

2009 HOUSE JUDICIARY

HB 1136

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1136

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/13/09

Recorder Job Number: 6874

Committee Clerk Signature

*Delmore*

Minutes:

**Chairman DeKrey:** We will open the hearing on HB 1136.

**Rebecca Ternes, Dep. Commissioner, ND Insurance Dept:** (attachment)

**Chairman DeKrey:** The fee is limited to what the third party processor charges? Where does it say that in the bill.

**Rebecca Ternes:** The last paragraph on page 4 says that the fee is the actual cost charged.

**Chairman DeKrey:** Have you checked with any other agencies to see how they handle that.

**Rebecca Ternes:** We haven't checked directly, I'm not sure that they have the situation as we do, with regards to our National Association offering this service. We don't pay \$80,000 for the software to do this within our department. It is a transaction that the user pays.

**Rep. Delmore:** What does NIPR and SERFF mean.

**Rebecca Ternes:** NIPR stands for National Insurance Producer Registry. SERFF stands for State Electronic Rates and Forms Filing. They use that agency when they want to change or increase their rates, they have to file with SERFF. The money that they keep does go to pay for the administrative costs of the program. Most states use the NIPR system and SERFF. These are separate entities within the Association, under the umbrella of the Association.

There are staffing and IT costs. These are costs associated with an outside vendor, which are

probably less than if we had to buy the software and have staff to work with it. The beauty of this system is that they are nationwide, so if the agents are registered in different states, they can take care of their registrations all on-line, any time of the day or night.

**Rep. Delmore:** You say it is nationwide, so is every state on board and what do they charge, are they doing similar things to what we're asking.

**Rebecca Ternes:** I think over 40 states are on NIPR.

**Rep. Delmore:** Do other states charge this fee as well.

**Rebecca Ternes:** Yes.

**Rep. Boehning:** You said that this is about saving money, but to use the electronic system it costs \$5 per transaction and for paper it is \$0.

**Rebecca Ternes:** You're right about the costs, but if you have only three hours before your license expires in the middle of the night, you have the option of renewing online and you pay \$30 instead of \$25 to the State. The \$30 goes to NIPR, they keep the \$5 and the remainder of the fee is electronically paid to us on an ongoing basis (daily/weekly).

**Rep. Boehning:** You want to require them to file only online, not on paper.

**Rebecca Ternes:** Yes, right now without the ability to require the use of electronic, we have two systems going. We have paper and electronic. It takes a great deal of time and money to process the paper applications. The State doesn't receive the fee charged by the third party processor.

**Rep. Koppelman:** This bill is asking for the fee, and the bigger issue is that you want to require everyone to file electronically. Is it really that much of a burden for the people to file by paper.

**Rebecca Ternes:** I hear what you are saying, but yet I think it is a much larger job to take the paper applications, and probably added to that is the expense of running two systems all

the time; by paper and electronic. The Insurance Dept. has been at the same number of FTE's for a very long time. We try to offer quality services. The number of producers has increased exponentially, and if we keep the paper system going, we will have to increase the number of FTE's.

**Rep. Koppelman:** Why aren't you showing a huge financial increase in the fiscal note.

**Rebecca Ternes:** We are saving because we don't have to go out and buy the software. We've been using this system so that's not something we have to do. We already have that software. If we didn't, we would be buying the software, and then we would probably have to come and ask for a fee increase, instead of an electronic fee at some point. To be able to have a system doing everything instead of our office is a great help.

**Rep. Koppelman:** But that's not really the issue of the bill. You're asking to be allowed to charge a fee. The other issue is the mandatory filing by electronic means instead of by paper.

**Rebecca Ternes:** The fee that they collect, the \$5 per transaction goes to pay for software that we would have had to purchase. The requirement for me is in managing the department, and looking forward. How do we go forward with the staff that we have. If we continue with processing paper applications, etc. it will eventually require additional FTE's. We want to continue to serve the folks in the best way we can.

**Rep. Boehning:** Have you thought about using a Paypal account or other processor so that it might be free to the producer.

