

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1176**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HBO 1176

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
1		x	24.1
Committee Clerk Signature <i>Lisa Homer</i>			

Minutes:

**HBO 1176** Relating to risk based capital for health organizations.

Chairman Berg opened the hearing on the bill.

Mr. Trent Heinemeyer, Deputy Insurance Commission, ND Insurance Dept., testified in support to the bill.

(see attached written testimony)

Berg asked for an example how the bill works. Heinemeyer stated that Blue Cross Blue Shield files a statement every year. A formula produces a number of capitalization of probably 100 million dollars and if the number should be 150 million. Then a step would be taken to increase

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House Industry, Business and Labor Committee

Bill/Resolution Number Hb 1176

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the capital surplus and the insurance depart. would monitor to insure proper steps would be taken.

Mr. Rod Larson, Blue Cross Blue Sheild ND, testified in support to the bill. Their finance people looked at it and are in agreement with the bill. Berg asked about foreign insurance companies. Heinemeyer stated that they also must file capital reports. He went on to say that an amendment was suggested for inclusion into the bill.

Chairman Berg closed the hearing on the bill.

Representative Keiser moved to adopt the amendment, Second by Sveen.

By voice vote, all yes, 0 no, motion carried.

Representative Keiser move to do pass as amended, Second by Sveen.

By roll vote, 13 yes, 0 no, 2 absent, motion carried.

Representative Froseth will carry the bill.



**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1176**

Page 3, line 14, after "account" insert a comma and after "between" insert ", as"

Page 3, line 22, replace "An excess of capital, net" with "Net" and after "worth" remove the comma

Page 11, line 25, replace "in" with "is"

Renumber accordingly

Date: 1-26-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1176

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass as amended

Motion Made By Keiser Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 13 No 1

Absent 2

Floor Assignment Froseth

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

**REPORT OF STANDING COMMITTEE**

**HB 1176: Industry, Business and Labor Committee (Rep. Berg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1176 was placed on the Sixth order on the calendar.

Page 3, line 14, after "account" insert a comma and after "between" insert ", as"

Page 3, line 22, replace "An excess of capital, net" with "Net" and remove the second comma

Page 11, line 25, replace "in" with "is"

Renumber accordingly

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1176**



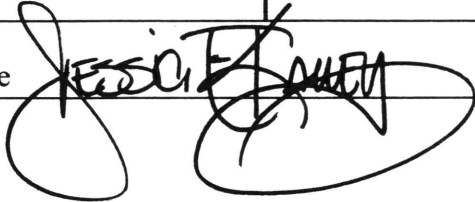
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1176

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 15, 1999

Tape Number	Side A	Side B	Meter #
1	x		3900-end
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on HB1176. All senators were present.

Trent Heinemeyer testified in support of HB1176. His testimony is included. Senator Mutch asked him if they have the ability to determine the amount of cushion that they will need.

Senator Krebsbach asked what reports and on what dates do they file with them already and if there was some way that they could incorporate into what they already have. He told her that this will be incorporated into the original filings as an attachment.

Senator Mutch closed the hearing on HB1176.

Committee discussion took place on March 10, 1999.

Senator Klein motioned for a do pass. Senator Thompson seconded and it carried 7-0-0.

Senator Heitkamp will carry the bill.



REPORT OF STANDING COMMITTEE (410)  
March 11, 1999 9:52 a.m.

Module No: SR-44-4515  
Carrier: Heitkamp  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1176, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1176 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**

**HB 1176**

**HOUSE BILL NO. 1176  
TESTIMONY BEFORE THE HOUSE  
INDUSTRY, BUSINESS AND LABOR COMMITTEE**

**TRENT C. HEINEMEYER  
DEPUTY INSURANCE COMMISSIONER  
NORTH DAKOTA INSURANCE DEPARTMENT**

Mr. Chairman, Members of the Industry, Business, and Labor Committee:

**The Problem**

At the heart of insurance regulation is assuring that insurance companies remain financially sound so that when their policyholders make a claim, the insurance company has the financial wherewithal to provide full and complete coverage pursuant to the terms of the contract they have issued. Constant assessment of an insurance company's financial condition is critical to assure financial problems are identified early. Due to the nature and variety of risks involved with carrying out an insurance business, it is a substantial challenge for regulators to anticipate when and for what reasons an insurance company may become financially troubled. Once an insurance company has become insolvent, the damage has already been done and policyholders will already have been harmed by such an event. Therefore, the ability to recognize early warning signs of financial trouble is very important.

Our current statutes provide tools to be applied by the Insurance Department's financial analysis and examination staff designed to identify financial problems early and thereby assist in preventing insurance company insolvencies. However, as the business of insurance continues to become more and more complex, so do the risks encountered by insurance companies in conducting such business; likewise, regulating for solvency concerns becomes more complex, and our ability to protect policyholders from the occurrence of an insolvent insurance company becomes more challenging.

