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DESCRIPTION

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10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1233

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1233

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/21/03

Tape Number	Side A	Side B	Meter #
3		x	13.0-39.5
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Vice-Chairman Severson opened the hearing on HB 1233. Rep. Kelsner, District 47, introduced HB 1233 which relates to the powers of nonprofit mutual insurance companies. Blue Cross Blue Shield is the only nonprofit mutual insurance company in our state. The intent of the bill is to allow BCBS to form subsidiary/affiliates that although not accepting insurance risk, could offer specific services which they are now performing for themselves outside the borders of ND.

Mike Hamerlik, Blue Cross Blue Shield North Dakota, appeared to testify in support of HB 1233. (See attached testimony and drafted amendments)

Replying to Rep. Ekstrom's question, Hamerlik stated that subsidiaries would be for profit enterprises.

Replying to Rep. Kasper's question regarding rising health costs in our state due to the aging population and if subsidiaries would generate profits, would those profits then be used by the parent company to soften premium blows, Hamerlik said that the for-profit entities' profits would

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Deanna Hallmark
Operator's Signature

1/21/03
Date

Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1233
Hearing Date 1/21/03

indeed flow on to the parent company. In the new language, the word affiliate is not used.

Subsidiaries and, in limited circumstance, joint ventures are allowed. Under the IRS' code the Noridian Administrative Services is an LLC and considered a disregarded entity. The financial statements are consolidated. Profits would affect the total reserves of the parent company.

Hamerlik then walked the committee through the proposed amendments.

Rep. Ruby asked if there were plans to locate the subsidiaries in ND and thereby provide employment to citizens of our state. Hamerlik stated that this the intent.

Rep. Dosch questioned if Noridean Mutual Insurance Company is a stock company or a wholly owned subsidiary. Hamerlik replied that it is a nonprofit mutual owned by the policyholders. It is a nonprofit but it is taxed.

Chris Runge, Executive Director of PERS, and Secretary-Treasurer of AFL-CIO, appeared in opposition to HB 1233. Her concern is that charitable assets of BCBS might not be best protected for taxpayers. She will review the amendments presented today and get back to the committee with her committee.

Chuck Johnson, ND Insurance Dept. also testified in a "neutral" position to HB 1233. Prior to the amendments presented today, the Insurance Dept. felt that the language was too broad but Johnson now thinks that they can support HB 1233 as amended.

As there was no one else present to testify, the hearing was closed.

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Deanna Hall

1/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1233

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/22/03

Tape Number	Side A	Side B	Meter #
4	x		5.0-11.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Kelser called for committee work on HB 1233. Rep. Dosch stated that the amendments strengthen the bill to give Blue Cross Blue Shield the authority to form a fully owned company (100% owned by parent company) which allows BCBS to retain the profits. The emergency clause will allow them to take advantage of any situation that might arise between now and July. BCBS will assist in drafting the emergency clause.

Rep. Kasper moved to adopt the amendments, seconded by Rep. Johnson. A voice vote carried the motion. Rep. Kasper moved a do pass as amended on HB 1233, seconded by Rep. Klein.

Roll call vote results were 13-0-1. Rep. Dosch will carry this bill on the floor.

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Deanna Ball
Operator's Signature

1/22/03
Date

30432.0101
Title.0200

Prepared by the Legislative Council staff for
Representative Dosch
January 23, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1233

Page 1, line 2, after "companies" insert "; and to declare an emergency"

Page 1, line 6, remove the overstrike over "a", after "steek" insert "wholly owned", and remove the overstrike over "company for the purpose"

Page 1, line 7, remove the overstrike over "of administering medicare claims" and replace "subsidiaries and affiliates" with "and engaging in other business activities"

Page 1, line 8, after "risk" insert ". A company established under this subsection may form a joint venture or subsidiary to conduct one or more of the functions the nonprofit mutual insurance company could conduct directly. An officer, a director, or a management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary"

Page 1, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Page No. 1

30432.0101

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Dorinda Holbrook
Operator's Signature

1/21/03
Date

Date: 1/22/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1233

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

30432.0101
0200

Action Taken

Do Pass as Amended

Motion Made By

Kasper

Seconded By

Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/		Rep.Boe	/	
Rep. Severson, Vice-Chair	/		Rep. Ekstrom	/	
Rep. Dosch	/		Rep. Thorpe	/	
Rep. Froseth	/		Rep. Zaiser	/	
Rep. Johnson	/				
Rep. Kasper	/				
Rep. Klein	/				
Rep. Nottlestad	/	A			
Rep. Ruby	/				
Rep. Tieman	/				

Total (Yes)

13

No

0

Absent

1

Floor Assignment

Dosch

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

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Operator's Signature

Donna Holbrook

Date

1/22/03

REPORT OF STANDING COMMITTEE (410)
January 24, 2003 10:16 a.m.

