

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1043

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1043

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1043

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 701

Committee Clerk Signature

*Stephanie N. Thomas*

Minutes:

**Chair Keiser** opened the hearing on HB 1043, relating to definition of a small employer for purposes of group health plans.

**Rep. Wald:** With this bill I'm trying to allow self employed tradesman who would like to be able to buy a policy and be able to pay for it out of the business account. If we could work out a mechanism whereby these kinds of people could by their insurance and pay it out of the business account, I think we would go a long ways in solving that problem.

**Rep. Kasper:** So what you're saying is currently a group of one cannot pay their health insurance premium with the business account?

**Rep. Wald:** That is my understanding.

**Rep. Kasper:** What advantages to that employer or employee?

**Rep. Wald:** Well, it makes it tax deductible. It is my understanding that on an individual policy we are not allowed to pay for it out of the business account.

**Rep. Ruby:** With these groups of one, would this only apply to the employer? If so, how many new people do you expect to take advantage of this?

**Rep. Wald:** I don't have an exact count, but the one person tradesman, the one person consultant, the one person sales rep, those kinds of people who are self employed who have no other employees or payroll, those are the kinds of people I'm talking about.

**Rep. Ruby:** In the past when they introduced this, was there ever any discussion about whether that was somewhat discriminatory for just the individual who now can't get into those lower rates.

**Rep. Wald:** I'm not prepared to give you an absolute concrete answer to that.

**Rep. Clark:** How does this apply to farmers who maintain the separate farm account?

**Rep. Wald:** I think those are the kinds of people I'm alluding to.

**Rep. Dosch:** It sounds to me this is more of a tax law change, then perhaps changing how we view small groups under the health insurance issue. Have you looked into the tax change?

**Rep. Wald:** No I have not, but it's my understanding again that the people who are self employed have a problem in that regard. I think we can fix it if they can buy a group of one and write a check out of their operating account, rather than their personal house checking account.

**Rep. Keiser:** The big issue we are going to hear is the adverse selection. Rather than going to the high risk pool, this is going to provide potential avenue for people who are extremely high risk to come back into the normal pool. Any comment.

**Rep. Wald:** I assume there is still going to be some underwriting in the selection process.

**Terry Weis, ND Insurance and Financial Advisors:** We support the concept. There probably are some issues that need addressing, like farmers and those one person business people that cannot get the same rate of insurance as others.

**Rep. Keiser:** When you say rate, are they going to be able to get into a pool?

**Terry:** A group rate. If I were to write several pages of small group policies with high underwriting risks involved, I would lose my license, because that is how it works. When you bring bad risks to the table they don't like it. I know that's an issue, but as an underwriter I wouldn't do that.

**Jim Poolman, ND Insurance Commissioner:** We have some concerns about changing the small group laws to include a group of one. Currently folks across the state can buy an individual policy. If you take folks that are a group of one, and move them to small group policies, you will then increase rates for those across the board that are members and employees of small businesses across the state of North Dakota, which will then force those folks to pay higher premiums. That's potentially increasing our uninsured population. Our potential concern is that more people become uninsured, if you start combining groups of one. If you include those groups of one into the small group policy, you potentially have a selection problem in the fact you are then including those that would be underwritten in buying an individual policy, and including those folks into the small group pool, and therefore the small group pool becomes less healthy potentially. To explain the Comprehensive Health Association of North Dakota, which is the CHAN pool, which is the high risk pool that folks who can't be underwritten through an individual policy by a company, to then purchase high risk insurance. Those are basically folks with the preexisting conditions, who can't be written through the individual marketplace, who then go to CHAN. Basically, general fund dollars go to support that high risk pool. Millions of dollars of general fund support go to basically offset premiums for those that are in the high risk pool. My fear is by allowing individuals to get into a guaranteed issued pool, you potentially run the risk of changing the dynamics of the small group, and then raising rates across the board for small employers who are covering literally hundreds of thousands of employees across the state of North Dakota.

**Rep. Kasper :** Under the current small group laws now, is it through guarantee issue, or can an insurance company take the applications of 3 or 4 people in a small group, underwrite that group, and then either accept or reject the group?

