

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1125

# 2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1125  
January 17, 2011  
12954

Conference Committee

Committee Clerk Signature

*Ellen LeTang*

**Explanation or reason for introduction of bill/resolution:** Compliance with federal law by health insurers.

## Minutes:

Chairman Keiser: Opened the hearing on HB 1125.

**Adam Hamm~Commissioner-North Dakota Insurance Department:** (see attached testimony).

**Chairman Keiser:** This bill will only apply to the companies or areas of current jurisdiction? So that's the small & individual market, it would not cover the self insured?

**Adam Hamm:** That's correct. We wanted the flexibility that if things changed in congress with respect with PPACA, if passed would give the department the flexibility to enforce whatever that law is.

**Chairman Keiser:** The areas that we currently have in law that will change are the minimum loss ratio, what other areas would you implement at the state level to conform to PPACA?

**Adam Hamm:** There would be a whole host of issues that the insurance department would have to monitor and regulate. We can provide a list of all the different market reforms that will kick in and at what point they will kick in. We would be happy to provide that. We also have a document that itemizes whether or not those provisions apply to grandfathered plans, non-grandfathered plans or both, which will become a very important issue.

**Vice Chairman Kasper:** How would your department determine whether or not a plan is grandfathered?

**Adam Hamm:** It's already something we've been working on because some of these reforms have already kicked in and some of those have applied to grandfather & non-grandfather. There has been some guidance from HHS, it may be further defined as we move through the next couple years, but we rely on HHS to what grandfather is.

**Vice Chairman Kasper:** If an employer changes insurers, that employer will no longer lose grandfather status just because of that change?

**Adam Hamm:** That's my understanding is the same as yours.

**Vice Chairman Kasper:** That's been a bone of contention on the loss of grandfather status by changing insurance carriers or third party administrators. I thought HHS came out with a letter that clarified that.

**Adam Hamm:** It is important to note on all of these issues, they are fluid. We are monitoring it day by day.

**Chairman Keiser:** Has your actuarial department been able to estimate what the impact of this is going to be on the small group and the individual market?

**Adam Hamm:** I'm assuming on rates. We have already seen a couple of rate increase requests since the passage of PPACA. There has been a substantial difference in the impact of rate in the grandfathered versus non-grandfathered issues. If my memory serves me right the grandfathered market, the first set of increases we approved, the impact of PPACA was in about the 1-2% range and that is on top of the normal rate increase would have been. For the non-grandfathered plans because there are requirements there, the impact was from 7-7½%. Most of that increase was reflected in this issue with the preventative service with the cost sharing component. That was about 5 points of the 7½% increase for non-grandfathered plans. Most of, if not all of that did not apply to grandfathered plans, which was what lead to about 1-2% on top of the normal rate increase that was going to be approved anyway. It's important to know that those numbers I gave you are only impacted by these first set of reforms that have kicked in. Once you get to 2014, a much larger market reforms kicks in, the actuaries' increases are going to be substantially higher.

**Chairman Keiser:** The current legislation has the emergency clause, I understand the rationale for all that but as you are aware, we will have had discussions about the fact that we will have a special session on health care. Given that, many of these areas, most of them are in statute and policy issues. Are you amendable to leaving the emergency clause in for those things that become effective and prior to a special session being held and subject to a special session being held? We will craft language somehow to bring the responsibility of policy back to the legislature.

**Adam Hamm:** This bill needs to be carved out from the issue of the exchange which is HB 1126. What I mean by that is that some of these reforms have already kicked in, we have been lucky at this point, because the insurance companies doing in North Dakota have worked with the department and made sure that they are complying with federal law. The longer we go without something in black and white that the commissioner can enforce whatever the requirements of PPACA are, the more we are running the risk that there may be an insurance company at some point they will not comply. If we get into a situation where an insurance company says, "no, we are not complying with that specific issue in PPACA" the North Dakota Insurance Department somewhere along the way isn't able to enforce that and make sure that is being done by that company, you instantly have an inconsistent market. As a regulator, that is a nightmare scenario for me because it puts the companies following the rule at a competitive disadvantage. That leads into the next issue,

now that it creates an inconsistent market in our state, but it could open the door for members of congress to say, we told you, the states cannot be responsible for regulating the business of insurance, we now have to have a to Federal regulate, which I'm opposed to. My concern as commission is the longer we go without getting something in statue, the more risk it has created.

**Representative Vigesaa:** On the fiscal note, the cost associated with this bill would be included in your budget appropriation; do you know the additional resources needed to do the enforcement portion of this?