**Rebecca Ternes:** The system that NIPR has is a nationwide system. So the system is set up and the software is built to be a database that not only takes people's information in and collects money, but also shares that information out to all the regulatory agencies that use it. For instance, if someone breaks a law in another state, we would get notification of that. It is very important to us. If someone changes an address, it's changed for all of the states. It

does more than just collect money and give information. It is a very high level database and high level of information for us. It is a regulatory tool for us. Buying that kind of software would be very expensive.

**Rep. Boehning:** Couldn't you accept other means of electronic payment or would that not work.

**Rebecca Ternes:** You can do a credit card currently and an electronic check as well. Some people will call in and give their credit card information.

**Rep. Boehning:** So they can call in now and still do an electronic payment?

**Rebecca Ternes:** We couldn't do our work without the system, it's not just for making payments, and it's so much more than that. We can accept payments in other ways. The paperwork still has to be put into the system if it comes in by paper.

**Rep. Boehning:** Can a person do a credit card online now.

**Rebecca Ternes:** No, they can send the information in on a piece of paper or call us.

**Rep. Delmore:** It seems that we have a lot of state agencies that have gone electronic, and if everyone of them came to us with an increase in fees, that could create a lot of money for the consumer. It seems to me that there are some things we absorb as a cost of doing business. Is it really that great amount of money that you are losing; \$5 doesn't seem like a whole lot, but it adds up rather quickly if every agency would charge.

**Rebecca Ternes:** I think there are some of the associations here today that will tell you the value of these systems and why they pay those fees already and why they want it to be nationwide, so that it is easier for them to do business. I think that the ability to do everything electronically, even correspond back and forth on filing fees on the search system is hugely valuable, both in terms of record retention and getting things done quicker.

**Rep. Klemin:** The third party companies that do the electronic filing, like NIPR and SERFF.

Do those two companies charge the department a fee for processing these to the department.

**Rebecca Ternes:** No they don't charge the department. It is part of our membership in the National Association of Insurance Commissioners.

**Rep. Klemin:** So if the department is currently not paying a fee to utilize these programs, but the agents or the company that want to do the electronic filing are being charged a fee by the third party company.

**Rebecca Ternes:** That's correct. We pay a membership fee to the National Association of Insurance Commissioners, which is \$7,500 and this then comes as part of that membership.

**Rep. Klemin:** That being the case, what's the purpose of charging a fee by the department.

**Rebecca Ternes:** We aren't collecting that fee, and part of the confusion is that the \$5 is charged by the system, they collect the entire fee, and they take out their fee and remit the application fee to the department. We don't collect any of that additional fee. This allows us to do this, but it does not require everybody to do it electronically. This is still a rules process. The fee does not come to the department. It is not revenue to the State. It saves us a significant amount of time.

**Chairman DeKrey:** Thank you. Further testimony in support of HB 1136.

**Kent Olson, Professional Insurance Agents (PIA):** Support. Agents are multi-lines and in multi-states. The NIPR is great. We have more and more agents going to the electronic filing. This bill allows the Dept. to continue to allow us to use the National Insurance Producer Registry for licensing. We would even like to see it expanded to continuing education filing of credits. We support this bill because even though there is a cost to filing electronically it is better than the federal regulations coming in with a federal license. The costs would increase

greatly. We want some form of uniformity and simplicity with our renewal processes. We think the Ins. Dept. is doing fine.

**Rep. Delmore:** Can you tell me how much, how often, what would the average cost be?

**Kent Olson:** The \$5 is a cost of doing business by the agency. A larger agency that has 10 licenses in 10 states is going to cost \$500, but that's a cost of doing business. The cost is less doing it online than doing it by paper.

**Rep. Delmore:** I don't think that it is just licensing fees included in the bill.

**Kent Olson:** I thought it was just dealing with licensing on page 3, electronic filings.

**Rep. Koppelman:** Do you agree that everyone should be forced to file electronically and not have the privilege of sending in a paper application.

