2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1083

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1083
January 12, 2011
12809

☐ Conference Committee

Committee Clerk Signature	Ellen LeTang

Explanation or reason for introduction of bill/resolution:
Risk-based capital reports of insurance companies.

Minutes:

Chairman Keiser: Opened the hearing on HB 1083.

Carol Kessel~Company Licensing Director-North Dakota Insurance Department. (See attached testimony).

Representative Vigesaa: On page one of your testimony, could you explain the difference between earned and written premiums?

Carol Kessel: Earn premiums would be the portion of premiums. Premiums are remitted once or twice a year and they are matched against the period of the policy. Earned premiums will be that portion of premiums that have actually been written and booked as premiums that have actually been earned where the period of time has expired.

Representative Vigesaa: Written would be?

Carol Kessel: Written premiums are premiums that are due and remitted on a policy in a current year.

Representative Vigesaa: On page 3 of the testimony, where you indicate that section 1 & 2 will trigger an event when a ratio will get to a certain point. I don't see those percentages in the bill itself. Where is that determined that this would trigger at these particular levels?

Carol Kessel: The formula in the RBC calculation and the report that each insurer completes on a yearly basis, has these percentages, the whole trend test, it's built into the RBC, the actual application.

Representative Frantsvog: On page 1, paragraph 2, what's an ideal ratio?

Carol Kessel: Anything under 100% profit margin.

Representative Frantsvog: On the bottom of page 3, North Dakota has maintained it credit of status since 1992, does this bill need to pass in order to maintain that status?

Carol Kessel: Essentially yes.

Chairman Keiser: Current law is based on the RBC, and what you are proposing is and it's coming out of the NAIC, a proposal to use RBC and the combined ratio as a determinant for the PNC and the health industry, it that correct?

Carol Kessel: That's correct.

Chairman Keiser: What problem did we have with our current system that would necessitate us going to a model developed nationally, in terms of their management in terms of their insurance department? Do we have a problem with any PNC health companies in our state?

Carol Kessel: North Dakota domestic industry is very healthy and we haven't had a company place into rehabilitation or liquidation for decades. North Dakota is also concerned about the solvency of other nondomestic companies that are licensed to do business here. Property and Causality that have become trouble companies and these new standards allow the regulators to take action earlier.

Chairman Keiser: Part 2 on the health side, the state had a minimum loss ratios for the individual and small group market and of course they have been superseded by the federal legislation at 80 & 85. Will those changes impact on risk based capital and combined ratio for insurance companies in our state.

Carol Kessel: It's my understanding that there will not be a direct relationship between those requirements and what's in the RBC. It will be reviewed on an ongoing bases by the American Academy of Actuaries.

Chairman Keiser: It does seem when you move from a 65 to 80 minimum loss ratio, that it's going to impact smaller health insurance companies that are trying to operate in our state. It will have, since they have to pay out more to providers, potentially 15% more of their dollars and it's going to affect their capital.

Carol Kessel: Obviously it will impact their capital.

Chairman Keiser: So there is a relationship.

Carol Kessel: You are right in that regard.

Chairman Keiser: Anyone else here to testify in support, in opposition, neutral HB 1083?

Rod St Aubyn~Blue Cross-Blue Shield: Actually we are in favor of this bill but we think there may be a drafting error, on page 2, lines 17, it doesn't make sense. I think the "and three" is not suppose to be there.

Mike Fix~North Dakota Insuance Department: That reference in the bill, the authorized control level is a 100% RBC.

Chairman Keiser: It might be correct but would the department object to stating it differently. I think it would be a simple amendment to clarify.

Chairman Keiser: Anyone else here to testify in a neutral position HB 1083? Closes the hearing of HB 1083.

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1083
January 17, 2011
12978

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:
Risk-based capital reports of insurance companies

MINUTES:

Chairman Keiser: We will open on HB 1083.

Representative Vigesaa: I think the language in 18-19 on page one of the bill was confusing where they said "but less than the product of its authorized control level risk based capital and three and triggers." That was kind of confusing we did receive communication from the insurance department that's common insurance jargon and is located multiple times throughout their code. After seeing their explanation, I do understand it.

Chairman Keiser: Can you explain it?

