credit card companies in ND should have collected absolutely no levies. Why would you leave your credit card balance and pay 18% when you can go to your bank, finance it, and pay it off in full.

Rep. Kasper: Rep. Boe's argument assumes that the bank will lend you the money, which most of them won't. They'll lend it to you when you don't need it, but when you need it then you don't get the money. In regard to Rep. Zaiser, I'm in the group market, and I'm the broker for my clients. So, on an annual basis when the group insurance companies send us the renewal rate if there is a rate increase, the first call is to the client. Then you decide if you should shop, or stay where you're at and I'm going to say based on our overall rate increase and what's going on in the market, maybe this is not the year to shop. If you get a much higher rate increase my call is different. We need to shop, gather your data here's what you need, we're going to shop. In this marker, that's what happens with the property and casualty agents that are the good agents who are taking care of their clients. There will always be some out there who may not operate that way, but might be a captive agent. The question is then where does the clients responsibility get to the point where I say I don't like my renewal rate, I better look in the yellow pages and see who else offers this insurance, so the competition takes care of itself. Each one of us must have some responsibility to be involved in our own welfare when purchasing stuff like insurance.

Rep. Zaiser: I totally agree. I'm just referring to maybe some people that have a captive agent for basically advice.

Rep. Keiser: In those states where you have an open market, there are significantly larger numbers of insurance companies selling their product. That is going to breed competition. When you close the market, you'll get companies that come in, but you won't have as many opportunities to purchase. I can argue both sides of this issue. I can tell you what the other bill does provide is an opportunity for me to go up to that non sophisticated client, divvy up

4.9% every year, and that client will renew. In three years they're paying 15% more, they had no idea why, everybody approved it, and it's a go, even when in the competitive market they may have been paying 3% or 4% more, because the insurance companies collectively had a good history for those 3 or 4 years. If the insurance companies really have a bad history, they're going to get their rates anyway; they'll go up 10%. It's just whether you believe in competition, and whether it works or not is really what it boils down to.

Roll call vote was taken. 8 Yeas, 4 Nays, 2 Absent, Carrier: Rep. Ruby

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2404

Committee Clerk Signature	Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on HB 1308. It is estimated that the reduced filings will affect the work of ¼ FTE in the property casualty division. The bill requires that the Insurance Commissioner monitor the competitiveness of commercial market, and allows the Commissioner to initiate a proceeding to declare a commercial market to be noncompetitive. The bill also allows a company to request a hearing if a rate finally is disapproved. It is estimated that the additional time required for the property and casualty division to monitor commercial markets, and to prepare for and to participate in hearings regarding the competitiveness of a market, or to defend the denial of a rate filing will be offset. I would argue they should be doing that already. We have to reconsider our actions by which we passed this bill out, and bring it back to the committee. If the committee wishes with the fiscal note to do whatever, but if it goes back with a do pass, it then has to be rereffered to appropriations.

Rep. Amerman: I move to bring HB 1308 back for reconsideration.

Rep. Thorpe: Second.

Voice vote was taken, motion passed.

Rep. Zaiser: I don't understand why they need more money.

Rep. Gruchalla: This is the one that the Commissioner was opposed to, because he thought it was going to cost him federal action.

Rep. Keiser: No, this one has no federal action. There are currently 24 states that use this approach, and there are 4 currently that use the approach the commission is recommending, and the remainder is using our current approach which is prior approval.

Rep. Dosch: In testimony, Dakota Fire supported it, because by virtue of the states that have gone to this.

Rep. Keiser: It created a more competitive market in the states that have gone to it.

Rep. Kasper: Page 8 on the bottom, that's where the problem is for the Commissioner's perspective, because it says a competitive market for a line of insurance is presumed to exist unless the Commissioner, after noticing a hearing, determines that a reasonable degree of competition does not exist. In order for him to declare that competition does not exist, he has to have a hearing with this bill, and that's where he's saying it's going to cost him the money, and the second place because they don't have to file a fee in advance. So, the combination of the two is where he's saying this is a $400,000 loss.

Rep. Keiser: No, the fiscal note simply says due to the monitor not the fee, because as soon as they file a change, they have to file a fee, I believe.

Rep. Ruby: I still think it's the right was to go. I think it's going to help our climate, as far as competition in the marketplace.

Rep. Ruby: I move a do pass with a rerefferal to appropriations.

Rep. Dosch: Second.