**Kent Olson:** We don't like mandates, we usually resist mandates, all or nothing. If it is still allowable to file a paper form, there could be a surcharge. If I elect to do paper and had to pay a \$25 surcharge or handling fee, we would be open to that.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Evan Mandigo, Independent Insurance Agents of ND:** We stand in favor of HB 1136 for the reasons my colleague has stated. The convenience of renewing our licenses electronically is of benefit to our members. The mandated nature of having to file electronically, is in our judgment, a minor inconvenience when weighed against the convenience of many agents being licensed in 10-15 different states and being able to file with the NIPR at one time for a one-time fee that does not come back to the State, is well worth that fee.

**Rep. Koppelman:** You realize that it's not either/or.

**Evan Mandigo:** Yes.

**Rep. Koppelman:** The bill is either / or, but we don't necessarily have to prohibit a paper filing in order to participate in this.

**Evan Mandigo:** We don't want to lose the electronic filing, it is an incredibly piece of the legislation, particularly for my members who in many cases have multiple lines in multiple states and being able to go online on weekends before the license expires and with a few mouse clicks being able to renew all of the licenses at one time.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Norbert Mayer, ND Association of Insurance and Financial Advisors:** We support this bill. Not all of our members are going to be happy with the extra \$5 charge, but we do feel that this is a cost of doing business. Other vendors call in and say that this is really slick. Now we can input our continuing education credits online and get a report sent to us the next day. In the past, continuing education was very cumbersome and you had to wait to input your information every two years. You would have to bring out all the certificates and record them on a document to send to the Insurance Dept. Now with the NIPR, we all have a number and regardless of where you might take your continuing education, in ND, SD, MN it gets recorded and when it is time for us to report our continuing education credits, the Dept. can send us a report electronically and if it looks to be accurate we can click back and submit the report and it is all done. I think the standardization is terribly important. Nobody likes to be required to do something, but we've always had that concern that if we as states continue to go in different directions, pretty soon Uncle Sam, is going to say "enough is enough". We are now going to have to do it this way. I think this is just one thing that we in ND can do to support standardization across the nation so that the companies can say "yes" we can go with a few mouse clicks and we can register our products and agents can go ahead and register within our state.

**Rep. Wolf:** How many states currently mandate electronic filing.

**Norbert Mayer:** I can't answer that question.



**Rep. Zaiser:** Is it like 75% of them or give us a ballpark number?

**Norbert Mayer:** I don't know.

**Chairman DeKrey:** Thank you. Further testimony in support of HB 1136. Testimony in opposition.

**Rod St. Aubyn, Blue Cross/Blue Shield:** (attachment) We are concerned with how the bill was drafted. There is nothing in the bill that sets forth a cap of any sort on the fee that is charged by the 3<sup>rd</sup> party processor.

**Rep. Koppelman:** If the edits on page 3 and 4 were removed and on lines 8-10 of page 4 and on line 11 after adopt rules, you wouldn't have a problem then.

**Rod St. Aubyn:** Correct. You may need to change something, if I understand that it is their intent to basically require electronic filing, you may have to change some language up above saying may adopt rules to require...something like that.

**Rep. Klemin:** Some agencies now do require electronic filing in the federal government, where larger type of reports are required to be filed electronically, like the IRS or Social Security. There is basically a two tiered system, where smaller employers are allowed to use paper, and larger entities are required to do electronic filing because of the magnitude of what it is they are filing. Would you have any problem with that kind of a system.

**Rod St. Aubyn:** No, as a matter of fact, I think that's really a public policy decision to make, and that gets back to my statement about, I think the merits of what the Dept. wants to do are valuable. I'm not so sure that there shouldn't be some kind of oversight in terms of who administers the rules process. For some groups it might be a legitimate thing, but for others they should still be able to do paper. I think this is something to be ascertained in the administrative rules process. The fee structure can be set up accordingly after public input.