**Adam Hamm:** Yes, my testimony on SB 2010, our appropriation bill, indicated that for all the new requirement in federal law that are going to be needed to enforced by the state, including North Dakota, the additional FTE's what we would need is 9, I can provide information to this committee that itemizes.

**Chairman Keiser:** Are the 9 FTE's solely for HB 1125 or is that for all 3 of these bills that we will hear this morning?

**Adam Hamm:** They are tied together. The exchange is separate and if the state is going to build its own exchange and give that responsibility to build and run it, in the next biennium we will be asking for 4 FTE's to get started on building the exchange. So it will be basically 13 in the next biennium.

**Representative Amerman:** If we pass this bill with the emergency clause and a special session, do you believe it could be repealed in the special session if it needs to be.

**Adam Hamm:** I wouldn't see why not.

**Representative Boe:** Have you visited with the Attorney General's office on whether this law necessary?

**Adam Hamm:** Are you referring to the individual mandate component of the law or the full law?

**Representative Boe:** In your testimony you think that you have the authority now, but maybe you didn't, have you visited with the Attorney General's office to find out if in fact you do have in their opinion?

**Adam Hamm:** We did not have a conversation on that specific issue that is something that could be done. I imagine that the Attorney General would in large part look to the insurance department for answers as to what the regulatory authority of the insurance department is.

**Chairman Keiser:** We have prior approval in the state of ND, is this legislation, the federal health care law, really force all states into prior approval of rates and forms?

**Adam Hamm:** The issue of what authority doesn't the state insurance department have with respect to premiums that insurance companies want to impose on the policy holders,

North Dakota has prior approval. Most states do, about 15 to 16 states that don't have that. Some have the file and use, where the insurance companies simply filing the rates they want to use and using them immediately and if the insurance department says that too much, they have to try to take them to hearing to claw that back. There are some states that have no authority so ever. I would agree with your comment that one of the fundamental objectives with PPACA is to try to get all states to have prior approval of rates and forms. One of the first series of grants that the federal government gave out was a million dollar rate review grant to help states that already have prior approval, bolster and beef up their rate review authority. For states that don't have the authority, money to help them try to move towards that position. I agree that's one of the objectives of PPACA and at the end the day, I'm in agreement that all states should have prior approval.

**Chairman Keiser:** The state of Massachusetts was the first to create an exchange and truly impact the rates, they were eventually taken to court, it then was taken out of court and they settled on a negotiated agreement on rates. Yet even with those rates, the system is failing at the arbitrary low rates that agree to because they became political rather than actuarial rates. Do you see that as a potential problem in North Dakota?

**Adam Hamm:** No I don't worry about that and the reason is we achieve balance for all sides and so it's not a political calculation that is going on. As long as it continues on that track and doesn't become a political football, I don't have concern.

**Chairman Keiser:** I want the committee to be part of that discussion because HHS has promulgated a rule that says and I can't remember the right language, but its unreasonable rates but they haven't defined that other than unreasonable, in my interpretation is political. Can they circumvent any rule that you make?

**Adam Hamm:** I have deep concerns over what HHS is doing in the area of rate review when it gets to that level. They have already come out with some initial rules on what is a quote "unreasonable rate request from companies". The demarcation line is 10% in the individual market. Anytime any insurance company is asking for anything over 10% in the individual market, it at least triggers HHS's dual review, not authority. At that point the insurance company has to submit their rate review quest, not just to the state, but to HHS as well. At the end of the day and HHS does not have authority under the law to disapprove a rate but I think that everyone in the room has puzzled this out. If HHS comes to their own conclusion of what the rates should be, but the state comes to a different conclusion which may be higher, it's predicable that they will use their bully pulpit and start interfering saying that the insurance department shouldn't have approved X, it should have approves Y. I have deep concerns of that because the reality is there is no way, that HHS understands those issues and the unique circumstances of any rate filing better that a state department of insurance. They haven't defined excessive and that's their next step and to my knowledge has not been defined yet.

**Chairman Keiser:** The other concern I have which is related to the minimum loss ratio of 80 & 85 and apparently applying for waivers is somewhat complicated at this point. We haven't chosen to do that but moving us from 70 & 55 to 80 & 85 and the fact that unreasonable rates oversight is going to be imposed at some level, my concern is that it's

going to limit the ability of some of these smaller health insurance providers to come into our market and operate effectively. Do you have any concerns about that?

