

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2181

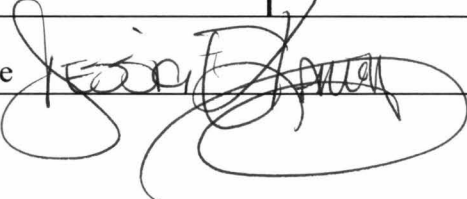
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2181

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 20, 1999

Tape Number	Side A	Side B	Meter #
1	x		2,735
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2181. All senators were present.

Chris Edison introduced the bill. His testimony is included. Senator Krebsbach asked how the domestic insurance companies feel about this. Chris Edison thought that they would not be particularly concerned about this bill. Senator Krebsbach then asked him to go over the amendment with them.

Tom Smith, Domestic Insurance Companies, testified in support if the bill.

Jerry Thound, American Insurance Association, to support the bill as drafted. He indicated that he did not get a chance to review the amendment.

Senator Mutch closed the hearing on SB2181.

Committee discussion took place on January 20, 1999.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2181

Hearing Date January 20,1999

Senator Klein moved that the committee consider both Mr. Smith & Mr. Edison amendments.

Senator Thompson seconded the motion. Motion was successful with a unanimous vote.

Senator Krebsbach motion a do pass on SB2181. Senator Thompson seconded. The motion was successful with a unanimous decision.

Committee discussion took place on January 20, 1999.

Senator Krebsbach moved to adopt the amendments. Senator Thompson seconded her motion.

The motion was successful with a unanimous vote.

Senator Krebsbach moved for a do pass as amended. Senator Thompson seconded her motion.

The motion was successful with a unanimous vote.

Senator Krebsbach will carry the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: Eng. SB 2181

Requested by Legislative Council _____ Date of Request: 3-5-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

Senate Bill No. 2181 was drafted to be budget neutral. It should have no fiscal impact, assuming the number of resident and nonresident agent applications does not decline from its current level. The amendments put back in the concept of a "limited insurance representative" without adding back in a fee for the commissioner to charge for issuing such a license. This is not expected to have a fiscal impact because the Insurance Department rarely, if ever, licenses anyone as a limited insurance representative. However, the bill should be amended to add a fee for issuing the license.

2. State fiscal effect in dollar amounts.

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: None
- b. For the 1999-2001 biennium: None
- c. For the 2001-03 biennium: None

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed Chris Edison

Typed Name Chris Edison

Department Insurance Department

Phone Number 328-2440

Date Prepared: 3/8/99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2181 Amendment to: _____

Requested by Legislative Council Date of Request: 1-4-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

Senate Bill No. 2181 was drafted to be budget neutral. It should have no fiscal impact, assuming the number of resident and nonresident agent applications does not decline from its current level.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0


3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: None
- b. For the 1999-2001 biennium: None
- c. For the 2001-03 biennium: None

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Chris Edison

Department Insurance Department

Phone Number 328-2440

Date Prepared: 1/5/99

PROPOSED AMENDMENTS TO SENATE BILL NO. 2181

Page 11, line 1, remove "An insurance agent may not"

Page 11, remove line 2

Page 11, line 3, remove "properly appointed with the insurer."

Page 11, line 13, insert: "An insurance agent who holds a valid license may solicit applications for insurance on behalf of an admitted insurer with which the insurance agent does not have a valid appointment on file with the commissioner; provided that the insurance agent has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable in the amount of the appointment fee prescribed in subsection 24 of section 26.1-01-07. The notice of appointment must be on a form prescribed by the commissioner."

Renumber accordingly.

Date: 1/20/99
Roll Call Vote #: 2181

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken AMEND MR. SMITH & MR. EDISON

Motion Made By KREBSBACH Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 1/20/99
Roll Call Vote #: 2181

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDMENT

Motion Made By KREBSBACH Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment KREBSBACH

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

REPORT OF STANDING COMMITTEE

SB 2181: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2181 was placed on the Sixth order on the calendar.

Page 11, line 1, remove "An insurance agent may not"

Page 11, remove line 2

Page 11, line 3, remove "properly appointed with the insurer."

Page 11, line 12, after the underscored period insert "An insurance agent who holds a valid license may solicit applications for insurance on behalf of an admitted insurer with which the insurance agent does not have a valid appointment on file with the commissioner if the insurance agent has permission from the insurer to solicit insurance on the insurer's behalf and if the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by the insurer's check payable in the amount of the appointment fee prescribed in subsection 24 of section 26.1-01-07. The notice of appointment must be on a form prescribed by the commissioner."

Page 14, line 1, overstrike "for a license" and remove "in a limited"

Page 14, line 2, remove "line"

Page 14, line 8, after "~~that~~" insert "to market a specific product type" and replace "line" with "specific product type"

Page 14, line 10, replace "lines" with "product types"

Re-number accordingly

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2181

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2181 2-9-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2-9-99

Tape Number	Side A	Side B	Meter #
1		x	1220 - end
2	x		0 - 138
2	x		1938 - 2225
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2181**

Chairman Berg opened the hearing on SB 2181.

Chris Edison introduced SB 2181 relating to Fees charged by commissioner, reciprocal penalties of foreign insurance companies, countersignature requirements, and insurance agents; insurance agents and property & casualty insurance programs. (See written testimony)

Vice Chairman Kempenich: One person is the is the principle agent of the agency and you can have other agents as well?

Chris Edison: Exactly. You can have as many agents that you want working for you, but you need one person that responsible for tracking for purposes of the license of the agent.

Chairman Berg: Just to be clear on that, the one hundred dollar fee is for an application for a new agent, this would be a one time fee that they would pay once they got out of the business and them came back in?

Chris Edison: Yes, this is an initial application fee. Once they pay that fee in ND they will not have to pay the fee again. This fee will not impact any current agents.

Rep. Keiser: Do you have any documentation of about how many times the insurance commissioner has taken a retaliatory response to a claim or a situation where it should have been imposed in the last six months to one year?