**Chairman DeKrey:** Thank you. Further testimony in opposition.

**Ms. Ternes:** There were a few things that were stated that were a mistake. The ability to adopt rules is still there, on a line later, but it is still there. That is what we are trying to be very careful about, that we did not raise fees without legislative approval and bringing this bill to you today, so I think that is still there. I think the ability for companies and producers to file by paper still exists. The fees are kept low. The word "may" is in there, not "shall". We would never do one thing for one company and something different for another company, unless it were like large vs. small. However, in the case of electronic filing, we are finding that small of the smaller mutual companies do it, and some of the larger don't. I don't think that is a good measure of who wants it and who doesn't.

**Rep. Delmore:** I think that the administrative rule process should say "shall" not "may". Those are two very different terms.

**Ms. Ternes:** Thank you for that. It's absolutely true. We can't put the \$5 in that section, because it's not something that we determine. This is a nationwide system and we don't set the price.

**Rep. Delmore:** There is no cap on the fees, right now it is \$5 but there is nothing to say that it won't be raised.

**Ms. Ternes:** One of the things that we need to consider in this is putting in a cap. Then we would have to decide what would that be. We can certainly talk about putting a nominal cap on it. That is something we struggled with as well.

**Chairman DeKrey:** We will close the hearing. We will form a subcommittee of Rep. Koppelman, Rep. Boehning, Rep. Vig, Melissa (the attorney for the Insurance Dept.) and come up with something quick.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1136

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/14/09

Recorder Job Number: 6952

Committee Clerk Signature
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Minutes:

**Chairman DeKrey:** We will take a look at HB 1136. What are the committee's wishes in regard to HB 1136.

**Rep. Koppelman:** I am passing around the proposed amendments that we put together with all concerned. I move the amendments.

**Rep. Delmore:** Second.

**Rep. Koppelman:** As you recall this is the bill dealing with fees for the electronic filing by the Insurance Department. The recommendation of the subcommittee, and this is agreeable to the public and industry representatives who were present. If we remove the overstrikes on the bottom of page 3 and top of page 4 of the bill, which is essentially current law, and removed the edits on lines 10 on page 4 and changed page 4, lines 11, 12, 13 and 14. It says that it allows the Dept. to charge those fees for the electronic transactions, which they want to do and which the industry wants to have the convenience of doing, and specifies that it can only be the actual costs. Also we are not prohibiting them from filing by paper.

**Rep. Delmore:** Is there a place in there where it says how much they can charge. Is there any administrative rule for this.

**Rep. Koppelman:** First of all, we did insert the language that said the fee is charged by the designee processing the filing, meaning it is charged by that third party company that does the filing of the computer file.

**Rep. Delmore:** My point isn't even that I am worrying about them pocketing that money; I don't like our insurance agents gouged by prices charged by the other company.

**Rep. Koppelman:** We determined that it had to be the actual fee that the third party company is charging, it can't be more than \$20, that's the cap, and right now it's about \$5. Any change has to be my administrative rules. So if we adopt this, it would allow them to pass the cost along to the agents, with a cap of \$20. They assured us that if it ever got to \$20 they are going to look for a different vendor, because they aren't going to pass that kind of cost on to their agents. The testimony indicated that the agents liked being able to file electronically and considered the fee a cost of doing business. Any other charge has to be by administrative rules.

**Rep. Klemin:** As I understand how the bill was written, it would require all agents to file electronically instead of by paper. The amendment leaves in the filing by paper.

**Rep. Koppelman:** The amendment allows two things: 1) the electronic filing fee will be passed on to the agents; and 2) that filing by paper is still allowed. They are only allowed to charge the fee as a pass-through, and not charge an additional fee on top of that that would go to the Insurance Dept. The Insurance Dept. is only allowed to charge the actual fee, because there is only one vendor, they can't show favoritism to one agent over another.

**Chairman DeKrey:** Voice vote. Motion carried. We now have the bill before us as amended, what are the committee's wishes.

**Rep. Koppelman:** I move a Do Pass as amended.

**Rep. Boehning:** Second.

**13 YES 0 NO 0 ABSENT**

**DO PASS AS AMEND**

**CARRIER: Rep. Koppelman**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/07/2009

**REVISION**

Bill/Resolution No.: HB 1136

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The department utilizes several third-party facilitators to process electronic documents. These third-party facilitators may charge agents and companies an administrative fee for the services provided.

