

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1277

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1277

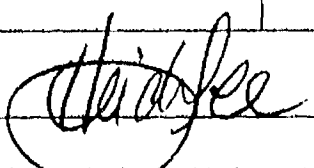
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1277

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb., 2001

Tape Number	Side A	Side B	Meter #
1	X		4.43-46.8
3	X		30.6-33.5
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Frank Wald: Sponsoring bill.

Rep Koppang: Is there a lot of concern throughout the state?

Rep Wald: Yes.

Kent Olson: *NDPIA* We support this bill.

Mike Hamerlik: (9.59) *BC/BS ND* Written testimony in opposition.

Beth Allen: *ND State Insurance Dept.* The employer is considered as part of the group. Any person can waive out of a group but when a carrier decides, persons that waive out may count against the company policy.

Rep Kasper: (20.42) Is the carrier affected if the group includes an employers spouse?

Allen: The carrier is still guaranteed.

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1277

Hearing Date Feb. 5, 2001

Vice-Chair Keiser: As long as the premiums are being paid, why does it matter who's paying?

Hamerlik: The problem is that the bill requires this. When you pool individual rates to a group plan you'll get a better rate. I disagree with the language. We don't want to require companies to be put into a group plan.

Rep Kasper: (29.4) Can't you reject individual policies?

Hamerlik: That would violate discrimination laws.

Rep Johnson: Do you have ideas on how this could be better?

Hamerlik: There has to be a change in the language.

Sue Anderson: *Legal Counsel ND Insurance Dept.* **Neutral** This is too broad. The problem is with the small group if self-employed individuals can do it. Carriers are unsure when accepting a company check for an individual account because it may actually be a small group.

Chairman Berg: Can we make an exception?

Anderson: Exempt out 'small groups' because I'm not sure that we can make them eligible.

Chairman Berg: We'll close the hearing on HB 1277.

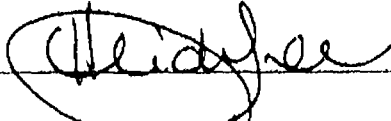
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1277 (B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 12, 2001

Tape Number	Side A	Side B	Meter #
2	X		28.32-37.5
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Koppang: Supplied and proposed amendments to legalize bill.

Rep Pietsch: I move the amendments.

Rep M. Klein: I second

Rep Koppang: I move a do pass as amended.

Rep Kasper: I second.

12 yea, 1 nay, 2 absent

Carrier Rep Koppang

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1277

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 26.1-36.4, relating to"

Page 1, line 4, after the first period insert "A new section to chapter 26.1-36.4 of the North Dakota Century Code is created and enacted as follows:"

Page 1, line 6, after the period insert "This does not apply to groups as defined under chapter 26.1-36.3."

Renumber accordingly

Date: 2-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2001 HB 1277

House Industry, Business and Labor Committee

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

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

Action Taken Do pass as amended

Motion Made By Koppang Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser			Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe		✓

Total (Yes) 12 No 1

Absent 2

Floor Assignment Rep Koppang

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

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2001 12:00 p.m.

Module No: HR-26-3181  
Carrier: Koppang  
Insert LC: 10593.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1277: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1277 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 26.1-36.4 of the North Dakota Century Code, relating to"

Page 1, line 4, after the first period insert "A new section to chapter 26.1-36.4 of the North Dakota Century Code is created and enacted as follows:"

Page 1, line 6, after the period insert "This section does not apply to groups as defined under chapter 26.1-36.3."

Renumber accordingly



2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1277

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1277

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 12, 2001.

Tape Number	Side A	Side B	Meter #
1	x		46.5 to 52.7
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1277 relating to acceptable methods of employer payment of employee health insurance premiums.

**Representative Jim Kasper**, District 46, cosponsor. This bill was introduced because of the situation of small employers, not incorporated, with few employees. Many times not large enough to purchase group policies. They might want to purchase individual policies for the employees but, as interpreted by the insurance companies, the law says they cannot use employer checks to pay for the premiums. The language in this bill will allow employers to use employer checks to pay employee premiums and the insurance companies will be able to accept them.

**Senator Espgaard**: Problem would be that it would be taxable as part of wages and not as a business expense for the employer.

**Rep. Kasper**: Yes, it would cause a tax liability.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1277

Hearing Date March 12, 2001.

**Rod St Aubyn**, Blue Cross/Blue Shield, support the bill.

No opposing testimony. Hearing closed.

**Senator Klein**: Motion do pass. **Senator Espegard**: Second.

Roll call vote: 5 yes; 0 no; 2 absent not voting. Floor assignment : **Senator Espegard**.

Date: 3/12/01

**Roll Call Vote #:** /

## 2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

## Senate Industry, Business and Labor

## Committee

Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken Do Kase as mentioned.