Chris Edison: As part of putting this bill together, we looked at what we collect annually in retaliatory fees and what we collect from resident agents because we needed that information to figure out exactly where the one hundred dollars would be. We didn't want to raise it in a way that was above what was needed to replace that. So if that is what you are asking then yes we do have that.

Tom Smith from Domestic Insurance Agencies testified in support of SB 2181. I want to address the amendment added to the bill in the Senate committee. You heard that once you have a licensed agent, we as insurance companies appoint agents to be our agents out in the field. A couple of problems have come up with this. First, It can take a significant period of time once you appoint the agent. It can go as long as four to six weeks on occasion. Second, you may go ahead and appoint the agent and he never writes any business. You go through all the expense and come up with nothing. What this section says is basically that as far as when you have a licensed insurance agent, and we as an insurance company want to appoint that agent as our agent. We don't have to do that until we get the first application. Once we get that application, then we notify the insurance commissioner on a form subscribed by the commissioner. This is a significant change in the law and we think it's a good change that will help the industry.

Rep. Stefonowicz: How would the consumer know if that person was working for your company?

Tom Smith: Once he is with the company, we will give him the information necessary that will let the consumer know he is working for us.

Rep. Keiser: On of the areas the insurance commissioner argues about is state control. When the states try and control it in an area like licensing, it upsets the federal people. So we adopt a policy that federalizes the licensing. Then we move away from state control in licensing. Now are we going to have federal regulations or is this move going to assure us that it will stay state regulated?

Tom Smith: I don't think we are going to have any federal regulations as long as we act in a responsible manner.

End of tape 1, side B. Start tape 2, side A.

Chairman Berg: Could we put a clause in here that would say that the \$100 fees would go into affect when 80% of the other states or 80% of the population approved.

Chris Edison: Assume that no other state goes to elimination of the retaliatory aspects of agent licensing, and that the possibility of federal regulation in this area doesn't pan out. I personally feel that there is merit to elimination of the retaliatory field. Even if that did not occur that this is a good change.

Chairman Berg closed the hearing.

Tape 2, side A. Meter No. 1938.

Chairman Berg opened the discussion of SB 2181. The first issue is that we need to decide do we believe in retaliatory measures or not. An option would be for us to say that we don't mind

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House Industry, Business and Labor Committee

Bill/Resolution Number SB 2181-b

Hearing Date 2-9-99

eliminating ours but we want to wait until other states start to go in that direction. The second issue is if someone in Wyoming has a truck line insurance and they want to come to North Dakota because they don't allow North Dakota insurance agents to sell that business in Wyoming then they need someone to sign off here in North Dakota. Some agents charge a fee for signing off on those policies. There would be some agents opposed to the bill for that reason.

Chairman Berg closed the discussion.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2181

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-1-99

Tape Number	Side A	Side B	Meter #
2		x	1435 - 2067
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2181**

Chairman Berg opened the discussion of SB 2181.

Vice Chairman Kempenich handed out and explained amendments and the purpose of the bill.

There was a short discussion by the committee.

The bill was put on hold.

Chairman Berg closed the discussion.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2181 3-3-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-3-99

Tape Number	Side A	Side B	Meter #
2	x		1340 - 2715
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2181**

Chairman Berg: Opened the discussion of SB 2181.

Vice Chairman Kempenich: Handed out and explained the two sets of amendments. The bill is model legislation dealing with retaliatory licenser laws in the state as far as insurance representatives. The bill is trying to address an issue that was taken before Congress to keep control in the state as far as regulation of insurance agents. This is an answer from state to state to have similar laws. Congress was looking to have similar laws in all states that would level out rules and regulations in the insurance industry.

Chairman Berg called for a voice vote on the first set of amendments, 15 yea, 0 nay.

The second set of amendments were discussed and thrown out.

Rep. Keiser made a motion for a Do Pass as Amended.

Rep. Froseth second the motion.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2181-a

Hearing Date 3-3-99

The roll call vote was 15 yea, 0 nay. The motion carries.

Vice Chairman Kempenich will carry the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2181

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-9-99

Tape Number	Side A	Side B	Meter #
1		x	2874 - 3390
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2181**

Chairman Berg: Opened the discussion on SB 2181.

Vice Chairman Kempenich made a motion to reconsider action on the bill.

Rep. Ekstrom second the motion.

The voice vote was 14-0-1, motion carried.

Vice Chairman Kempenich handed out and explained amendments to the bill. Part of the first amendment was missed so this will take care of the problem.

Rep. Ekstrom made a motion to adopt the amendments.

Rep. Froseth second the motion.

The voice vote was 14-0-1, motion carried.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number Sb2181

Hearing Date 3-9-99

Rep. Ekstrom made a motion for a Do Pass as Amended.

Rep. Klein second the motion.

The roll call vote was 14 yea, 0 nay, 1 absent. The motion carried.

Vice Chairman Kempenich will carry the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2181

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-16-99

Tape Number	Side A	Side B	Meter #
1	x		0 - 2.6
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

SB 2181

Chairman Berg opened the meeting on the bill. He went on to explain the past activities on the bill. All amendments should be considered.

Motion by Rep. Kempenich to reconsider the bill, second by Rep. Ekstrom

by voice vote, all yes, 0 no, 1 absent, motion carried

Motion by Rep. Ekstrom to reconsider amendments, second by Rep. Severson

by voice vote, all yes, 0 no, 1 absent, motion carried

Motion by Rep. Kempenich to adopt amendments, second by Rep. Glassheim

by voice vote, all yes, 0 no, 1 absent, motion carried

Motion by Rep. Kempenich to do pass as amended, second by Rep. Severson

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2181.1

Hearing Date 3-16-99

by roll vote, 14 yes, 0 no, 1 absent, motion carried

Rep. Kempenich will carry the bill.