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

Fees charges for an electronic filing are limited to the actual cost of the electronic transaction. The Insurance Department currently does not receive a portion of these fees.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See above statement.

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

This bill will have no effect on expenditures.

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

This bill will have no effect on appropriations.

<b>Name:</b>	Larry J. Martin	<b>Agency:</b>	Insurance Department
<b>Phone Number:</b>	328-2930	<b>Date Prepared:</b>	01/07/2008

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/23/2008

Bill/Resolution No.: HB 1136

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The department utilizes the National Insurance Producer Registry (NIPR) as a third-party facilitator to process the electronic filings. The administrative fee for the electronic filing is charged by NIPR and the Insurance Department does not receive any portion of this fee.

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

See above statement.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See above statement.

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

This bill will have no effect on expenditures.

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

This bill will have no effect on appropriations.

<b>Name:</b>	Larry J. Martin	<b>Agency:</b>	Insurance Department
<b>Phone Number:</b>	328-2930	<b>Date Prepared:</b>	12/29/2008

January 13, 2009

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136**

Page 3, line 27, remove the overstrike over "allowed"

Page 3, line 28, remove the overstrike over "adopt rules"

Page 3, line 29, remove the overstrike over "that allow either" and remove "require"

Page 3, line 30, remove "commissioner may"

Page 4, line 1, remove "adopt", remove the overstrike over "may contain procedures", and remove "documents, including"

Page 4, line 8, remove the overstrike over "This section may not be interpreted to supersede any other provision of law that"

Page 4, remove the overstrike over line 9

Page 4, line 10, remove the overstrike over "make any other filing electronically."

Page 4, line 11, replace "an administrative" with "a processing", and replace "Fees" with "A fee"

Page 4, line 12, replace "are" with "is"

Page 4, line 13, replace "Fees" with "Processing fees", and after "the" insert "lesser of twenty dollars per transaction or the"

Page 4, line 14, after "transaction" insert "charged by the designee processing the filing. If the actual cost of processing an electronic filing exceeds twenty dollars per transaction the commissioner may adopt rules to increase an electronic processing fee not to exceed the actual cost charged by the designee"

Renumber accordingly



VR  
1/14/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

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Renumber accordingly

Date: 1/14/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1136

**HOUSE JUDICIARY COMMITTEE**

☐ Check here for Conference Committee

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

Action Taken ☐ DP ☐ DNP ☒ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Rep. Koppelman Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 13 No 0

Absent 0

Floor Carrier: Rep. Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HB 1136: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1136 was placed on the Sixth order on the calendar.

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Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1136

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1136

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9920

Committee Clerk Signature



Minutes:

**Chairman Klein:** Opened the hearing on HB 1136, all members present.

**Rebecca L. Ternes:** Deputy Insurance Commissioner for the North Dakota Insurance

Department testified in support of HB 1136. (See attachment #1)

**Chairman Klein:** Even without the mandate, are you seeing that the move is coming quickly?

**Rebecca L. Ternes:** That is correct.

**Chairman Klein:** The dollar figure isn't a figure your department is collecting; it is being collected by NAIC. Is that correct?

**Rebecca L. Ternes:** That is correct. Currently most of these programs are either under NAIC or affiliated with them. The payment for the fee goes directly there and instead of receiving one hundred \$25 checks in one day, we get one electronic transaction that we never have to touch.

**Chairman Klein:** It doesn't cost us anything other than the fact that we give up our membership fee?

**Rebecca L. Ternes:** That is correct. Our membership fee is based on the premiums collected in North Dakota. For us, it runs around \$7500, which is low compared to most states. That fee has not increased in quite some time. It is part of what we as members pay for.

**Senator Potter:** You say 70% are currently using this, are you currently not charging user fees?

**Rebecca L. Ternes:** They are charging it and they are paying it for the convenience.

**Senator Potter:** Then why do you need the bill?

**Rebecca L. Ternes:** Originally the bill had the language to mandate its electronic usage. It also does some clarification and the House felt there needed to be a cap on the fees as well, which there wasn't before.