Representative Vigesaa: The "and three" means the authorized control level times three. So that level is 100% in the testimony from the insurance company, which is and that is the way they say 300%.

Chairman Keiser: Then why don't we just say 300%?

Representative Vigesaa: The reason they didn't want to fix this is because they would have to go through many sections of code and fix it in all those areas. They felt at this point if I could explain it that would be the easier route for them.

Chairman Keiser: Do we have a motion?

Representative Vigesaa: Motion Do Pass on HB 1083.

Representative Sukut: Second.

Chairman Keiser: We have a do pass on HB 1083 with the encouragement to in the insurance department that when they rewrite their code they might want to restate it in language that is a little more understandable to legislators and therefore the public. Further discussion? We will close the bill on HB 1083.

13 YEAS 0 NAYS 1 ABSENT DO PASS
CARRIER: Representative Vigesaa.

Date: Jan 17 - 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1083

House **House Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Vigesaa Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	AB	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Represent Vigasaa

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

REPORT OF STANDING COMMITTEE

HB 1083: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1083 was placed on the Eleventh order on the calendar.

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1083

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1083
March 2, 2011
Job Number 14808

☐ Conference Committee

Committee Clerk Signature	Eva Leibel

Explanation or reason for introduction of bill/resolution:

Relating to the risk based capital reports of insurance companies

Minutes: Testimony attached

Chairman Klein: Opened the hearing on House Bill 1083.

Carole Kessel, Chief Examiner and director of the Examinations and Company Licensing Division of the North Dakota Insurance Department: Written Testimony Attached.

Chairman Klein: Asked if there was a better way to explain what control level risk- based capital and three mean?

Carole: The language conforms to the model act, which is adopted across all states. It is similar to other phrases in this law.

Chairman Klein: So the insurance people know what that means?

Carole: They know what it means. She explains how they use the number three and states that the trend test is too complex to have noted in the bill. She said it was part of the risk-based capital report.

Continued discussion; about the language in the bill being difficult to understand.

Carole: Stated that the accountants and attorneys that deal with this in industry do understand it. She said that it is the bases for the risk-based capital report which is required.

Senator Nodland: Asked if she was saying that all types of insurance are at this new level.

Carole: She said that this new language in the model is being adopted by all states because it's an accreditation standard. All states have voted for it and will be adopting it.

Senator Nodland: Asked what more data this is requiring of the insurance companies.

Carole: There are no additional requirements of companies in calculating or creating that report, they are automatic calculations.

Dan Ulmer, Blue Cross Blue Shield: Stated that this bill is to maintain their accreditation as certified through the NEIC and that it provides a high standard of overview. They support that.

Senator Schneider: Asked why the different standards for different types of insurers.

Dan: Said different types of insurance, period.

Pat Ward, Property and Casualty Insurance Association of America: In support of the bill. Said that they tried to rewrite this in plain English but decided that if it is looked at from the actuary standpoint it makes sense. It is just adjusting the standards for these risk-based capital reports and the insurance department actuaries know what they are and how to make sure people stay in compliance.

Senator Schneider: Asked if any companies are facing a company action level event.

Carole: There are not any in North Dakota.

Chairman Klein: Closed the hearing.

Senator Nodland: Motioned a do pass.

Senator Murphy: Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Murphy to carry the bill

Date: 3/2/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1083

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Murphy

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

REPORT OF STANDING COMMITTEE

HB 1083: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1083

#1

HOUSE BILL NO. 1083

Presented by:	**Carole Kessel** **Company Licensing Director** **North Dakota Insurance Department**
Before:	**House Industry, Business and Labor Committee** **Representative George Keiser, Chairman**
Date:	**January 12, 2011**

TESTIMONY

Good morning, Chairman Keiser and committee members. For the record, my name is Carole Kessel and I am Chief Examiner and Director of the Examinations and Company Licensing Division of the North Dakota Insurance Department.

You have before you House Bill No. 1083 which amends existing risk-based capital (RBC) laws to add a "trend test" to the Company Action Level criteria for property and casualty insurers and for health organizations. The trend tests analyze the insurer's RBC number and its combined ratio giving the Insurance Department an earlier warning of companies that may experience financial strain. The combined ratio is the sum of the insurer's loss ratio (losses and loss adjustment expenses/earned premiums) and its expense ratio (expenses/written premiums). The combined ratio indicates whether the insurer is earning a profit on the business it is writing, with a ratio over 100% reflecting an underwriting loss.