Motion Made By Sen Klein Seconded By Sen Espregueira

[illegible]

Total (Yes) 5 No 0

Absent 2

Floor Assignment Sen Espeland

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

**REPORT OF STANDING COMMITTEE (410)**  
March 12, 2001 12:01 p.m.

**Module No: SR-42-5320**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1277, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1277 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1277

**House Industry Business and Labor Committee**  
**Rep. Rick Berg, Chairman**  
**Testimony in Opposition to House Bill 1277**  
**On behalf of Blue Cross Blue Shield of North Dakota**  
**Mike Hamerlik**  
**February 5, 2001**

Mr. Chairman and Members of the Committee:

My name is Mike Hamerlik, and I appear today on behalf of Blue Cross Blue Shield of North Dakota in opposition to House Bill 1277.

The passage of HB 1277 will reverse the progress made since 1993 in reforming insurance laws to make insurance more affordable for small businesses. Beginning in the 1993 and continuing in 1995 and 1997, the North Dakota Legislative Assembly has made significant positive strides in making health insurance more affordable for North Dakota's small businesses.

These changes, known in the industry as "small group reform," have transformed an accepted industry practice of denying coverage through underwriting to a required practice of accepting all groups *regardless* of the health condition of a group or an individual within a group. Because of these changes, North Dakota has maintained its position as having one of the lowest uninsured rates in the country. In addition, we have seen migration from individual health plans to small employer health plans.

Prior to these changes, insurance companies could accept or reject any group or even reject certain individuals within groups based upon health status. To help keep premiums low, groups or individuals likely to incur claims were rejected. The law now forbids this; all insurance companies must accept all groups that apply for coverage.

These changes became feasible by requiring inclusion of all employees in a group health insurance plan and not excluding any employees. If HB 1277 passes, an employer will be free to drop coverage for the "group" as a whole and tell employees to buy insurance on their own...if they can get it. The young and healthy will be able to by affordable health insurance; the older or sicker employees will be denied coverage or pay even higher premium rates. We will see more uninsured North Dakotans, many of whom have chronic conditions and need health care and health insurance.

In addition, HB 1277 requires insurance companies to accept employer-sponsored health plans that may violate a myriad of federal laws. The Employee Retirement Income Security Act of 1974 ("ERISA") governs most employer-sponsored health insurance benefit plans. ERISA imposes many regulations on such plans, including provisions that prohibit discrimination. In addition, the Americans with Disabilities Act forbids discrimination on the basis of a disability, which in many cases is a medical condition

that would prevent the issuance of individual insurance. Further, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") has federalized many of North Dakota's state reforms. Thus, it is unclear whether HIPAA statutes or regulations may be violated. Nevertheless, under this bill, North Dakota law would require insurance companies to accept premium payments that may violate these federal statutes.

There are two insurance concepts that will be most directly affected by HB 1277. The first is "cherry picking," which is an act by an insurance agent or company of selecting only *healthy* individuals or groups for marketing or underwriting. This practice allows an insurance company to accept premium for individuals *unlikely* to have health claims, and avoid those *likely* to have health claims.

The second concept is that of "adverse selection," in which only those employees who are sick and *need* health benefits are willing to expend the money to purchase health insurance. Predictable and reasonable insurance premiums depend on a variety of risks being present in the insurance pool. There must be healthy people paying premiums that exceed their own claims costs to cover the costs of those that are or get sick and incur significant claims. When adverse selection occurs, premium rates go into an upward spiral because all participants in the insurance pool are incurring more claims than the premiums paid.

Under current law, the effects of "cherry picking" and "adverse selection" are minimized. But, under HB 1277, the combined effects of "cherry picking" and "adverse selection" is that healthy people will leave the pool, thereby drastically increasing the premium of those who are sick, without other options and in need of insurance. In addition, because the employees will be searching in the *individual* market (not the *group* market), many of the people will simply not be able to get health insurance, much less be able to pay for it.

HB 1277 will not enable the widely touted "defined contribution" health insurance plan. Under a defined contribution plan, an employer pays a set dollar amount for insurance, and employees can pick their own plan...maybe an HMO, or maybe a high deductible plan. It must be stressed that these plans will work only in the GROUP setting, not the INDIVIDUAL setting. In a group setting, there are minimum employer contribution levels, minimum participation rates and guaranteed acceptance of all employees to shield against the gamesmanship of "cherry picking" and "adverse selection".

HB 1277 will undo much of the progress made in the early 1990's in health insurance reform, will raise insurance premiums, and create more uninsured North Dakotans. I urge this Committee to recommend HB 1277 Do Not Pass. Thank you for your time.

Respectfully submitted,  
Michael F. Hamerlik  
Senior Vice President, Corporate Services  
Blue Cross Blue Shield of North Dakota  
Lobbyist #28