**Chairman Klein:** So what we have done here is kind of useless. You feel it is important because of the repealers, contains a cap, and it expresses the desire for the industry to move in this direction.

**Rebecca L. Ternes:** That is correct. The cap is there and makes it clear when the commissioner has to increase the fees.

**Senator Horne:** You mentioned 2 electronic systems the Department is already using, NIPR and SERFF. Can you help us understand what they are and how they different?

**Rebecca L. Ternes:** NIPR stands for the National Insurance Producer Registry, they can go on and apply for a license, and they can continue their license and submit there hours. It gives them the ability to do that anytime of the day and night. The SERFF System is the State Electronic Rate and Filing System and that system is used to get approval to change a policy. If a company wants to raise or lower rates, they have to file this with the commissioner. The companies use this system to do so.

**Senator Andrist:** Why do we need the permission?

**Rebecca L. Ternes:** We are very careful not to impose any fees or even give the impression we are imposing a fee with their approval. All of the fees are set forth in the title. We come before you to ask for permission to make sure you understand what is going on.

**Senator Andrist:** If you never see the money, why do we have a fiscal note?

**Rebecca L. Ternes:** Because the original bill had the language to require electronic filing. It will have no effect because we don't ever see the money.

**Senator Potter:** How much are our agents paying that is going to these out of state companies that are doing this electronic stuff?

**Rebecca L. Ternes:** I will let the agents speak for themselves. We don't have the resources to purchase the software or maintain the software and eventually if we would get the software we could increase the fees that the agents pay.

**Senator Potter:** What is the gross amount of dollars leaving North Dakota?

**Rebecca L. Ternes:** Going with the figures of \$5 x 40K agents in the state and say 70% are eventually going to use this method. We are looking at around \$100K-\$150K.

**Norbert Mayer:** representing North Dakota Insurance and Financial Advisors and I just want to comment on how much easier this has made the process. It speeds the process up and many agents have stated how easy it is to report their continuing education. As long as they stay vigilant over that 2 year period of time, the continuing education requirement becomes very easy. We support and recommend a Do Pass on HB 1136.

**Steve Becher:** Executive Director of the North Dakota Professional Insurance Agents Association testified in support of HB 1136. With this system all the licensing and continuing education is in a centralized data system and is so simple. Some agents are licensed in all 50 states and that means 50 different forms and this system makes it one place to get all this information done.

**Senator Wanzek:** So it is my understanding in the big picture it is making you more efficient which will allow you to do more customer service and that kind of stuff.

**Steve Becher:** That is correct. Instead of spending time on different systems and different paperwork, it allows the agents to get back to what they are supposed to be doing.

**Senator Horne:** I move for a Do Pass on HB 1136.

**Senator Wanzek:** Seconded

**Chairman Klein:** Motion for a Do Pass is recommended. 7-0. Senator Horne to carry.



Date: 3/2/09  
Roll Call Vote #: 1

## Senate

## Industry, Business and Labor

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

Motion Made By Senator Horne Seconded By Senator Wanzek

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Horne

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

**REPORT OF STANDING COMMITTEE**

**HB 1136, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1136 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

HB 1136

## HOUSE BILL NO. 1136

**Presented by:** Rebecca L. Ternes  
Deputy Commissioner  
North Dakota Insurance Department

**Before:** House Judiciary Committee  
Representative Duane DeKrey, Chairman

**Date:** January 13, 2009

### TESTIMONY

Good morning, Chairman DeKrey and members of the committee. For the record, my name is Rebecca Ternes and I am North Dakota's Deputy Insurance Commissioner. I stand before you in support of House Bill No. 1136.

The bill you have before you relates to the passing through of processing electronic transactions in the Insurance Department.

As you know, the fees paid by agents and companies for things like licenses and filing documents are laid out in Title 26.1. This bill does not change those base fees and, therefore, there is no fiscal impact to the Department.