By way of background, RBC reports are filed with the Insurance Department annually by licensed insurance companies. These reports encompass a separate and unique formula for each type of insurer; that is, property and casualty, life and health insurers. The RBC formula creates a minimum standard for capital and surplus that is used to identify a poorly capitalized insurer given its overall business operations, size and risk profile. RBC is one of the tools used by all insurance regulators to monitor the financial health of the insurer.

North Dakota's existing statutes authorize the Commissioner to take action when the following occur:

- Company Action Level – An RBC ratio of 200% or less requires the insurer to submit a financial plan identifying conditions that contributed to the company's action level and outlining corrective actions it intends to take.

- Regulatory Action Level – An RBC ratio of 150% or less requires the insurer to submit a financial plan and authorizes the Commissioner to perform any examination or analysis of the insurer's operations deemed necessary and to issue an appropriate corrective order.

- Authorized Control Level – An RBC ratio of 100% or less authorizes the Commissioner to take whatever regulatory actions are necessary to protect the best interests of the policyholders and creditors including any action to place the insurer under regulatory control.

- Mandatory Control Level – An RBC ratio of 70% or less requires the Commissioner to take control of the insurer.

In computing the RBC ratio, the adequacy of the company's actual capital is measured against the risk-based capital charge associated with the unique risks inherent in operating an insurance company. The typical risk components include:

- *Asset risk* relating to the risk that asset values turn out to be lower than expected.

- *Underwriting risk* relating to excessive growth or funding deficiencies.

- *Business risk* relating to risk exposures such as litigation costs.

- *Interest Rate Risk* relating to the risk of losses due to changes in interest rates.

- *Credit risk* relating to the recoverability of receivables.

Section 1 of the bill adds a trend test for property and casualty insurers which will cause the RBC Company Action Level to be triggered when the RBC ratio is between 200%-300% and the insurer's combined ratio is greater than 120%.

Section 2 of the bill adds a trend test for health organizations which will trigger a Company Action Level event when the RBC ratio is between 200%-300% and the entity's combined ratio is greater than 105%.

Current law already has a trend test for life insurers and for property and casualty insurers writing only accident and health coverage. The changes in the bill are needed to authorize an appropriate regulatory response when the trend test detects property and casualty insurers or health organizations that are in a potentially weak financial condition. The amendments in House Bill No. 1083 will conform with recent changes to the model RBC law included in the National Association of Insurance Commissioners (NAIC) accreditation program that sets out a capital and surplus standard for insurers. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multistate life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry.

Mr. Chairman, members of the committee, I am happy to answer any questions and urge a vote of "do pass" on House Bill No. 1083. Thank you.

RBC – Regulatory Action Levels

RBC takes into account, on a formula basis:

1. asset risk
2. liability risk
3. interest rate risk
4. business risk

If Company surplus ≤ 200% RBC ***("Company action level event"),*** insurer must submit to Commissioner risk-based capital plan that

1. identifies the conditions leading to the company action level event;
2. proposes corrective action that will result in the elimination of the company action level event;
3. provides financial projections for the current year and at least the succeeding 4 years with and without the corrective action to give effect of the proposed corrective actions;
4. identifies key assumptions that impact the projections and the sensitivity of the financial projections to the assumptions;
5. identifies the quality of, and the problems associated with the insurer's business, including
    a. assets
    b. anticipated business growth and associated surplus strain
    c. extraordinary exposure to risk
    d. mix of business
    e. use of reinsurance

If Company surplus ≤ 150% RBC ("***Regulatory action level event***"), the Commissioner shall

1. require insurer to submit risk-based capital plan or, if applicable, a revised risk-based capital plan;
2. perform such examination or analysis of assets, liabilities, operations, and risk-based capital plan as the Commissioner deems necessary;
3. issue an order specifying corrective actions as the Commissioner determines are required

If Company surplus ≤ 100% RBC ***("Authorized control level event"),*** the Comissioner shall

1. take actions as required under "regulatory action level event";
2. take action to place the insurer under regulatory control if the Commissioner deems it to be in the best interests of the policyholders, creditors of the insurer and the public

If Company surplus ≤ 70% RBC ***("Mandatory control level event")***

1. the Commissioner must take action to place the company under regulatory control

HOUSE BILL NO. 1083

Presented by: **Carole Kessel**
Company Licensing Director
North Dakota Insurance Department

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

Date: **March 2, 2011**

TESTIMONY

Good morning, Chairman Klein and committee members. For the record, my name is Carole Kessel and I am Chief Examiner and Director of the Examinations and Company Licensing Division of the North Dakota Insurance Department.