**Jim:** Basically, guarantee issue says if you ask a business to have a policy, they have to take every one of those members underneath that policy. A company may underwrite a small group, but if the policy is issued that any new employee that comes on to your plan must be guaranteed a policy.

**Rep. Kasper:** I think you answered my question yes, that an insurance company could accept or reject the risk, based upon the applications. So, if we have a group of one, they can accept or reject that group of one based on the application?

**Jim:** No, my answer is that they have to write it. They can charge a rate, according to the applications that they received, but they have to write it. In the individual market they do not have to write it.

**Rep. Kasper:** Do you have data that supports the supposition that is one person employers out there are any less healthy then the average population? It would seem to me that a one person company, in order to run his or her business, would have to be somewhat healthy in order to be able to do business.

**Jim:** I would disagree with that supposition. You look at the group that is involved in the CHAN policy; they're paying 20% over the average rate that is charged in the marketplace. That's about what CHAN charges in there rates. All of those folks that potentially get out of the CHAN program be guaranteed issued under the group of one. Then turn around an be part of that small group, and potentially pay a lower rate, because they're involved in a small group market, and thus that raises the non-healthiness.

**Rep. Kasper:** How do you feel in the area of discrimination? Right now we are saying that we have a business with 2 or more employees, and your ok to get health insurance under the group plan, but we have thousands or hundreds of businesses in ND that are a group of one, they are still a business, but simply because they only have one they're discriminated against in not getting considered under the group health plan.

**Jim:** Small group reform and the laws related to small group were created in the mid 1990's. Rep. Keiser and I were on the committee when they did the small group health reform, and changed the laws related to small groups. It was put as a group for a reason. Individuals, who go out and buy, still have the availability to buy insurance in the individual marketplace. They are individually under read, but they are not a group, and thus the small group laws were created the way they are. There is a legitimate fear out there that if this particular bill passes as it does, it will increase rates for small businesses in the district.

**Rep. Ruby:** I don't know much about the insurance industry to know why there is such a big difference between two and one as far as the risks. In the discussion with discriminating, is there a way to have a change like this where they would have a guarantee?

**Jim:** I guess you could look at potentially not having a guaranteed issue for a group of one, but that's what the individual marketplace is doing right now. That's the crust of the issue. As I said earlier that guaranteed issue is the focus of a group of one verse the small group laws that we have right now.

**Rep. Ruby:** The thinking is that then somebody who is a healthier self employed member could get advantage of least of the lower rates. It would still have a distinction of allowing the underwriting, or the lack of guarantee to just one.

**Jim:** They can write a cooperate check to pay the premiums under an individual policy. I don't know about the deductibility side of that, and we have not researched whether or not a

guaranteed issue or not a guaranteed issue under a group of one, if you added that how that would affect our place.

**Rep. Keiser:** There seems to be on the one hand some advantage for an individual who owns a business. It would be ideal in the ideal world, but then they would have all of the advantages of somebody that has 2 or more employees. Let's see if there isn't a way that we can structure in the language to address those kinds of issues, to give the individual some advantage that's healthy.

**Jim:** I think are goals are the same. Obviously, we want as many people covered in ND under health insurance as possible. We want to make sure that small businesses match with the health insurance. Guaranteed issue is a really large issue here, and the potential of address collection, and as the bill is constructed we have some great concerns about what it can do to the small group marketplace.

**Rudd St. Aubyn, Blue Cross Blue Shield:** What we have is we have a small group, we have a large group all pulled into the small groups. These are all pulled together; when actuarially they will determine the rates. There are different factors that go into the rates for a particular employer. That's age and also experience. There's several factors that go when you rating these groups. In the individual markets and in the group as this indicated, it is guaranteed issue. What the groups can't do is go and buy separately insurance for sick employees under CHAN or something like that. They have to include all of their employees. What happens is an insurance company will have a minimum purchase station, minimum contribution. Which means to offer a group policy, they have to have lets say 50% of the members of there group that are eligible to take the product, and they have to pay a minimum of let's say 50% of a single plan. In the individual market, that is not a guaranteed issue. You have to medically

qualify for that. In ND we have CHAN, this guarantees if someone is denied in their individual market, there is a safety net there.

