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2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2067

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2067

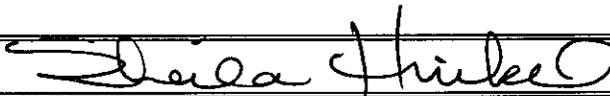
### Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 8, 2007 9:28 am Monday

Recorder Job Number: 739

Committee Clerk Signature



### TESTIMONY RECEIVED:

Jim Poolman, ND Ins. Comm.

Carol Kessel, Chief Examiner, ND Insurance Dept.

**Introduced by Senate Industry, Business & Labor at request of the Insurance**

**Commissioner. A BILL for an Act to amend and reenact section 26.1-03-11.3 of the North Dakota Century Code, relating to sharing of confidential documents with international insurance regulators.**

All members present.

**Jim Poolman:** ND Insurance Commissioner. Started by talking about ND Insurance Dept and state of the Insurance Industry in ND to set up Sessions for bills and proposals coming and ideas to strengthen the insurance market with number one goal to protect consumers. Presented document featuring the "ND Insurance Industry and Regulation at a Glance" document.

TESTIMONY PRESENTED

What you're going to hear from us from this session, many of bills will come into this committee. Gramm-Leach-Bliley Act of 1999, which tore down the barriers between securities, insurance and banking and insurance regulators have been trying to respond in several different ways to the Federal legislation that passed. One of the things included in that legislation was pushing for the uniformity and reciprocity of agent licensing. We license over 45,000 agents to do business in ND, now obviously there are not 45,000 agencies in ND, a bulk of those are out-of-state agents that are licensed in ND and are licensed in several other states across the country. ND has been a leader when moving towards uniformity and reciprocity making it easier for agents to get licensed across the state. We utilize technology and I am a member of the National Insurance Producer Board of Directors which is a technology-based that allows producers to get on and get themselves licensed in appointed companies across the country. Lori Wolf who is our agent-licensing director enforcements helps write the national standards that will helpful hopefully is accomplished again in senate bill 2065 that we'll talk about his AM. She's been a leader in nationally writing in uniform standards that all states will move toward for making agents to get licensed across.

Product approval, you're going to hear "speed-to-market" a lot this session when it comes to insurance and that's trying to help companies get their products to market faster. When I came on board with the ND Insurance Dept., as many of you know we are a "prior approval" state, i.e. we have to approve the products before they are allowed to go to market. When I came onboard, we had products that within the department waiting to be approved that were there for over a year. In my opinion it does the consumer, or the company, no good to have a product sitting there waiting to be put into the marketplace, especially if it conforms to state law, If it doesn't conform to the standards of state law, then it ought to be rejected and sent back so the company knows it, so they can make the appropriate changes to their plans.

Going to have legislation relating to getting products and rates to market faster into the marketplace.

Insurance is far different from banking and securities in the fact that it is regulated by states.

Part of the problem is harmonizing the standards among state lines. Insurance is becoming far more global, for insurance companies to adequately compete in the marketplace, they need to streamline a system on how we regulate them, that's where you're going to see much of our legislation come from in the area of harmonizing the regulations along state lines to make sure that the companies in a number of states can adequately compete and some of those companies, especially licensing companies, are competing in a global scale, competing across the waters in China and all across Europe, that is why we have Senate Bill 2067 harmonize and allow us to participate with regulators across the ocean.

Introductions: Rebecca Ternes, Deputy of Commissioners

ND Bankers, International Marketing

Chuck Johnson, our General Council

Carol Kessel, our Director of Financial Examinations

Financial Examinations help companies have adequate resources of which to pay claims, obviously if you do business with a company that is not financially healthy, the Insurance Contract is only as good as the paper it's written on.

Insurance Regulations coming under attack by the folks in Congress; many of the life insurance and some of the larger property and casualty insurance companies, are working very hard to make sure that the State system of regulation fails and that it moves to an entire Federal system of regulation. There is a bill introduced in Congress to create an optional federal charter which would split the authority of the State Legislators like yourself and State regulators from their authority of regulating insurance, and that's why you'll see some of

legislation coming forward from us to make sure we're doing our part to create a harmonized system of regulation, and to make sure that the traction is not gained at the Federal Government and congressional level to move toward a federal charter of insurance companies. I believe, personally, that government is best when it's local, and we do a heck of a lot better in protecting ND consumers than a name-less, face-less bureaucrat in Washington DC, and that's why you'll see the legislation that you have before you today. As always we look forward to working with you and your input in legislation for the mutual benefit of both the industry that does business in ND, and obviously to protect consumers that are buying the insurance products in ND.