Module No: HR-14-1032
Carrier: Dosch
Insert LC: 30432.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1233: Industry, Business and Labor Committee (Rep. Kelsor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1233 was placed on the Sixth order on the calendar.

Page 1, line 2, after "companies" Insert "; and to declare an emergency"

Page 1, line 6, remove the overstrike over "a", after "steek" Insert "wholly owned", and remove the overstrike over "company for the purpose"

Page 1, line 7, remove the overstrike over "~~of administering medicine claims~~" and replace "~~subsidiaries and affiliates~~" with "and engaging in other business activities"

Page 1, line 8, after "risk" Insert ". A company established under this subsection may form a joint venture or subsidiary to conduct one or more of the functions the nonprofit mutual insurance company could conduct directly. An officer, a director, or a management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary"

Page 1, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1233

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Donna Holladay
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1233

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 02-26-03

Tape Number	Side A	Side B	Meter #
1		xxx	0-950
Committee Clerk Signature <i>Lisa DeBerkon</i>			

Minutes: Chairman Mutch opened the hearing on HB 1233. Senator Heitkamp was absent.

HB 1233 relates to the powers of nonprofit mutual insurance companies; and to declare an emergency.

Testimony in support of HB 1233

Mike Hamerlik, Blue Cross Blue Shield of North Dakota, introduced the bill. See written testimony.

No opposing testimony was given.

There was brief committee discussion.

Senator Espegard moved a DO PASS. Senator Krebsbach seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Carrier: Senator Klein

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Danna Hall
Operator's Signature

10/2/03
Date

Date: 2-26-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1233

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Espgaard Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Sen. Jerry Klein, Vice Chairman	X				
Sen. Karen Krebsbach	X				
Sen. Dave Nething	X				
Sen. Joel Heitkamp	X				
Sen. Mike Every	X				
Sen. Duane Espgaard	X				
Sen. Duane Mutch, Chairman	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Klein

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

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Doreen Hallmark
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
February 26, 2003 1:55 p.m.

Module No: SR-34-3528
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1233, as engrossed: Industry, Business and Labor Committee (Sen. Mutch,
Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT
VOTING). Engrossed HB 1233 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-34-3528

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Deanna Baller
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1233

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Dan Hall
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10/2/03
Date

**House Industry, Business and Labor Committee
North Dakota House of Representatives
Testimony in favor of House Bill 1233
January 21, 2003
Michael F. Hamerlik
Blue Cross Blue Shield of North Dakota**

Mr. Chairman and Members of the Committee:

My name is Mike Hamerlik from Blue Cross Blue Shield of North Dakota. I am here today to testify in favor of House Bill 1233. House Bill 1233 was introduced at our request to accomplish the following purposes: 1) clarify a statutory vehicle for further economic development by Noridian; 2) clarify an existing statute to allow a subsidiary to perform more than just administration of the Medicare program and to perform some of the same services that our parent can perform; and 3) allow more than one subsidiary as a means to protect our policyholders. Here is some background:

In 1997, the Legislature approved legislation that allowed Blue Cross Blue Shield of North Dakota to convert from a Nonprofit Health Service Corporation to a Nonprofit Mutual Insurance Company. That conversion was finalized in 1998, and the new name of the parent company became Noridian Mutual Insurance Company ("Noridian"). At the time of the conversion, there was concern expressed that Noridian would form downstream, for-profit *insurance* subsidiaries and "siphon off" profitable business to those subsidiaries. That was never our intent, nor did we ever consider such a scheme. So, Blue Cross agreed to the prohibition of insurance subsidiaries except in the case of a subsidiary to process Medicare claims. We requested the exception because we have planned for several years to form such a subsidiary for our Medicare processing operations.

At the time, the federal government required all Medicare contractors to be formed and licensed as insurance companies. The federal government has changed its opinion in recent years to allow entities other than insurance companies to become Medicare contractors. Prior to 2001, the statute allowed formation only of a "stock insurance company." Thus, in 2001, the Legislature changed the statute to remove the word "insurance" from the language.