Roll call vote was taken. 10 Yeas, 3 Nays, 1 Absent, Carrier: Rep. Ruby

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
01/10/2007

Bill/Resolution No.: HB 1308

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($400,000)		($400,000)	
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

See 2B.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB 1308 removes the requirement that an insurance company file with and receive prior approval for insurance premium rate and form change for a commercial risk filing in a "competitive market". It is anticipated that the change will reduce revenues from filing fees by $400,000 per biennium, based on filing fees collected for commercial rate and form filings during the 2005-2007 biennium.

It is estimated that the reduced filings will affect the work of 1/4 FTE in the Property and Casualty Division. The bill, however, requires that the Insurance Commissioner monitor the competitiveness of commercial markets and allows the Commissioner to initiate a proceeding to declare a commercial market to be noncompetitive. The bill also allows a company to request a hearing if a rate filing is disapproved. It is estimated that the additional time required for the Property and Casualty Division to monitor commercial markets and to prepare for and participate in hearings regarding the competitiveness of a market or to defend the denial of a rate filing will offset the 1/4 FTE workload reduction due to the decrease in commercial filings.

It is expected that there may be from 3-6 hearings over the next biennium, which will require additional support from the Legal Division. It is estimated that an additional 1/4 FTE will be required to handle the legal work for these hearings. This work will be absorbed by Legal Division staff.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See explanation above.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See explanation above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency* *and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See explanation above.

Name:	Charles E. Johnson	**Agency:**	Insurance Department
Phone Number:	328-2440	**Date Prepared:**	01/16/2007

Date: 1-30-07

Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB ~~[illegible]~~ 1308

House **Industry Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Ruby Seconded By Rep. Clark.

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman		X
Vice Chairman Johnson	X		Rep. Boe		X
Rep. Clark	X		Rep. Gruchalla		X
Rep. Dietrich	X		Rep. Thorpe		X
Rep. Dosch			Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa					

Total Yes 8 No 4

Absent 2

Floor Assignment Rep. ~~Amerman~~ Ruby

If the vote is on an amendment, briefly indicate intent:

Date: 1-31-07
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1308

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do pass, Referred to Approp.

Motion Made By Rep. Ruby Seconded By Rep Dosch.

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman		X
Vice Chairman Johnson			Rep. Boe		X
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe		X
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 10 No 3

Absent 1

Floor Assignment Rep. Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1308: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1308 was rereferred to the **Appropriations Committee**.

2007 HOUSE APPROPRIATIONS

HB 1308

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2007

Recorder Job Number: 3324

Committee Clerk Signature	Shirley Branning

Minutes:

Chm. Svedjen called the meeting to order to take up HB 1308, a bill relating to the regulation of fire, property and casualty insurance rates and rate fillings, by calling on **Rep. George Keiser,** District 47.

Rep. Keiser explained that the bill converts the process to use and file strategy. The control remains with the commissioner but he determines if a competitive market exists. Now, 26 states have a competitive rating system. This is the trend.

The fiscal note of $400,000 comes from the general fund. One-quarter of FTE savings would be absorbed by cost requirements that the commissioner must determine if a market exists.

Rep. Wald: You're taking out contract loss for crop insurance and Workman's Comp. Crop insurance would not be a file and use scenario, would it? That is the exception.

Rep. Kroeber: What has the loss ratio been for companies since the hailstorm?

Rep. Keiser: The loss ratio went over 3 and is down to about 1.08.

Rep. Wald moved a Do Pass to HB 1308. Rep. Kreidt seconded the motion.

The Do Pass motion carried by a roll call vote of 14 yeas, 1 nay, and 4 absent and not voting. Rep Ruby will be the carrier of the bill.

Date: 2/9/07
Roll Call Vote #: 1 of 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1308

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass

Motion Made By Wald Seconded By Kreidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	—	—
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	—	—	Representative Glassheim		✓
Representative Carlisle	—	—	Representative Kroeber		✓
Representative Skarphol	✓		Representative Williams		✓
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom		✓
Representative Bellew	—	—	Representative Kerzman		✓
Representative Kreidt	✓		Representative Metcalf		✓
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 14 No ~~0~~ 6

Absent 4

Floor Assignment Kreidt

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1308: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (14 YEAS, 6 NAYS, 4 ABSENT AND NOT VOTING). HB 1308 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1308

#1

TESTIMONY OF PATRICK WARD IN SUPPORT OF HB 1308

Good morning Chairman Keiser and Members of the House Industry, Business and Labor Committee:

My name is Pat Ward and I represent PCI and the Association of North Dakota Insurers. I am here to testify in support of HB 1308.

This bill would change the way insurers file rate filings from the current prior approval system to a use and file system. Chairman Keiser introduced this bill last session and this committee gave it an 11-3 do pass but to our surprise it was killed on the floor.