Questions

**S. Potter:** Talk about policies waiting for a year or policy changes for a year to be approved.

Isn't it true that you have a choice of approval, disapproval of the companies, or taking no action?

**T. Poolman:** No, that's actually not the case. When it comes to policy language which is basically a written document that you're buying out on the market, it has to be approved and there are no deemer provisions that are applicable in that regard; and that's why in this case, if a policy conforms to state law, then it ought to be put out into the marketplace because you're depriving consumers of another products to help in making a decision to secure their financial future.

**S. Wanzek:** In my last meeting we were solving chemical "harmonization" and now we are solving insurance "harmonization."

**S. Klein:** Well, you'll find we're always harmonizing in this committee.

**T. Poolman:** You'll note that this bill is very straight-forward and short; Carol Kessel handed out testimony that is very brief to all of you, based on 2067, basically it is for sharing

confidential information with several different sources. We use the National Association of Insurance Commissioners as our central point of coordinating regulation with multi-state companies and multi-national companies. There are also international regulators that are interested in working with American regulators, especially for those global companies, and so Senate Bill 2067 is very straight-forward in allowing us, ND Insurance Dept. to share that information to better coordinate our regulatory activity with international regulators, so that Mr. Chairman, will better protect consumers especially for those companies that are doing business internationally.

**S. Klein:** So without this, you have not been able to share any of that information?

**J. Poolman:** No, we have not been and really we have not had a lot of requests for that information relating to ND domestic companies, but this will give us the opportunity to do so when requested.

**S. Klein:** The outcry we hear from life-insurers is that states aren't adapting, not moving forward, this would continue the trend?

**J. Poolman:** An excellent point, in fact, life insurers are specifically the ones doing business internationally. You see many of the large life insurance companies that are trying to get into the Chinese markets or into the Asian markets, specifically, many of them are already involved in the European markets, and that's EXACTLY what this will do, it will give us the apparatus to do that.

**S. Heitkamp:** With as much business as we do on the northern tier, there must be guys going up into Canada or Canadians coming down here, this had to be happening already.

**J. Poolman:** No, it actually hasn't, but you see, interestingly enough, one of our domestic life insurers was bought out by a Canadian company, and so you'll see many more, bottom line these transactions will become more and more frequent as the business becomes more bold.

**S. Klein:** Anyone here in opposition for Senate bill 2067? Bill closed. 10:00 next bill.

There was no opposing or neutral testimony.

The hearing on SB 2067 was closed.

**COMMITTEE ROLL**

**Senator Heitkamp** made a motion for a **Do Pass**. Second by **Senator Hacker**.

Roll call vote 7-0-0. **Passed**. Floor carrier is **Senator Heitkamp**

Date: 1-8-06

Roll Call Vote: 9:45

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. 2067

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

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

Action Taken do pass -

Motion Made By Hexter Seconded By Harker

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp	✓	
Senator John Andrist	✓		Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 11 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*carrier - Joel Heitkamp.*

**REPORT OF STANDING COMMITTEE (410)**  
January 8, 2007 12:44 p.m.

**Module No: SR-04-0296**  
**Carrier: Heltkamp**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2067: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2067 was placed on the Eleventh order on the calendar.**

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2067

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2067**

### House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **5 March 2007**

Recorder Job Number: **4335**

Committee Clerk Signature



Minutes:

**Chairman Kaiser opened the discussion of SB 2067.**

**Carole Kessel, Chief Examiner, ND Insurance Department, testified in favor of the bill.**

**(Testimony Attached.)**

**Representative Thorpe:** Could you share with us some of the international agencies that we would be sharing this information with? I was wondering what range of officials, say from Canada, Mexico, or wherever, we would be sharing this information with.