**The Solution**

House Bill No. 1176 provides a new and significant tool enhancing our ability to protect against the insolvency of a health organization which includes a health maintenance organization, prepaid health service organization, nonprofit health service organization, or other managed care organization. It provides a formula for the determination of appropriate levels of capital based on the various risks encountered by such an organization in the conduct of its business, along with enforcement provisions, substantially similar to those enacted by the Legislature in 1995 relating to property and casualty and life insurance companies. This Act would apply to North Dakota entities such as Blue Cross Blue Shield of North Dakota in Fargo, Heart of America HMO in Rugby, and Altru Health Plan in Grand Forks.

## **Summary of House Bill No. 1176**

During the 1995 Legislative Session, the Legislature enacted House Bill No. 1173 which included a new chapter to North Dakota law designed to provide a significant tool for regulatory protection against the occurrence of a financially troubled insurance company. That Act was based on a Model Act developed by the National Association of Insurance Commissioners (NAIC) known as the Risk-Based Capital (RBC) for Insurers Act. That Act requires insurance companies to provide a risk-based capital report to the Insurance Commissioner which incorporates a formula designed to determine the appropriate capital level for a particular insurance company based on various risks encountered by the insurance company in the conduct of its business such as asset risk, credit risk, interest risk, underwriting risk, and other such risks as may be relevant. That Act applies to property and casualty and life insurance companies and has proven to be an effective regulatory tool as it gives us a very sophisticated and new gauge on the financial condition of an insurance company at any point in time.

At the time that law was enacted, there was not yet developed a model pertaining to health organizations which encounter potentially different risks than other insurance entities. House Bill No. 1176 is based on the NAIC Risk-Based Capital for Managed Care Organizations Model Act and, like the legislation previously enacted, would provide a new and substantial regulatory tool enhancing our ability to assure that our managed care organizations and health insurance companies are financially strong.

### **What is Risk-Based Capital?**

Risk-based capital is a flexible method of establishing minimum capital requirements tailored to a company's risk profile determined by risk factors multiplied by assets, liabilities, or premium and expense items that can adversely affect surplus. The higher the risk the greater the factor.

### **Why are Managed Care Organizations Unique?**

They are usually specialized companies that limit activities to the health field and which frequently combine health delivery with health care financing through ownership of and affiliations with hospitals and clinics.

### **What Risks are Inherent in a Managed Care Organization?**

1. Investment losses from defaults or market variations.
2. Failure or impairment of affiliates.
3. Unanticipated claims expenses or underestimation of inflation in medical costs.
4. Defaults or delays in receipt of money owed to the HCO by third parties.
5. Insufficient income to pay fixed operating costs such as interest on notes, rent on buildings, etc.

### How Does the Risk-Based Capital Formula Work?

Based on a variety of factors and risk categories, a level of capital is determined appropriate for the particular entity given its risks. The formula compares total actual capital to the formula-based risk-based capital. When capital is sufficient, no further action is necessary. However, when actual capital is less than the minimum required, one of four risk-based capital action levels is triggered under House Bill No. 1176 including:

1. A company action level.
2. Regulatory action level.
3. Authorized control level.
4. Mandatory control level.

The development of the NAIC model, which is the basis for the bill before you, started in 1993 and involved members from the regulatory community, industry, federal government representatives, actuaries, and other professionals. It was adopted as a Model Act during 1998.

### Section-by-Section Analysis of House Bill No. 1176

Section 26.1-03.2-01	Defines terminology used in the Act.
Section 26.1-03.2-02	Establishes requirements relating to the risk-based capital report.
Section 26.1-03.2-03	Establishes criteria determining a “company action level event” and defines actions relating to that event.
Section 26.1-03.2-04	Establishes criteria determining a “regulatory action level” and defines actions relating to that event.
Section 26.1-03.2-05	Establishes criteria determining an “authorized control level event” and defines actions relating to that event.
Section 26.1-03.2-06	Establishes criteria determining a “mandatory control level event” and defines actions relating to that event.
Section 26.1-03.2-07	Establishes the basis for hearings under this Act.
Section 26.1-03.2-08	Establishes confidentiality standards and prohibitions against announcements of risk-based capital events.
Section 26.1-03.2-09	Establishes that provisions of the Act are supplemental to other laws of the state and do not limit the powers and duties of the Commissioner under those laws; sets out specific rule making

authority and exemption criteria.

Section 26.1-03.2-10

Provides Commissioner authority with regard to foreign health organizations.

Section 26.1-03.2-11

Provides immunity for the Insurance Commissioner and staff for actions taken under this Act.

Section 26.1-03.2-12

Provides for a method of notice to the health organization under this Act.

Section 26.1-03.2-13

Provides phase-in provisions related to required filings in 1999.



HOUSE BILL NO. 1176  
TESTIMONY BEFORE THE SENATE  
INDUSTRY, BUSINESS AND LABOR COMMITTEE

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new tool to identify (early on) any problems w/ ins. co.

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