In January of 2002, we formed Noridian Administrative Services, LLC ("NAS") to perform our Medicare processing functions. Here are some facts about NAS:

- We have about 1000 employees, of which about 750 are in North Dakota.
- We process Part A (hospital) or Part B (physician) claims in the following states:
 - North Dakota (since 1966)
 - South Dakota (since 1980)
 - Minnesota (since 1999)
 - Iowa (since 1998)
 - Wyoming (since 1990)
 - Colorado (since 1994)
 - Alaska (since 1997)
 - Washington (since 1997)
 - Oregon (since 1997)
 - Nevada (since 1997)
 - Arizona (since 1997)
 - Hawaii, Guam, Samoa, and Northern Mariana Islands (since 1997)

- We process over 60 million claims per year and pay over \$6 billion in Medicare benefits.
- We have offices in Fargo, Grand Forks, and Jamestown, ND; Eagan, MN; Des Moines and Prairie City, IA; Golden, CO; Kent, WA; Phoenix, AZ; Portland, OR and Honolulu, HI.
- The NAS annual operating budget exceeds \$74 million.
- Since 1994, we have added more than 500 jobs in North Dakota.
- NAS is one of the 5 largest Medicare contractors in the United States.
- We process over 28,000,000 pieces of mail from our offices in Fargo.
- We print over 139,000,000 pages per year.
- NAS is 100% owned by Noridian Mutual Insurance Company.

Why is this bill needed?

The current statute limits the functions that the subsidiary can perform to those related to Medicare. We need the authority to perform similar functions, but for other entities than the federal government.

Multiple subsidiaries are needed both to protect the assets of Noridian and NAS, and because, in certain cases, the government requires a separate legal entity to perform the function. An example is a new statute passed by Congress that expands the process for hearings that Medicare beneficiaries or providers may request if a claim is denied. In order to perform this function, a company must be a "qualified independent contractor" or "QIC". Currently, NAS performs this function for 5 states (in addition to the states listed above for which we hold the contract). Thus, in order to continue in the business,

and to have a chance to qualify for expansion of our hearings function, we need to start a separate entity.

It must be stressed that we are not asking for the ability to perform tasks or functions not already allowed by law for the parent (Noridian/BCBSND) to perform. The ability to have separate wholly owned subsidiaries protects the assets of the BCBS policyholders in North Dakota.

We see tremendous potential on the horizon for new business opportunities both in Medicare processing and in doing similar functions for non-Medicare entities. Much of the potential lies in rural North Dakota. We have nearly reached our capacity to significantly expand in Fargo, and in recent years, have opened offices in Grand Forks and Jamestown. We are particularly interested in exploring opportunities in the Mountain Time zone due to our need to be open and accessible across multiple western time zones. One of the reasons for the urgency of this is that the business opportunities often arise with very little notice. In 1994 when we bid for and won the Colorado Medicare workload, less than 2 weeks elapsed between the notice and award of the bid. At the time, the addition of the Colorado workload more than doubled our business. A similar situation occurred in 1997 when we won the six western states workload.

Can we guarantee jobs in rural North Dakota if this bill passes? Of course not. But, with the passage of this bill, the opportunities for further growth will be greatly expanded.

I understand that the Insurance Department has raised several issues, and they may request to amend this bill. (At the time of preparing of this testimony, the language of the proposed amendment had not been reduced to writing or agreed upon).

I respectfully request your "Do Pass" recommendation on House Bill 1233. I am glad to answer any questions the Committee may have.

Michael F. Hamerlik
Executive Vice President
Noridian Mutual Insurance Company
Blue Cross Blue Shield of North Dakota
and
President and CEO
Noridian Administrative Services, LLC
4510 13th Avenue SW
Fargo, ND 58121
701-282-1868
ND Lobbyist #25
E-mail: mike.hamerlik@noridian.com

Amendments to HB 1233

Page 1, line 6, remove overstrike.

Page 1, line 6, after "form a" insert "wholly owned".

Page 1, line 6, overstrike "stock".

Page 1, line 7, remove overstrike.

Page 1, lines 7 & 8, delete underlined language.

Page 1, line 7, after "claims" insert "and engaging in other business activities that do not accept insurance risk. A company established under this clause may form joint ventures or subsidiaries to conduct one or more of the functions it could conduct directly. An officer, director, or management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary."

The new bill would read as follows:

5. A nonprofit mutual insurance company may form a wholly owned ~~steek~~ company for the purpose of administering medicare claims and engaging in other business activities that do not accept insurance risk. A company established under this clause may form joint ventures or subsidiaries to conduct one or more of the functions it could conduct directly. An officer, director, or management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary."