**Rep. Kasper:** So, under ND law, companies can offer a stripped down plan, but I think I hear you saying that Blue Cross does not?

**Rudd:** We don't market it. We even had a requirement that they had to initially explain all these programs to every employer when they are talking about it. Employers just did not want those stripped down plans.

**Rep. Keiser:** Let's say you are an individual employer, and you're the only employee. Would you like to be able to pretext the health care premium tax?

**Rudd:** I think any employer should have the advantage of that. That's not an insurance issue, that's a tax issue.

**Rep. Keiser:** Is there any place for a midway point, that is, for a single person to get into the group plan, where they would have to medically qualify before being guaranteed issue?

**Rudd:** I'm not sure if just doing this bill will allow for what you are saying. In terms to actually be able to allow someone to get those tax advantages and some of that, it would really affect us one way or the other. If I were a self employed employer, yes, I would see the advantage of being able to do that.

Hearing Closed.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1043

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1077

Committee Clerk Signature 

Minutes:

**Chair Keiser** opened the hearing on HB 1043.

**Rep. Dosch:** We met on this, and some of the basic concerns of Rep. Wald was he was trying to get the soul proprietor to be able to deduct insurance premiums he's paying on policy, and make it a deductible instead. The tax department pointed out that within the last several years; it is actually a deductible expense on the person's federal income tax. The other issue that was brought up, as far as can you get better rates, is there's some barrier to be able to get a single under a group of one. We met with the tax department, and it's very easy for an insurance company, they'd have to buy group coverage or single coverage, it's only a matter of a couple hundred dollars for them to file to get you a single policy as well. There was also discussion if you allow groups of one; it could help the individual, and a lot of times it can get just as good or better rate being an individual, verse being part of a group of one, because then you get into a pool where there's a fine, so you may have some good individuals and some bad individuals, so you end up paying half of these rates. The other concern was you do have a high risk pool in the state for individuals who can't get insurance elsewhere, the CHAN program. They are concerned that there might be some individuals who drop out of the CHAN into these groups of one.

**Rep. Dietrich:** When they gave you information that it was tax deductible, was it 100%?

**Rep. Dosch:** It's my understanding that it's 100%.

**Rep. Kasper:** That's correct.

**Rep. Keiser:** What about the cafeteria plan, can a single person do a cafeteria plan if they are a self proprietor?

**Rep. Kasper:** Right now the only way a single person can do it is if you develop a special plan that would be under section 105, or a special part of the code for self employed individuals.

**Rep. Dosch:** I move a do pass.

**Rep. Boe:** Second.

**Roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent, Carrier: Rep. Dosch**

Hearing Closed.

# FISCAL NOTE

Requested by Legislative Council  
12/26/2006

Bill/Resolution No.: HB 1043

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**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).*

See Item 2B below.

**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.*

HB 1043 changes the definition of a "small group" for health insurance purposes to be a group of at least one employee, rather than a group of at least two employees.

The passage of this bill may mean that fewer high risk individuals are enrolled in CHAND, North Dakota's high risk health insurance program, because more high risk individuals will qualify for coverage in the private health insurance market.

Reducing CHAND's enrollment may have a positive impact on the general fund since CHAND's operating loss is supported indirectly by the general fund, but it is impossible to predict the impact with any certainty.

**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 Item 2B above.

**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.*

See Item 2B above.

**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.*

See Item 2B above.

<b>Name:</b>	Charles E. Johnson	<b>Agency:</b>	Insurance Department
<b>Phone Number:</b>	328-2440	<b>Date Prepared:</b>	01/03/2007

Date: 1-15-07  
Roll Call Vote #: \_\_\_\_\_

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1043

House Industry Business & Labor Committee

Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Rep. Dosch Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep. Dosch

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

**REPORT OF STANDING COMMITTEE (410)**  
January 15, 2007 3:11 p.m.

**Module No: HR-09-0590**  
**Carrier: Dosch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1043: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1043 was placed on the Eleventh order on the calendar.