However, to be able to move forward with our goals to convert to a paperless regulatory system, we have begun to utilize several web-based systems that charge fees for electronic transactions. We know that industry appreciates the ability to transact business with us in the middle of the night and on Sunday and that they are willing to pay for these services. We know that utilizing these systems saves the Insurance Department in staff resources, software development costs and has allowed us to handle the huge increases in the volume of transactions without matching them with increased requests for FTEs.

In just the Agent Licensing Division, we had nearly 31,000 licensed producers in 2005. Today, we have over 48,000, which is a 55 percent increase in three years. Every producer has to be licensed initially, renewed each year and may request other services as well. All of these processes take substantially more time if sent to us in paper, than electronically.

When a paper check is mailed to us, the front desk opens the mail and endorses the check, the account technician enters the check into the agency deposit sub-system and then enters the totals into the Peoplesoft deposit system, each division then verifies the deposit, the checks are sent to the State Treasurer's office, and then to the Bank of North Dakota. Keep in mind, most of these checks are in amounts ranging from \$10-\$25.

The good news is that we already have several electronic systems in place to help us go paperless and more are coming. The down side is that there is a cost to these systems and without the ability to pass on these costs, we cannot require usage, resulting in two systems – paper and electronic, and huge inefficiencies. Because the Department pays a membership fee to the National Association of Insurance Commissioners, or NAIC, we do not get charged separately for the software. Instead, there is a transaction fee for the user, whether it is an individual or company.

This bill would allow the Department, through a rule, to require an additional fee be paid to utilize electronic or on-line systems. In the case of a producer, it is currently a \$5 extra charge to electronically apply for or renew a license through NIPR. In the case of a company filing a new rate or form, it is a \$6-\$15 charge for the SERFF system.

The NIPR and SERFF systems are currently available and already we have seen significant use, even without mandating them. We just rolled out resident producer initial licensing and already have over 70 percent usage. Over 90 percent of companies utilize the SERFF system. Because industry is represented on both of these boards of directors, companies have a say in the setting of the fees, keeping them nominal.

Key to this statute change is that fees are limited to the actual cost charged by the external, third-party systems. The companies, such as NIPR and SERFF, keep the added dollars as a cost of using the system; it is simply taken off the top of the transaction charge.

I want to also note that the bill strikes language related to the Department administering exams. We do not administer exams any longer so this language is not necessary.

I am here today to respectfully ask for your support of House Bill No. 1136.

Thank you Mr. Chairman and members of the committee. I would welcome any questions.

**Testimony on HB 1136**  
**House Judiciary Committee**  
**January 12, 2009**

Mr. Chairman and committee members, for the record, I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota. After reviewing this bill, I questioned parts of the bill with Insurance Department staff and expressed concerns that we had with the language in the bill. As proposed in this bill, the Commissioner would be given the unilateral authority to decide who is required to file documents electronically. If this bill is passed as written, the legislature is approving authority to the Commissioner to tell Entity A that they must file their documents electronically, yet Entity B could be told that they are not required to file electronically. If you note the current law, it states that the Commissioner has the authority to adopt rules to allow documents to be filed electronically. This rule making process is being proposed to be changed to give that authority directly to the Commissioner without the benefit of public hearings and input from affected entities.

I don't understand the rationale of the deleted language on lines 8 through 10 on page 4. In its place new language is added to give the Commissioner authority to charge a new fee without going through the process of an administrative hearing. Exactly what is this new administrative fee and what does it mean that this is "in addition to any other fee imposed for the filing." Is the "administrative fee" and "fees charged for the processing of an electronic filing" the same thing. Neither is defined. I have been told that it is a minimal cost, but where in the bill is it limited, other than "the actual cost of the electronic transaction?" For example, if the requirement for filing a particular document is implemented to only 2 entities and the total cost for development of the software to electronically process the transactions is \$1,500, does that mean that each of these entities would be charged \$750, or the actual cost of the electronic transaction?