**Senate Industry, Business and Labor Committee
North Dakota Senate
Testimony in favor of House Bill 1233
February 26, 2003
Michael F. Hamerlik**

Mr. Chairman and Members of the Committee:

My name is Mike Hamerlik from Blue Cross Blue Shield of North Dakota. I am here today to testify in favor of House Bill 1233. House Bill 1233 was introduced at our request to accomplish the following purposes: 1) provide a vehicle for further economic development by Noridian; 2) clarify an existing statute to allow a subsidiary to perform some of the same services that our parent can perform; and 3) allow more than one subsidiary as a means to protect our policyholders. Here is some background:

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At the time, the federal government required all Medicare contractors to be formed and licensed as insurance companies. The federal government has changed its opinion in recent years to allow entities other than insurance companies to become Medicare contractors. Prior to 2001, the statute allowed formation only of a "stock insurance company." Thus, in 2001, the Legislature changed the statute to remove the word "insurance" from the language.

In January of 2002, we formed Noridian Administrative Services, LLC ("NAS") to perform our Medicare processing functions. Here are some facts about NAS:

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 - Wyoming (since 1990)
 - Colorado (since 1994)
 - Alaska (since 1997)
 - Washington (since 1997)

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Date

- Oregon (since 1997)
- Nevada (since 1997)
- Arizona (since 1997)
- Hawaii, Guam, Samoa, and Northern Mariana Islands (since 1997)
- We process over 60 million claims per year and pay over \$6 billion in Medicare benefits.
- We have offices in Fargo, Grand Forks, and Jamestown, ND; Eagan, MN; Des Moines and Prairie City, IA; Golden, CO; Kent, WA; Phoenix, AZ; Portland, OR and Honolulu, HI.
- The NAS annual operating budget exceeds \$74 million.
- Since 1994, we have added more than 500 jobs in North Dakota.
- NAS is one of the 5 largest Medicare contractors in the United States.
- We process over 28,000,000 pieces of mail from our offices in Fargo.
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- NAS is 100% owned by Noridian Mutual Insurance Company.

Why is this bill needed?

The current statute limits the functions that the subsidiary can perform to those related to Medicare. We need the authority to perform similar functions, but for other entities than the federal government.

Multiple subsidiaries are needed both to protect the assets of Noridian and NAS, and because, in certain cases, the government requires a separate legal entity to perform the function. An example is a new statute passed by Congress that expands the process for hearings that Medicare beneficiaries or providers may request if a claim is denied. In order to perform this function, a company must be a "qualified independent contractor" or "QIC". Currently, NAS performs this function for 5 states (in addition to the states listed above for which we hold the contract). Thus, in order to continue in the business, and to have a chance to qualify for expansion of our hearings function, we need to start a separate entity.

It must be stressed that we are not asking for the ability to perform tasks or functions not already allowed by law for the parent company (Noridian/BCBSND) to perform. The ability to place the functions in separate wholly owned subsidiaries serves to protect the assets of the BCBS policyholders in North Dakota.

We see tremendous potential on the horizon for new business opportunities both Medicare processing and doing similar functions for non-Medicare entities. Much of the potential lies in rural North Dakota. We have nearly reached our capacity to significantly expand in Fargo, and in recent years, have opened offices in Grand Forks and Jamestown. We are particularly interested in exploring opportunities in the Mountain Time zone due to our need to be open and accessible across multiple western time zones. One of the reasons for the urgency of this is that the business opportunities often arise with very little notice. In 1994 when we bid for and won the Colorado Medicare workload, less than 2 weeks elapsed between the notice and award of the bid. At the time, the addition

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Dan H. H. H.
Operator's Signature

10/2/03
Date

of the Colorado workload more than doubled our business. A similar situation occurred in 1997 when we won the six western states workload.

Can we guarantee jobs in rural North Dakota if this bill passes? Of course not. But, with the passage of this bill, the opportunities for further growth will be greatly expanded.

In the hearing before the House IBL Committee, the Insurance Department offered some amendments to further clarify the purpose of this bill. The committee understood the economic development possibilities of this bill and unanimously supported adding the Emergency Clause. We fully support the amendments and the bill as amended.

We respectfully request your "Do Pass" recommendation on Engrossed House Bill 1233.

I am glad to answer any questions the Committee may have.

Michael F. Hamerlik
Executive Vice President
Noridian Mutual Insurance Company
Blue Cross Blue Shield of North Dakota
and
President and CEO
Noridian Administrative Services, LLC
4510 13th Avenue SW
Fargo, ND 58121
701-282-1868
ND Lobbyist #25
E-mail: mike.hamerlik@noridian.com

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