Chairman Berg closed the meeting on the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181

Page 1, line 7, remove the second "and"

Page 1, line 9, after "programs" insert "; and to provide an effective date"

Page 19, after line 8, insert:

"SECTION 32. EFFECTIVE DATE. This Act becomes effective on July 1,
2001."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181

Page 1, line 2, remove "26.1-26-01," and "26.1-26-06,"

Page 1, line 3, remove "26.1-26-09,"

Page 1, line 4, remove "26.1-26-32,"

Page 1, line 5, remove "26.1-26-42,"

Page 3, line 5, remove the overstrike over "a license for a resident agent or"

Page 3, line 6, replace "agent's license" with "agent"

Page 3, line 22, remove the overstrike over "~~or limited insurance representative~~"

Page 5, line 11, remove the overstrike over "~~However, if the laws or rules of another state require a~~"

Page 5, remove the overstrike over lines 12 through 24

Page 5, remove lines 25 through 30

Page 6, remove lines 1 and 2

Page 6, line 21, remove the overstrike over "~~\"limited insurance representative\" means an individual, partnership,~~", after the second overstruck comma insert "limited liability partnership,", and remove the overstrike over "~~corporation,~~"

Page 6, remove the overstrike over lines 22 through 26

Page 6, line 27, remove the overstrike over "~~6.~~"

Page 7, line 3, remove "or" and remove the overstrike over "~~\"or limited representative\"~~"

Page 7, line 5, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 7, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 17, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 19, remove the overstrike over "~~limited~~"

Page 7, line 20, remove the overstrike over "~~insurance representative,~~"

Page 7, line 23, remove the overstrike over "~~limited insurance representative,~~"

Page 8, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 8, remove lines 17 through 23

Page 8, line 29, remove the overstrike over "~~limited insurance representative,~~"

Page 9, remove lines 20 through 31

Page 10, remove lines 1 through 12

Page 10, line 29, remove the overstrike over "~~Agent or limited representative~~" and remove "Insurance agent"

Page 10, line 30, remove the overstrike over "~~or limited~~"

Page 10, line 31, remove the overstrike over "~~insurance representative,~~"

Page 11, line 2, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 4, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 5, remove the overstrike over "~~or limited insurance~~"

Page 11, line 6, remove the overstrike over "~~representative~~"

Page 12, line 25, remove the overstrike over "~~limited insurance representative,~~"

Page 12, line 30, after the first comma insert "**limited liability partnership,**"

Page 15, remove lines 7 through 12

Page 17, line 4, remove the overstrike over "~~limited insurance representative,~~"

Page 17, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 17, remove lines 8 through 31

Page 18, remove lines 1 through 21

Renumber accordingly

March 16, 1999

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3/17/99
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HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99

Page 1, line 2, remove "26.1-26-01," and remove "26.1-26-06,"

Page 1, line 3, remove "26.1-26-09,"

Page 1, line 4, remove "26.1-26-32,"

Page 1, line 5, remove "26.1-26-42,"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99

Page 3, line 5, remove the overstrike over "a license for", after "resident" insert "an", and remove the overstrike over "agent or limited insurance representative"

Page 3, line 6, remove "an insurance agent's license"

Page 3, line 22, remove the overstrike over "~~or limited insurance representative~~"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99

Page 5, line 11, remove the overstrike over "~~However, if the laws or rules of another state require a~~"

Page 5, remove the overstrike over lines 12 through 24

Page 5, remove lines 25 through 30

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99

Page 6, remove lines 1 and 2

Page 6, line 21, remove the overstrike over "~~\"limited insurance representative\" means an individual, partnership,~~" and insert immediately thereafter "limited liability partnership," and remove the overstrike over "~~corporation,~~"

Page 6, remove the overstrike over lines 22 through 26

Page 6, line 27, remove the overstrike over "6."

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99

Page 7, line 3, remove "or" and remove the overstrike over "~~,-or limited representative~~"

Page 7, line 5, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 7, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 17, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 19, remove the overstrike over "limited"

Page 7, line 20, remove the overstrike over "~~insurance representative,~~"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 7, line 23, remove the overstrike over "~~limited insurance representative,~~"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 8, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 8, remove lines 17 through 23

Page 8, line 29, remove the overstrike over "~~limited insurance representative,~~"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 9, remove lines 20 through 31

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 10, remove lines 1 through 12

Page 10, line 29, remove the overstrike over "~~Agent or limited representative~~" and remove "Insurance agent"

Page 10, line 30, remove the overstrike over "or limited"

Page 10, line 31, remove the overstrike over "~~insurance representative,~~"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 11, line 2, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 4, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 5, remove the overstrike over "~~or limited insurance~~"

Page 11, line 6, remove the overstrike over "representative"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 12, line 25, remove the overstrike over "~~limited insurance representative,~~"

Page 12, line 30, after the first comma insert "limited liability partnership,"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 15, remove lines 7 through 12

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 17, line 4, remove the overstrike over "~~limited insurance representative,~~"

Page 17, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 17, remove lines 8 through 31

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181 IBL 3-17-99
Page 18, remove lines 1 through 21

Renumber accordingly

Date: 33-99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 281

House Industry, Business and Labor Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By _____ Seconded By _____

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) 15 No 0

Absent _____

Floor Assignment Kempenich

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

REPORT OF STANDING COMMITTEE

SB 2181: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2181 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "26.1-26-01," and remove "26.1-26-06,"

Page 1, line 3, remove "26.1-26-09,"

Page 1, line 4, remove "26.1-26-32,"

Page 1, line 5, remove "26.1-26-42,"

Page 3, line 5, remove the overstrike over "a license for a resident agent or"

Page 3, line 6, replace "agent's license" with "agent"

Page 3, line 22, remove the overstrike over "or limited insurance representative"

Page 5, line 11, remove the overstrike over "However, if the laws or rules of another state require a"

Page 5, remove the overstrike over lines 12 through 24

Page 5, remove lines 25 through 30

Page 6, remove lines 1 and 2

Page 6, line 21, remove the overstrike over "'~~Limited insurance representative~~ means an individual, partnership," and insert immediately thereafter "limited liability partnership," and remove the overstrike over "~~corporation,~~"

Page 6, remove the overstrike over lines 22 through 26

Page 6, line 27, remove the overstrike over "6:"

Page 7, line 3, remove "or" and remove the overstrike over "~~, or limited representative~~"

Page 7, line 5, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 7, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 17, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 19, remove the overstrike over "~~limited~~"