You have before you House Bill No. 1083 which amends existing risk-based capital (RBC) laws to add a "trend test" to the Company Action Level criteria for property and casualty insurers and for health organizations. The trend tests analyze the insurer's RBC number and its combined ratio giving the Insurance Department an earlier warning of companies that may experience financial strain. The combined ratio is the sum of the insurer's loss ratio (losses and loss adjustment expenses/earned premiums) and its expense ratio (expenses/written premiums). The combined ratio indicates whether the insurer is earning a profit on the business it is writing, with a ratio over 100% reflecting an underwriting loss.

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North Dakota's existing statutes authorize the Commissioner to take action when the following occur:

- Company Action Level – An RBC ratio of 200% or less requires the insurer to submit a financial plan identifying conditions that contributed to the company's action level and outlining corrective actions it intends to take.

- Regulatory Action Level – An RBC ratio of 150% or less requires the insurer to submit a financial plan and authorizes the Commissioner to perform any examination or analysis of the insurer's operations deemed necessary and to issue an appropriate corrective order.

- Authorized Control Level – An RBC ratio of 100% or less authorizes the Commissioner to take whatever regulatory actions are necessary to protect the best interests of the policyholders and creditors including any action to place the insurer under regulatory control.

- Mandatory Control Level – An RBC ratio of 70% or less requires the Commissioner to take control of the insurer.

In computing the RBC ratio, the adequacy of the company's actual capital is measured against the risk-based capital charge associated with the unique risks inherent in operating an insurance company. The typical risk components include:

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- *Business risk* relating to risk exposures such as litigation costs.

- *Interest Rate Risk* relating to the risk of losses due to changes in interest rates.

- *Credit risk* relating to the recoverability of receivables.

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Current law already has a trend test for life insurers and for property and casualty insurers writing only accident and health coverage. The changes in the bill are needed to authorize an appropriate regulatory response when the trend test detects property and casualty insurers or health organizations that are in a potentially weak financial condition. The amendments in House Bill No. 1083 will conform with recent changes to the model RBC law included in the National Association of Insurance Commissioners (NAIC) accreditation program that sets out a capital and surplus standard for insurers. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multistate life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry.

Mr. Chairman, members of the committee, I am happy to answer any questions and urge a vote of "do pass" on House Bill No. 1083. Thank you.

RBC – Regulatory Action Levels

If Company surplus < 200% RBC ***("Company action level event"),*** insurer must submit to Commissioner risk-based capital plan that

1. identifies the conditions leading to the company action level event;
2. proposes corrective action that will result in the elimination of the company action level event;
3. provides financial projections for the current year and at least the succeeding 4 years with and without the corrective action to give effect of the proposed corrective actions;
4. identifies key assumptions that impact the projections and the sensitivity of the financial projections to the assumptions;
5. identifies the quality of, and the problems associated with the insurer's business, including
    a. assets
    b. anticipated business growth and associated surplus strain
    c. extraordinary exposure to risk
    d. mix of business
    e. use of reinsurance

If Company surplus < 150% RBC (***"Regulatory action level event"***), the Commissioner shall

1. require insurer to submit risk-based capital plan or, if applicable, a revised risk-based capital plan;
2. perform such examination or analysis of assets, liabilities, operations, and risk-based capital plan as the Commissioner deems necessary;
3. issue an order specifying corrective actions as the Commissioner determines are required

If Company surplus < 100% RBC ***("Authorized control level event"),*** the Comissioner shall

1. take actions as required under "regulatory action level event";
2. take action to place the insurer under regulatory control if the Commissioner deems it to be in the best interests of the policyholders, creditors of the insurer and the public

If Company surplus < 70% RBC ***("Mandatory control level event")*** the Commissioner must

1. take action to place the company under regulatory control