**Kessell:** It would insurance regulators from those countries. In London there is a financial insurance groups that regulates insurance companies in that country.

**Representative Thorpe:** It's not a wide scope then?

**Kessell:** In regards to our own domestic companies, I think the scope would be fairly narrow. On a global sense I think there are company groups with structures in various countries: London, Bermuda, Cayman Islands, Australia, and certainly with the insurance industry making headway into China with life insurance coverage, there would be other states that would be dealing with China. I think our insurance department looked at this and it would be fairly limited.

**Representative Zaiser:** What other states are being proposed this legislation.

**Kessell:** All states will be dealing with this. That's my understanding. They are all in the process.

**Representative Amerman:** What are some of the things that are confidential now, what is this confidential information? In the international spectrum are they able to share their confidential things with us?

**Kessell:** The confidential information that we want to share is not currently. . One example is after the hurricanes Katrina and Rita, there was a need to determine whether insurers on an international scale were subject to a loss exposure to those hurricanes and it was difficult to get that information because we don't have the contact that we do with other states. State regulators are pretty comfortable with picking up the phone and conversing about their relative insurance companies, but we are not at that point yet with international regulators.

**Representative Amerman:** Do you know once we share this confidential information with the international community what kind of laws might they have as far as keeping it confidential? Are they as regulated as far as confidentiality as we would be?

**Kessell:** I do believe that they would have to have those laws in place. Our statute requires that any information we share them would be maintained as confidential. Yes, they will have similar laws to maintain confidentiality.

**Kasper:** Can you give us an example of a couple items that are confidential that pertain to this.

**Kessell:** Insurance transactions between our domestic company and affiliate that is domiciled in the Cayman Islands. Those transactions and the outcome of those transactions would be treated as confidential information.

**Chairman Kaiser:** The company domiciled here might want solvency information international?

**Kessel:** That's correct. The scope of this is much broader than the perspective that I have with financial examinations. It could involve market conduct; it could involve a fraud investigation.

**Amerman:** Does this pertain just to the insurance companies or if I had a policy as a citizen and you wanted to share something about me or is it just the conduct of the insurance companies.

**Kessel:** I don't believe that the type of information we would be sharing would be on a personal policy holder basis. I wouldn't contemplate that would happen.

**Representative Zaiser:** I move a Do Pass.

**Representative Johnson:** I second.

**Chairman Kaiser:** Insurance is truly an international product and issue and this seems very reasonable.

**A roll call vote was taken: Yes: 14, No: 0, Absent: 0.**

**Representative Boe will carry the bill.**

Date: 3-5-07  
Roll Call Vote #: \_\_\_\_\_

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

House Industry Business & Labor Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Zaiser Seconded By Rep. Johnson

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. Boe

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

REPORT OF STANDING COMMITTEE (410)  
March 5, 2007 12:39 p.m.

Module No: HR-41-4441  
Carrier: Boe  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2067: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2067 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2067

SENATE BILL NO. 2067

Presented by: Carole Kessel  
Chief Examiner  
North Dakota Insurance Department

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

Date: January 8, 2007

TESTIMONY

*Same given to House*

Mr. Chairman and members of the committee:

Good morning, my name is Carole Kessel, Chief Examiner with the North Dakota Insurance Department. I appear before you today in support of Senate Bill No. 2067.

This bill allows the Insurance Commissioner, under ND Cent. Code § 26.1-03-11.3, to exchange confidential information with international regulators and law enforcement officials. Current law allows confidential information to be shared with officials of state agencies, federal agencies, and the National Association of Insurance Commissioners. Confidential information that is shared with or received from an international agency would be given confidential treatment.

The goal is for each state to adopt a similar law so that U.S. insurance regulators can exchange information with regulators from other countries about insurers within an international holding company group. Three of our North Dakota domestic companies are members of holding company groups that have an ultimate parent company operating in a foreign country. The ability to exchange confidential information with international officials will improve our financial solvency oversight of these domestic companies.

The Insurance Department urges passage of this bill. If there are any questions, I would be happy to answer them.