Page 7, line 20, remove the overstrike over "~~insurance representative,~~"

Page 7, line 23, remove the overstrike over "~~limited insurance representative,~~"

Page 8, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 8, remove lines 17 through 23

Page 8, line 29, remove the overstrike over "~~limited insurance representative,~~"

Page 9, remove lines 20 through 31

Page 10, remove lines 1 through 12

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Page 10, line 30, remove the overstrike over "~~or limited~~"

Page 10, line 31, remove the overstrike over "~~insurance representative,~~"

Page 11, line 2, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 4, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 5, remove the overstrike over "~~or limited insurance~~"

Page 11, line 6, remove the overstrike over "~~representative~~"

Page 12, line 25, remove the overstrike over "~~limited insurance representative,~~"

Page 12, line 30, after the first comma insert "limited liability partnership,"

Page 15, remove lines 7 through 12

Page 17, line 4, remove the overstrike over "~~limited insurance representative,~~"

Page 17, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 17, remove lines 8 through 31

Page 18, remove lines 1 through 21

Renumber accordingly

Date: 3-9-99
Roll Call Vote #: 1

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

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken to pass as amended

Motion Made By Ekstrom Seconded By Klein

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

Total (Yes) 14 No 0

Absent 1

Floor Assignment Kempenich

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

REPORT OF STANDING COMMITTEE

SB 2181: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2181 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 726 and 727 of the House Journal, Engrossed Senate Bill No. 2181 is amended as follows:

Page 1, line 2, remove "26.1-26-01," and remove "26.1-26-06,"

Page 1, line 3, remove "26.1-26-09,"

Page 1, line 4, remove "26.1-26-32,"

Page 1, line 5, remove "26.1-26-42,"

Page 3, line 5, remove the overstrike over "~~a license for~~", after "resident" insert "an", and remove the overstrike over "~~agent or limited insurance representative~~"

Page 3, line 6, remove "an insurance agent's license"

Page 3, line 22, remove the overstrike over "~~or limited insurance representative~~"

Page 5, line 11, remove the overstrike over "~~However, if the laws or rules of another state require a~~"

Page 5, remove the overstrike over lines 12 through 24

Page 5, remove lines 25 through 30

Page 6, remove lines 1 and 2

Page 6, line 21, remove the overstrike over "~~\"limited insurance representative\" means an individual, partnership,~~" and insert immediately thereafter "limited liability partnership," and remove the overstrike over "~~corporation,~~"

Page 6, remove the overstrike over lines 22 through 26

Page 6, line 27, remove the overstrike over "~~6:~~"

Page 7, line 3, remove "or" and remove the overstrike over "~~, or limited representative~~"

Page 7, line 5, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 7, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 17, remove the overstrike over "~~limited insurance representative,~~"

Page 7, line 19, remove the overstrike over "~~limited~~"

Page 7, line 20, remove the overstrike over "~~insurance representative,~~"

Page 7, line 23, remove the overstrike over "~~limited insurance representative,~~"

Page 8, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 8, remove lines 17 through 23

Page 8, line 29, remove the overstrike over "~~limited insurance representative,~~"

Page 9, remove lines 20 through 31

Page 10, remove lines 1 through 12

Page 10, line 29, remove the overstrike over "~~Agent or limited representative~~" and remove "Insurance agent"

Page 10, line 30, remove the overstrike over "~~or limited~~"

Page 10, line 31, remove the overstrike over "~~insurance representative,~~"

Page 11, line 2, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 4, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 5, remove the overstrike over "~~or limited insurance~~"

Page 11, line 6, remove the overstrike over "~~representative~~"

Page 12, line 25, remove the overstrike over "~~limited insurance representative,~~"

Page 12, line 30, after the first comma insert "limited liability partnership,"

Page 15, remove lines 7 through 12

Page 17, line 4, remove the overstrike over "~~limited insurance representative,~~"

Page 17, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 17, remove lines 8 through 31

Page 18, remove lines 1 through 21

Renumber accordingly

Date: 3-16-99
Roll Call Vote #: 1

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

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
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glasheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz					

Total (Yes) 14 No 0

Absent 1

Floor Assignment Kempenich

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

REPORT OF STANDING COMMITTEE

SB 2181: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2181 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "26.1-26-01," and remove "26.1-26-06,"

Page 1, line 3, remove "26.1-26-09,"

Page 1, line 4, remove "26.1-26-32,"

Page 1, line 5, remove "26.1-26-42,"

Page 3, line 5, remove the overstrike over "a license for", after "resident" insert "an", and remove the overstrike over "agent or limited insurance representative"

Page 3, line 6, remove "an insurance agent's license"

Page 3, line 22, remove the overstrike over "or limited insurance representative"

Page 5, line 11, remove the overstrike over "However, if the laws or rules of another state require a"

Page 5, remove the overstrike over lines 12 through 24

Page 5, remove lines 25 through 30

Page 6, remove lines 1 and 2

Page 6, line 21, remove the overstrike over "'~~Limited insurance representative~~ means an individual, partnership," and insert immediately thereafter "limited liability partnership," and remove the overstrike over "corporation,"

Page 6, remove the overstrike over lines 22 through 26

Page 6, line 27, remove the overstrike over "6."