If you look carefully at the current language in 26.1-01-08.1, the Commissioner has the authority to adopt rules to implement electronic filing and in subsection 1. c. on line 6 of page 4, and also has the authority to adopt the fees required based on the administrative rules process. This bill appears to circumvent the existing administrative rules hearing process to adopt the rules and to establish the fee schedule.

While we don't object to the possible intent of this, we simply think that the process should be open and conform to the existing administrative hearing process or at least be legislatively mandated, with the opportunity for public comment. It seems that the existing law will fairly permit the establishment of rules for electronic filing and the associated fees and thus accomplish what this bill is proposing.

Mr. Chairman, I would be willing to try to answer any questions the committee may have.

#1

## HOUSE BILL NO. 1136

**Presented by:** Rebecca L. Ternes  
Deputy Commissioner  
North Dakota Insurance Department

**Before:** Senate Industry, Business and Labor Committee  
Senator Jerry Klein, Chairman

**Date:** March 2, 2009

### TESTIMONY

Good morning, Chairman Klein and members of the committee. For the record, my name is Rebecca Ternes and I am North Dakota's Deputy Insurance Commissioner. I stand before you in support of House Bill No. 1136.

The bill you have before you relates to the passing through of processing electronic transactions in the Insurance Department.

As you know, the fees paid by agents and companies for things like licenses and filing documents are laid out in Title 26.1. This bill does not change those base fees and, therefore, there is no fiscal impact to the Department.

However, to be able to move forward with our goals to convert to a paperless regulatory system, we have begun to utilize several web-based systems that charge fees for electronic transactions. We know that industry appreciates the ability to transact business with us in the middle of the night and on Sunday and that they are willing to pay for these services. We know that utilizing these systems saves the Insurance Department in staff resources, software development costs and has allowed us to handle the huge increases in the volume of transactions without matching them with increased requests for FTEs.




In just the Agent Licensing Division, we had nearly 31,000 licensed producers in 2005. Today, we have over 48,000, which is a 55 percent increase in three years. Every producer has to be licensed initially, renewed every other year and may request other services as well. All of these processes take substantially more time if sent to us in paper, than electronically.

When a paper check is mailed to us, the front desk opens the mail and endorses the check, the account technician enters the check into the agency deposit sub-system and then enters the totals into the Peoplesoft deposit system, each division then verifies the deposit, the checks are sent to the State Treasurer's office, and then to the Bank of North Dakota. Keep in mind, most of these checks are in amounts ranging from \$10-\$25.

The good news is that we already have several electronic systems in place to help us go paperless and more are coming. The down side is that there is a cost to these systems and without the ability to pass on these costs, we cannot gain efficiency from their use. Because the Department pays a membership fee to the National Association of Insurance Commissioners, or NAIC, we do not get charged separately for the software. Instead, there is a transaction fee for the user, whether it is an individual or company.

This bill provides that the Department may charge a processing fee for electronic filings. This processing fee is in addition to the fees already spelled out in other sections of the Century Code. The processing fee is paid for the convenience of using electronic or on-line systems. In the case of a producer, it is currently a \$5 extra charge to electronically apply for or renew a license through NIPR. In the case of a company filing a new rate or form, it is a \$6-\$15 charge for the SERFF system. The bill provides a limit on the amount that may be charged for the convenience of electronic filings which is the actual cost of the electronic transaction or \$20, whichever is less. If the actual cost of processing an electronic filing exceeds \$20, the Commissioner may adopt rules to




increase the fee. But in no event may the fee exceed the actual cost charged by the entity that provides the electronic filing service.

Two of the electronic systems used by the Department, NIPR and SERFF, are currently used significantly by both agents and companies, even without mandating them. We just rolled out electronic resident producer initial licensing and already have over 70 percent usage. Over 90 percent of companies utilize the electronic SERFF system for their filings. Because industry is represented on both of these boards of directors, companies have a say in the setting of the fees, keeping them nominal.

I want to also note that the bill strikes language related to the Department administering exams. We do not administer exams any longer so this language is not necessary.

I am here today to respectfully ask for your support of House Bill No. 1136.



Thank you, Mr. Chairman and members of the committee. I would welcome any questions.