In the interim, the industry has worked with the Insurance Commissioner to come up with a plan to move toward more efficient rate approval. He recognizes the need for speed to market and fending off federal regulation of insurance. We have introduced Senate bill 2296 which is set for hearing later this morning and offers a compromise arrangement of a flex rating system, somewhere between the current system of prior approval of rates and not so far as complete use and file.

We support this concept and want a bill we can pass. We would hope that this bill can be amended to a form acceptable to all concerned parties to help ND move to a more competitive environment for commercial and personal lines of insurance.

Policyholders can benefit from a market environment characterized by healthier competitive forces and flexibility, and which does not jeopardize consumer protections. Illinois and South Carolina are two classic examples.

This type of system allows insurers the flexibility to respond to competitive market conditions and adjust certain rates more quickly in accordance with the changing loss experience.

Under such a plan, regulators also can free up some of their time for other important duties such as overseeing market conduct, monitoring potential insolvencies and providing consumer education.

As a group, the states with non-competitive prior approval laws and state- and bureau-made rates have a substantially higher average premium than other states. The cost for auto liability and physical damage insurance is 10 to 11 percent higher than the cost in flex-rating states and competitive rating states (\$988.64 – prior approval vs. \$901.61 – flex-rating and \$891.11 – competitive rating). Of course, it must be noted that other factors contribute to the price levels as well, the most important being the amount of insured losses that occur.

This comparison nevertheless shows that in states where insurers are allowed to operate more competitively, their customers have more affordable insurance.

Increase in the Number of Insurers

One positive outcome of converting to greater rating competition is the growth in the number of personal auto writers in the states. For example, in South Carolina, the number of companies spiked during its first year of implementation. The number of companies before flex-rating took place was very low; only 83 carriers offered auto insurance two years and one year prior to the transition. Once the new program was in place, a flood of insurers entered the auto market, reaching a maximum of 150 companies in 2001. From 1997 to 2001, the number of insurers had risen an astounding 82 percent.

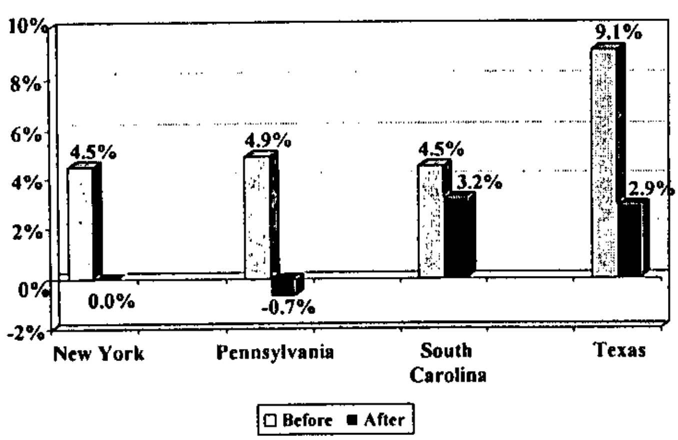
It is believed that insurance companies are encouraged by the adoption of a more competitive rate regulatory system. Those that do not write in a state with this type of environment are now more willing to enter the market under these conditions. But when a regulatory system reverts to one with less freedom, such as prior approval, companies no longer want to operate there and, hence, withdraw from the market. This clearly happened in the case of New York..

Decrease in Average Premium Growth

Another positive effect of converting to a use and file or flex-rating system is that the average personal auto premium is seen to slow down after implementation, compared to what the growth was before as shown below. In some cases, the rates paid by policyholders under a flex-rating system are even lower than the rates under a prior approval system.

The chart below illustrates the one-year change in full (liability and physical damage) coverage average auto premium for each state. The periods reflect changes over one calendar year before and one calendar year after implementation, excluding the 12-month period during which the law went into effect. For example, New York's flex-rating system began on June 30, 1005; the two comparison periods, before and after, are therefore 1993-1994 and 1996-1997.

Figure 5
Annual Change in Full Coverage Average Auto Premium
One Full Calendar Year Before and After Flex-Rating



Source: NAIC

During the calendar year prior to flex-rating, each of the four states had average premium growth rates of more than 4 percent (Texas' rate of change was 9.1%). After flex-rating was installed, the annual growth in premium in each state was much lower. Pennsylvania's average premium fell by 0.7 percent, while South Carolina and Texas had smaller yearly increases of 3.2 percent and 2.9 percent, respectively. New York's average premium remained the same shortly after its new law went into effect in mid-1995. As mentioned earlier, however, New York's flex-rating law sunset during the middle of 2001. Prior to that time, the average premium had been stable or declining. After the sunset, the average premium began rising (see Figure 6). New York now has the second highest average auto insurance premium ($1,313) in the nation.