Page 7, line 3, remove "or" and remove the overstrike over ",~~or limited representative~~"

Page 7, line 5, remove the overstrike over "limited insurance representative,"

Page 7, line 7, remove the overstrike over "limited insurance representative,"

Page 7, line 17, remove the overstrike over "limited insurance representative,"

Page 7, line 19, remove the overstrike over "limited"

Page 7, line 20, remove the overstrike over "insurance representative,"

Page 7, line 23, remove the overstrike over "limited insurance representative,"

Page 8, line 6, remove the overstrike over "limited insurance representative,"

Page 8, remove lines 17 through 23

Page 8, line 29, remove the overstrike over "limited insurance representative,"

Page 9, remove lines 20 through 31

Page 10, remove lines 1 through 12

Page 10, line 29, remove the overstrike over "~~Agent or limited representative~~" and remove "Insurance agent"

Page 10, line 30, remove the overstrike over "~~or limited~~"

Page 10, line 31, remove the overstrike over "~~insurance representative,~~"

Page 11, line 2, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 4, remove the overstrike over "~~or limited insurance representative~~"

Page 11, line 5, remove the overstrike over "~~or limited insurance~~"

Page 11, line 6, remove the overstrike over "~~representative~~"

Page 12, line 25, remove the overstrike over "~~limited insurance representative,~~"

Page 12, line 30, after the first comma insert "limited liability partnership,"

Page 15, remove lines 7 through 12

Page 17, line 4, remove the overstrike over "~~limited insurance representative,~~"

Page 17, line 6, remove the overstrike over "~~limited insurance representative,~~"

Page 17, remove lines 8 through 31

Page 18, remove lines 1 through 21

Renumber accordingly

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2181

CONFERENCE COMMITTEE

=====
REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420
=====

07398

(Bill Number) 2181 (, as (re)engrossed):

Your Conference Committee

For the Senate:

SEN KREBSBACH x
SEN KLEIN x
SEN D. MATHEWLN x

For the House:

REP. KEMPENICH x
REP. KOPPING x
REP. LEMIEUX x

[] recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) -

[] and place on the Seventh order.
727

[], adopt (further) amendments as follows, and place
on the Seventh order:

[] having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) was placed on the Seventh order of business on the
calendar.

DATE: / /

CARRIER:

LC NO. . of amendment

LC NO. . of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2181, as engrossed: Your conference committee (Sens. Krebsbach, Klein, D. Mathern and Reps. Kempenich, Koppang, Lemieux) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 770-772, adopt amendments as follows, and place SB 2181 on the Seventh order:

That the House recede from its amendments as printed on pages 770-772 of the Senate Journal and pages 859 and 860 of the House Journal and that Engrossed Senate Bill No. 2181 be amended as follows:

Page 5, line 11, remove the overstrike over "~~However, if the laws or rules of another state require a~~"

Page 5, remove the overstrike over lines 12 through 24

Page 12, line 30, after the first comma insert "**limited liability partnership,**"

Renumber accordingly

Engrossed SB 2181 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY
SB 2181

**SENATE BILL NO. 2181
TESTIMONY BEFORE THE SENATE
INDUSTRY, BUSINESS AND LABOR COMMITTEE**

**CHRIS EDISON
GENERAL COUNSEL
NORTH DAKOTA INSURANCE DEPARTMENT**

Good morning, Mr. Chairman and members of the Senate Industry, Business, and Labor Committee. My name is Chris Edison and I am General Counsel for the North Dakota Insurance Department. I am appearing before you today in support of Senate Bill No. 2181 and to urge its favorable consideration by this committee.

Senate Bill No. 2181 is a rather lengthy bill amending several sections of Chapter 26.1-26 of the North Dakota Century Code relating primarily to insurance agents. It is a bill which the Insurance Department spent considerable time in drafting and can be intricate in its detail. What I would first like to do is spend a little time detailing why Senate Bill No. 2181 is needed and then give you an executive summary of the major issues in Senate Bill No. 2181. After that, I can give a section-by-section explanation of the bill draft or respond to questions, whichever is the committee's preference.

THE PROBLEM

The federal government is showing a greater and greater tendency to step into the field of what traditionally has been a state concern, the regulation of insurance. In the area of health insurance, in 1996, Congress passed the Health Insurance Portability and Accountability Act or HIPAA, which extensively regulates the conduct of health insurers in this country. Congress is also considering several patient protection measures that will govern the actions of managed care entities. Also, last session, Congress considered a "financial modernization" bill called H.R. 10. This measure would break down some of the traditional barriers between certain segments of the financial services industry, such as insurance and banking. Depending on what form ultimately is passed by Congress, a bill like H.R. 10 could preempt certain aspects of the state-based system currently in place for regulating the business of insurance. In fact, H.R. 10 contained a proposal by the National Association of Registered Agents and Brokers ("NARAB") which would have established a national licensing system for insurance agents and brokers. The bill was not passed and is expected to be taken up again by Congress during the next few weeks.

One of the issues being debated nationally is the possibility of eliminating state licensure of insurance agents in favor of a national licensing system. Critics of state licensure argue that the states do not coordinate with each other resulting in a regulatory structure that is wasteful, inefficient, and expensive. These critics also feel that many states use a parochial, protectionist system to protect and insulate resident agents from competition by nonresident agents.

In an effort to alleviate some of these concerns regarding state licensure of insurance and to do North Dakota's part to maintain a state-based licensing system, the Department drafted Senate

Bill No. 2181. It is intended to make our state licensing system more efficient and to make the licensing scheme less parochial in its treatment of nonresident agents. Through Senate Bill No. 2181, the Department is doing its part to help head off the possibility that a federal bureaucracy will be given responsibility over licensing insurance agents in this country and maintain it at the state level, where Commissioner Pomeroy strongly feels it belongs.

EXECUTIVE SUMMARY

Senate Bill No. 2181 has five major changes to the current law regarding agents. They are:

1. The elimination of all “retaliatory” aspects of the regulation of insurance agents doing business in the state.
2. The introduction of a “principal agent” concept for the licensing of corporate insurance agencies.
3. The clarification of the “appointment” requirements found in current law.
4. The elimination of the concept of “limited insurance representative”.
5. The addition of “limited liability partnerships” to the agent licensing chapter.

The Retaliatory Regulation of Insurance Agents

Most states have historically imposed licensing fees or duties on insurance agents on what is known in the insurance industry as a “retaliatory basis”. Essentially, what that means is North Dakota imposes the same fees and duties on a nonresident applicant for an insurance agent’s license as we do on a resident applicant, unless the state of residence of the applicant imposes a different or greater fee or duty on applicants from North Dakota who want to be licensed in that state. In these instances, the Insurance Department requires the nonresident applicant to fulfill whatever duty or pay whatever fee would be required of a North Dakota agent applying in that state. For example, North Dakota charges a \$10 application fee for all initial agent applications while New Jersey charges \$300. Since a North Dakota agent would be charged \$300 to be licensed in New Jersey, the Insurance Department requires a \$300 initial application fee from a New Jersey applicant.