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# North Dakota Insurance Industry and Regulation

— AT A GLANCE —



## THE INSURANCE INDUSTRY

	2005 - 2006
Total Premium Written ( <i>Does not include annual consideration</i> )	\$ 3.05 billion (2005)
Total Premium Tax Collected ( <i>Premium taxes are general fund dollars</i> )	\$ 59.80 million (Fiscal Bienn.)
Claims, Losses & Benefits Paid to Consumers	\$ 2.35 billion (2005)

## REGULATION AND CONSUMER PROTECTION

ND Insurance Department Dedicated Regulatory Staff	37.5 Auth. FTE
Dedicated Special Fund Staff	9.0 Auth. FTE
Consumer Relief from Complaints and Hotline Contacts	\$ 3.19 million
Administrative Fines from Agents and Companies	\$ 97,568
Administrative Relief from Agents and Companies	\$ 713,241

## SENIOR HEALTH INSURANCE COUNSELING (SHIC) PROGRAM

Number of North Dakotans Assisted	6,131
Savings for North Dakota Citizens	\$2,900,000
Number of Website Hits	11,356

## PRESCRIPTION CONNECTION PROGRAM

Number of North Dakotans Assisted	12,719
Savings for North Dakota Citizens	\$ 8.20 million
Number of Website Hits	11,805

## BENEFITING NORTH DAKOTA TAXPAYERS

Insurance Regulatory Trust Fund – Turnback to the General Fund	\$ 4.38 million
----------------------------------------------------------------	-----------------

"I took care of my wife for 16 months and at that time I had to do everything, I did all the cooking, cleaning, all of the wash, dressed her, cleaned her up, took her to her appointments and I didn't know where to turn I didn't know where I could get some help." Family Member

"It would be helpful if there were someone there that could tell you rather than send you on again because that happens so often too. You get to one place and then you go there and then you have to go over there." Elderly Nursing Home Resident

"My mother would be home right now if I could afford the \$8/hour for someone to watch her. But yet I couldn't get the funding to keep her at home. Because [Medicaid] would pay to put her in a nursing home but they won't pay to keep her at home, when it would not cost them nearly as much." Family Member

#### Other common problems identified include:

- living in a rural community, isolated from services that are not available
- no needed services available
- not eligible for needed services
- not enough workers available to provide the needed HCBS

#### Common needs regarding continuum of care services

- case management described as assistance with assessment, care planning, provider selection, monitoring services, and making referrals
- both functional and financial assessment
- a reliable, consistent, and knowledgeable "go to" person
- a single point of entry system for streamlined access to services, a simplified service system
- access to comprehensive, timely information about services
- home and community based service options
- public education related to continuum of care services available and preventative education
- flexible funding to pay for the service of choice
- alternative housing options

"I want[ed] one voice that was nice and that would give me the same answer twice to the same questions and know what they were talking about." Family Member

"They[case management] need to be knowledgeable about what's out there so that they can give you the appropriate information in a great timely manner and say, okay you have this option, this option,[and] this option." Consumer of HCBS

"Assisted Living or self assisted living, I think Medicare [Medicaid] should help pay for things to keep you in the home instead of the nursing home and expenses would be a lot less. And at home it's better I think." Younger Nursing Home Resident

"We need a place where we can find the services that the person needs, preferably a handicapped person [to help us] who knows about all these things... They [case managers and consumers] need a place that you can sit down and talk and show them [case managers] what you've got and they have a look at your house and see if there are any problems with it, fix your house and find out what's right for you."

Younger Nursing Home Resident

"If you look at how health care is delivered today,...it is driven by payment systems rather than for assessment with goals for patient management...and so what are we doing, we aren't taking care of patients we are doing assessments for billing... When you step back, man this thing is broken. We are all doing our own thing and nobody is communicating." Provider

Consumers of continuum of care services expressed what is important to them:

- the opportunity to stay at home
- the opportunity to live with or near family
- the opportunity to maintain independence

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The Focus Group & Personal Interview Final Report is available at:  
<http://www.nd.gov/humanservices/info/pubs/lccontinuum.html>

"You'd be surprised what little bit of care you could get in your home would make your life [easier], so much as an hour a day makes such a difference. I have three hours of help during the week and it just means the world to me." Family Caregiver