We urge a Do Pass on HB 1308. I would be happy to work with the committee on any necessary amendments. I will try to answer your questions.. GO BEARS.

#2

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January 23, 2007

The Honorable Jerry Klein
Chairman, Senate Industry, Business and Labor Committee
North Dakota Senate

The Honorable George J. Keiser
Chairman, House Industry, Business and Labor Committee
North Dakota House of Representatives
600 East Boulevard
Bismarck, ND 58505

RE: SB 2296 and HB 1308

Dear Chairmen Klein and Keiser:

Thank you for this opportunity to provide **PROPONENT** testimony on Senate Bill 2296 (Wanzek) and House Bill 1308 (Keiser).

Founded in 1895, the National Association of Mutual Insurance Companies (NAMIC) is a full-service national trade association serving the property/casualty insurance industry with more than 1,400 member companies that underwrite more than 40 percent of the property/casualty insurance premium in the United States. In North Dakota, NAMIC members (including 16 domiciled companies) underwrite 46 percent ($557 million) of the direct written premium in the state.

NAMIC's number one public policy priority is a reformed system of state regulation of insurance through the passage of regulatory modernization laws that ultimately eliminate price regulation of insurance rates. NAMIC is also a strong proponent of reformed market conduct and financial solvency regulation to protect the interests of consumers and policyholders. Our ultimate goal is to achieve a regulatory system that befits a mature industry operating in a highly competitive marketplace. To that end, we continue to work in partnership with the National Conference of Insurance Legislators (NCOIL), the National Conference of State Legislators (NCSL) and our other industry colleagues to secure passage of regulatory modernization laws in as many states as possible. Since 2003, 17 states have enacted some form of regulatory modernization.

Insurance Commissioner Jim Poolman and the staff of the Department of Insurance deserve a great deal of credit for approving rate filings in a professional and timely manner. Most, if not all, insurance companies doing business in North Dakota agree that Commissioner Poolman and his staff are an excellent example of why states should remain the sole regulators of the insurance industry. Unfortunately, not every insurance department is as efficient or effective as the current regime. Passage of SB 2296 or HB 1308 would ensure prompt availability of affordable insurance products regardless of who serves as commissioner.

Although not identical, SB 2296 and HB 1308 share elements in common with model bills adopted by the National Conference of Insurance Legislators: the *Property/Casualty Flex-Rating Regulatory Improvement Model Act* and the *Property/Casualty Insurance Modernization Act*, respectively. NAMIC believes both SB 2296 and HB 1308 to be meritorious and worthy of the legislature's serious consideration; however, we are fully aware that only one proposal is likely to move forward. Either proposal will ensure that insurance companies are able to deliver products to market more quickly and efficiently, helping stimulate competition and directly benefiting consumers through greater availability and competitive prices for insurance products. Therefore, NAMIC strongly encourages the legislature to find a compromise solution which will allow North Dakota insurance consumers to benefit from the hard work put into both proposals by Commissioner Poolman, Chairman Klein, Chairman Keiser and others.

If, ultimately, SB 2296 is the bill moving forward, NAMIC respectfully suggests an increase in the "flex-band," currently at five percent, and removal of farm policies from the "noncompetitive market" section of the bill.

Thank you for your leadership on this critical public policy issue and thank you for this opportunity to express support for SB 2296 and HB 1308.

If you have questions or need further information, please feel free to contact me at 614.262.4798 or via e-mail at jthesing@namic.org.

Sincerely,

Joe Thesing
State Affairs Manager
North Central Region

American Insurance Association

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Re: North Dakota HB 1308

The American Insurance Association is pleased to express its support for the concept embodied in HB 1308. This legislation would take significant steps to modernize the insurance marketplace in North Dakota, with benefits going to the consumers who are served by insurers doing business there.

Many states have taken the necessary steps to significantly improve the rating laws for insurance, both for personal lines and for commercial lines insurance; additional states have taken the required steps to also modernize the related laws governing policy forms for commercial lines of insurance too. We welcome and support North Dakota's proposal to do both in HB 1308 and encourage its serious consideration and approval by the state legislature.

It is unusual but praiseworthy that legislation designed to modernize both the rate and form laws has been introduced. Competitive rating will draw more insurers into the market thus providing consumers with better choices of products, service, and of course, price. The modernization of the form filing law for some commercial risks is salutary also, but to be effective the thresholds that are proposed in the bill need to be substantially reduced.

Please support HB 1308.

Steve Schneider
American Insurance Association

For more information, please contact: Steve Schneider (312) 782-7720.
Joel Gilbertson (701) 258-7899