Insurance companies and agents doing business in many states view this “retaliatory” aspect of agent licensing as inefficient and parochial and often point to it as a primary example of the need to do away with the state-based system of agent licensing that currently exists. This bill eliminates all aspects of the current retaliatory basis of regulating insurance agents and seeks to give nonresident insurance agents all the rights and privileges that resident insurance agents have. This policy is already embodied in current law at N.D. Cent. Code § 26.1-26-20.

The bill is designed to be revenue neutral. However, in order to recoup the lost retaliatory fees, it is necessary for the initial application fee for an insurance agent’s license to be increased from \$10 to \$100. Even at this level, the fees charged in North Dakota are in line with Minnesota, Montana, and South Dakota. North Dakota has a perpetual license that need not be renewed, so

there is no renewal fee charged. Minnesota and South Dakota charge a \$60 initial application fee for a biennially renewable license and a \$60 renewal fee. Montana charges a \$100 initial application fee. Further, the Insurance Departments in all three border states have assured us that the new \$100 application fee will not have a retaliatory impact on North Dakota resident agents when they seek licensure in those states.

It is important to keep in mind that a North Dakota agent license is perpetual, meaning the agent never pays a fee to renew it. Almost every other state charges a renewal fee either annually or biennially. The \$100 initial fee is still reasonable when compared to other states' fees and compared to other professions. In light of that, the Insurance Department feels that the increase in fees is a small price to pay to help silence the critics of state licensure of insurance agents and to help maintain that authority where it belongs, on a state level.

The Principal Agent Concept

Under current law, every person soliciting insurance on behalf of a corporate agency must be registered with the Department and licensed as an agent. These individuals must all take and pass an insurance examination before the agency can be licensed. Senate Bill No. 2181 changes current law to introduce a principal agent requirement. Under this bill, a corporate agency may be licensed and continue its license if it designates at least one individual as its principal agent. This principal agent must take the required tests and maintain an agent's license in order for the agency to maintain its license. The agency may only be licensed for those lines of insurance in which one or more of its principal agents is licensed. The agency would also have to inform the Department of a change to the status of its principal agents within 10 days.

Appointment Clarification

Under current law, every insurance agent is required to have an appointment with an insurance company prior to soliciting on behalf of that company. The appointment serves to notify the Department about what company's insurance agents are representing out in the field. It also helps to avoid controversies over whether a particular individual is actually the company's agent. Over the past year, there has been some disagreement with insurance companies about what duties the insurer has regarding appointments. There is also some ambiguity in current statutory language regarding appointments. For instance, the section in current law that the Department relies on for authority for appointment of agents prior to solicitation does not actually use the term "appointment". In this bill, the Department is trying to clarify both agent and insurer duties regarding appointments.

Elimination of the Limited Insurance Representative

Currently, an individual may be licensed as a limited insurance representative for a single line of insurance the Commissioner has found does not require the professional competency of other lines. The Department has never, to our knowledge, licensed any individual as a limited insurance representative and we are advocating eliminating the concept. Individuals may be issued licenses in certain limited lines that will have reduced requirements but will be insurance agents licensed in a limited line, not a limited insurance representative. An example would be title insurance in which an agent can be licensed without a test. Continuing education

requirements are also waived.

Adding References to Limited Liability Partnerships

In 1993, Chapter 10-32 regarding limited liability companies was added to the Century Code. At the time this chapter was added, references to limited liability companies were added to the insurance code wherever the term “company” appeared. This was done to make sure that it was clear that limited liability companies were subject to the same requirements as other companies. Chapter 45-22 regarding limited liability partnerships was also added in 1995. However, references were not added to the insurance code. In order to maintain form and to insure that limited liability partnerships are subject to the same requirements as other partnerships, a reference to limited liability partnerships has been added wherever the term “partnership” appears.

SECTION-BY-SECTION ANALYSIS

Section 1 - This section amends N.D. Cent. Code § 26.1-01-07 regarding the fees chargeable by the Commissioner. The amendment reflects that no distinction will be made between resident and nonresident licensees and increases the initial application fee from an insurance agent from \$10 to \$100. This is necessary to recoup the lost revenues attributable to retaliatory fees.

Section 2 - This section amends N.D. Cent. Code § 26.1-11-06 which imposes retaliatory fees and penalties against insurance companies. The amendment deletes all references to agents to clarify that retaliatory fees or penalties will be not imposed on nonresident insurance agents in this state. It is our interpretation that this section uses the term agent in generic master/servant context and not to specifically refer to insurance agents.

Section 3 - This section amends N.D. Cent. Code § 26.1-11-07 which imposes a retaliatory countersignature requirement on policies covering subjects resident, located, or to be performed in this state. The amendment totally bans all countersignature requirements in this state, no matter whether the law of the agent’s state of residence applies to North Dakota agents.

Section 4 - This section amends N.D. Cent. Code § 26.1-26-01 which defines the scope of the chapter. The amendment deletes a reference to “limited insurance representative”. As discussed earlier, the Department does not currently license any limited insurance representatives and, instead, licenses individuals in limited lines.

Section 5 - This section amends N.D. Cent. Code § 26.1-26-02 which contains the definitions used in the agent chapter. It introduces the term “limited insurance representative” where appropriate and also deletes the definition of “limited insurance representative” which will no longer be used in the chapter.

Section 6 - This section amends N.D. Cent. Code § 26.1-26-03 which prohibits any person from holding themselves out as an agent, broker, or consultant unless properly licensed. The amendment deletes the section requiring an agent to be licensed with an insurer before negotiating any policies on their behalf. The Department has always interpreted the deleted language as requiring appointment. The appointment requirement is not eliminated, just moved

to N.D. Cent. Code §§ 26.1-26-04 and 26.1-26-13.

Section 7 - This section amends N.D. Cent. Code § 26.1-26-04 which requires an insurance agent, broker, or surplus lines broker to be licensed before an insurance company may pay, or the agent accept, any commission. The amendment requires further that the agent be appointed at the time the services were provided before the insurer may pay, or the agent accept, any commission. This applies only to agents and not brokers or surplus lines brokers.

Section 8 - The section amends N.D. Cent. Code § 26.1-26-04 which makes unlicensed individuals soliciting insurance on behalf of an insurance company and agent liable for all the duties of an agent imposed in the chapter. The amendment makes it the acceptance of an application by an insurance company that triggers the company's acknowledgment that the individual is its agent.

Section 9 - This section amends N.D. Cent. Code § 26.1-26-06 by deleting a reference to a limited insurance agent.

Section 10 - This section amends N.D. Cent. Code § 26.1-26-08. Currently, under N.D. Cent. Code § 26.1-26-08 everyone associated with an agency that is a partnership or corporation (a "corporate agency") that is personally engaged in the solicitation of insurance must be registered with the Commissioner and every person associated with the corporate agency must also be licensed. It has been the Insurance Department's position that the words "licensed" and "registered" were somehow transposed and that only those personally engaged in the business of insurance need be licensed. Under the change, everyone associated with the corporate agency in an ownership or employment relationship needs to be registered with the Commissioner. The amendment deletes the language requiring everyone soliciting insurance to be licensed as that is already required under N.D. Cent. Code § 26.1-26-03. The amendment also deletes the language allowing the Commissioner to conduct an investigation and propound interrogatories upon a completed application by a corporate agency. This is now going to be retained in amended Section 26.1-26-10 and is expanded to all applicants under Chapter 26.1-26.

Section 11 - This section amends N.D. Cent. Code § 26.1-26-09 by deleting a reference to a limited insurance agent.

Section 12 - This section amends N.D. Cent. Code § 26.1-26-10 which lists the exceptions to licensure as an insurance agent. The amendment clarifies that no person or entity may act as an insurance consultant prior to licensure. Similar language existed for other licenses in the chapter but not for consultants. This is strictly a technical correction.

Section 13 - This section amends N.D. Cent. Code § 26.1-26-13 to clarify that every agent must be appointed prior to soliciting insurance on behalf of an insurance company. The requirement was formerly at N.D. Cent. Code § 26.1-26-03 but the language was unclear. The amendment also adds an additional violation for an insurance company accepting business from an unappointed insurance agent. If the company accepts business from an unappointed agent with a frequency indicating a business practice, it is guilty of violating the section.

Section 14 - This section amends N.D. Cent. Code § 26.1-26-14 by expanding the

Commissioner's ability to conduct an investigation and expound interrogatories to all applicants for a license under the chapter.

Section 15 - This section amends N.D. Cent. Code § 26.1-26-20 to delete a reference to N.D. Cent. Code § 26.1-26-47 which is repealed by Section 31. N.D. Cent. Code § 26.1-26-47 is the section which currently imposes retaliatory fees and obligations on nonresident agents.

Section 16 - This section amends N.D. Cent. Code § 26.1-26-21 to require all agents to appoint the Commissioner as agent for service of process. Since the Insurance Department has one application packet, both resident and nonresident applicants already file this form.

Section 17 - This section amends N.D. Cent. Code § 26.1-26-22 to clarify that service of nonresident licensees is complete upon mailing. Service under this section differs from that required by the North Dakota Rules of Civil Procedure and, as such, the Insurance Department felt it necessary to make it clear that the section did not just describe the medium through which service must be made but also reflected that the Department need not get actual service on the nonresident licensee before service will be deemed sufficient

Section 18 - This section amends N.D. Cent. Code § 26.1-26-23 by deleting a reference to a limited insurance representative and adding an appropriate reference to health service corporation and prepaid legal services organization sales representatives.

Section 19 - This section amends N.D. Cent. Code § 26.1-26-24 to include the new "principal agent" concept discussed earlier. Under current law, every person soliciting insurance on behalf of a corporate agency must be registered with the Department and licensed as an agent. These individuals must all take and pass an insurance examination before the agency can be licensed. Senate Bill No. 2181 changes current law to introduce a principal agent requirement. Under this bill, a corporate agency may be licensed and continue its license if it designates at least one individual as its principal agent. This principal agent must take the required tests and maintain an agent's license in order for the agency to maintain its license. The agency may only be licensed for those lines of insurance in which one or more of its principal agents is licensed. The agency would also have to inform the Department of a change to the status of its principal agents within 10 days.

Section 20 - This section amends N.D. Cent. Code § 26.1-26-25 to reflect the elimination of the "limited insurance representative". The changes to this subsection allow an individual licensed as an agent, rather than a "limited insurance representative", to be licensed without examination in a single line the Commissioner finds by rule does not require the professional capacity of other lines. An example would be title insurance which an agent can be licensed for without a test. Continuing education requirements are also reduced.

Section 21 - This section amends N.D. Cent. Code § 26.1-26-311 by adding appropriate references to limited liability partnerships.

Section 22 - This section amends N.D. Cent. Code § 26.1-26-32 by deleting a reference to a limited insurance representative.

Section 23 - This section amends N.D. Cent. Code § 26.1-26-34 to reflect that an insurer only need report to the Commissioner those appointment terminations that are for grounds listed in N.D. Cent. Code Chapter 26.1-26 or for cause as defined by the insurer. It is much easier for the company to outline on their renewal billing the agents that have been terminated for a reason which would not give us a regulatory concern. That way, we only need to process the appointment termination once.

Section 24 - This section amends N.D. Cent. Code § 26.1-26-37 to reflect that the Commissioner will only issue a duplicate license upon payment of the required fee.

Section 25 - This section amends N.D. Cent. Code § 26.1-26-38 by adding appropriate references to limited liability partnerships.

Section 26 - This section amends N.D. Cent. Code § 26.1-26-40 to reflect a change required because of a Cass County District Court ruling this past year. Currently, the law only requires the Commissioner to give notice of the right to a hearing if the Commissioner refuses to issue a license to an applicant not previously licensed in the state. Since both a hearing and adequate notice of a hearing are key components to due process, the Insurance Department had interpreted this section to allow us to refuse to issue a license to someone previously licensed without affording them a hearing. This became an issue with one application this past year. Our interpretation was appealed to the Cass County District Court which found that the Insurance Department had to provide a hearing if requested and had to provide notice of that hearing. This amendment reflects that decision.

Section 27 - This section amends N.D. Cent. Code § 26.1-26-41 by adding appropriate references to limited liability partnerships and deleting references to limited insurance representatives.

Section 28 - This section amends N.D. Cent. Code § 26.1-26-32 by deleting a reference to a limited insurance representative.

Section 29 - This section amends N.D. Cent. Code § 26.1-26-46. This is a technical amendment. The section requires a licensee to deliver a suspended, revoked, or refused license to the Commissioner. The word “refused” has been amended out because there is not a license for the applicant to return if the Commissioner refuses to issue it.

Section 30 - This section amends N.D. Cent. Code § 26.1-26-46 to amend out a reference to N.D. Cent. Code § 26.1-39-09.1 which is repealed by Section 31.

Section 31 - This section repeals N.D. Cent. Code §§ 26.1-26-47 and 26.1-39-09.1. N.D. Cent. Code § 26.1-26-47 is the section which imposes all retaliatory requirements on nonresident agents. The whole premise of this bill is to eliminate retaliatory provisions from agent regulation. Accordingly, this section is repealed. N.D. Cent. Code § 26.1-39-09.1 is similar to a countersignature law. It requires all commercial multiple peril or commercial casualty insurance sponsored by a group, association, or franchise to be marketed by a resident insurance agent or broker. For example, the National Bowler’s Association may provide its members liability insurance through a master policy. If a North Dakota member wants to be covered by the master

policy, the policy would have to be marketed through a North Dakota agent. In keeping with eliminating all retaliatory requirements and distinctions between resident and nonresident licensees, this section is repealed.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2181

If House Bill No. 1175 passes, Section 20 of Senate Bill No. 2181 will be ineffective and instead Section 26.1-26-25 should be amended as follows:

26.1-26-25. Exceptions from examination. The requirement for a written examination is subject to the following exceptions:

1. An applicant for a license covering the same line or lines of insurance for which the applicant was licensed under a like resident license in this state, other than a temporary license, within the twelve months next preceding the date of application, unless the previous license was suspended or revoked by the commissioner.
2. A nonresident applicant may be licensed without examination if the ~~commissioner~~ of the public official having supervision of insurance in the state of the applicant's residence certifies, by facsimile signature and seal, that the applicant has passed a similar written examination, or has been a continuous holder prior to the time the written examination was required, of a license like the license being applied for in this state.
3. An applicant who has been licensed under a like license in another state within twelve months prior to the application for a license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in the other state, by facsimile signature and seal, as to the applicant's license and good standing in such state; provided, however, that the applicant shall take that portion of the examination pertaining to state laws and rules.
4. An applicant who has attained the designation of chartered life underwriter is only required to take that portion of the examination for lines one and eighteen pertaining to state laws and rules.
5. An applicant who has attained the designation of chartered property and casualty underwriter is only required to take that portion of the examination for lines two through seventeen pertaining to state laws and rules.
6. An applicant ~~for a license to act as a limited insurance representative~~ may be licensed without examination ~~in one or more of the following lines:~~
 - a. ~~Any ticket-selling agent of a common carrier who acts thereunder only~~

~~with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by the common carrier, or an applicant selling limited travel accident insurance in transportation terminals.~~

- b. ~~Any other lines that~~ to market a specific product type ~~if the commissioner finds by rule~~ to the specific product type does ~~not require the same professional competency demanded for a license as an agent or broker~~ other product types.

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2181

Page 11, line 1, remove "An insurance agent may not"

Page 11, remove line 2

Page 11, line 3, remove "properly appointed with the insurer."

Page 11, line 13, insert: "An insurance agent who holds a valid license may solicit applications for insurance on behalf of an admitted insurer with which the insurance agent does not have a valid appointment on file with the commissioner; provided that the insurance agent has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable in the amount of the appointment fee prescribed in subsection 24 of section 26.1-01-07. The notice of appointment must be on a form prescribed by the commissioner."

Renumber accordingly.

Memorandum

To: House Industry, Business, and Labor Committee

From: Chris Edison, General Counsel, North Dakota Insurance Department

Subject: SB 2181

Date: February 12, 1999

During the committee's hearing on SB 2181, Representative Keiser wanted clarification about how many times the Department has enforced a retaliatory law against a nonresident insurance agent. The following information is provided in response to Representative Keiser's question.

1. Retaliatory fees: In 1998, the Insurance Department licensed approximately 3,737 nonresident agents. These agents paid approximately \$230,247 in initial application fees. Almost all of these fees are imposed on a retaliatory basis. In 1998, the Insurance Department also received 11,377 initial nonresident appointments for which we received \$158,367 in appointment fees. At this time, I do not have year end information on appointment renewals. However, I can have that information later this week. Please let me know if you would like an update on appointment renewals.
2. Enforcement of retaliatory countersignature laws: The Insurance Department gets many inquiries about countersignature laws. These inquiries are usually just questions about how our retaliatory countersignature requirements work. However, we rarely, if ever, get complaints about a company or agent failing to get a required countersignature. Laurie Wolf, the Senior Investigator for the Insurance Department, only remembers having one complaint about countersignatures during her tenure with the Department, which spans some ten years. Without a complaint, the Insurance Department would not be aware of any violation of the countersignature provisions. If we were to get a complaint about the failure of a company or nonresident agent to obtain a required countersignature, the Insurance Department would aggressively pursue an enforcement action. However, I am not aware that the Insurance Department has ever taken an enforcement action based on North Dakota's countersignature laws.

I hope this answers all your questions. If not, I would be happy to appear before the committee in person to try to clarify any questions that remain. Thank you.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2181

Page 3, line 5, overstrike "a resident" and insert immediately thereafter "an" and remove the overstrike from "~~limited insurance representative~~"

Page 3, line 6, remove "an insurance agent"

Renumber accordingly