**Adam Hamm:** Yes, I share your concerns. The medical loss ratios are 70% for group and 55% for the individual market. Under the new law, PPACA, those numbers jump up 80% in the individual and the small group market and 85% in large group market. We already heard from some insurance companies in North Dakota that their concerns, at least to begin with, as we transition to the new MLR's (Medical loss ratio) in North Dakota are not a deep concern yet. A lot of our large insurance company players in our state are well above that. They do have concerns as the years go by, building up to 2014, if things change, further definitions; they might not be able to meet those as well. There are companies who do business in a number of states but also in North Dakota, have already contacted the department and said that they are concern about transitioning to 80 & 85% and whether or not that they will be able to meet those new medical loss ratios under the terms that HHS has already promulgated. Obviously, my concern is doing everything we can to build a more competitive health insurance market in North Dakota so we have many choices. This new component of PPACA, the MLR, might end up if it's not enforce carefully, end with the opposite result that companies may pull out. Less competition you have, the worst off for the consumer. We have already we have been analyzing this issue internally as to whether or not to request a waiver from these MLR requirements. The law sets forth a process where states ask for an adjustment of that 80 & 85%. Basically what it is, if it's granted by HHS, they can phase in that 80 & 85% to January 2014. That process has gotten more difficult just in the last few weeks. When they first announced the possibility, there were about 3 or 4 states who made a request for MLR adjustment, just in letter form. HHS decided that wasn't going to work and now has a whole laundry list of things that have to be included within a MLR adjustment request. We have been reviewing that and we have already put out a request to the companies doing business in North Dakota asking them for information relative for the request that we have to respond to from HHS. The insurance companies will be responding to us by this Friday, January 21, with their answers to all the requests we have to respond to HHS and then we will be in a much better position to determine whether or not we will be able to qualify for an MLR adjustment request from HHS. We are already moving down that road and we are working on it.

**Chairman Keiser:** You mentioned that 2014 is the really when the major changes will occur. Would you share your perspective what will happen to our current program of this CHIPs, our high risk plan, we also have a federal high risk plan.

**Adam Hamm:** Wished I had a black and white answer as to what is going to happen to the market 2014, but I don't. The number one problem with PPACA is that there are too many unknowns that will have to be worked out once the law is fully implemented in 2014. CHAND (Comprehensive Health Association North Dakota) is North Dakota high risk pool; Representative N Johnson is one of the board members for CHAND. There are about 15,000 policy holders and it's been at approximately at 15,000 roughly since I been commissioner, it stays steady. Beginning in 2014, no preexisting conditions exclusions across the board for anyone looking for health insurance, so the issue that has been raised for a numbers of states is, for the 36 of us, that have a high risk pools, is there any reason to have the high risk pool once you get to 2014 and have no preexisting condition exclusions across the board. Like a lot of these issues, time will tell. It's possible that

CHAND will die on the vine or it's also possible that depending on what sort of coverage if available in 2014. All these issues work together and depending on what HHS decides on essential health benefits and what's included in that package which determines how cheap or expensive it is, once you get to 2014, those CHAND policy holders may find that the coverage they have is cheaper or better than the coverage they can find in these health insurance exchanges. It's possible it might not die on the vine.

**Chairman Keiser:** The latest that I heard is the essential health care benefits are hopefully going to be defined on HHS in June, any update on that?

**Adam Hamm:** That's the same information that I have. All states are waiting with baited breath as to what HHS is going to determine because that essential health benefits will serve at the baseline for the plans that are going to be offered in the health insurance exchange. The more that HHS includes, the more mandates, the more expensive it will be. North Dakota has 23 mandates but some states have far in excess of that. Under PPACA, once HHS makes that determination of what's in an essential health care package, any mandated the state has, the state has to pick up the tab on a going forward bases.

**Chairman Keiser:** North Dakota has to cover those mandates and that will have a dramatic impact on premium rates.

**Adam Hamm:** Correct, likely more expensive.

**Representative N Johnson:** Do you know what might happen to SCHIPs by 2014.

**Adam Hamm:** I can't give you an answer to that, in terms of PPACA, I really don't have an answer.

**Chairman Keiser:** Anyone here to testify in support of HB 1125, in opposition, neutral?

**Chairman Keiser:** Closes the hearing.

# 2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1125  
February 1, 2011  
13764

Conference Committee

Committee Clerk Signature

*Ellen Letang*

## Explanation or reason for introduction of bill/resolution:

Compliance with federal law by health insurers.

## Committee Work Session Minutes:

**Chairman Keiser:** Opens the work session on HB 1125.

**Representative N Johnson:** The provisions dealing with the insurance agents so that he has some enforcement ability to it.

**Chairman Keiser:** I'm handing out another amendment and it looks similar to the amendment that we just adopted on the previous bill. It's that we request to have him come back to us in the next special session with specific details rather than granting open authority.

**Representative Ruby:** Moves to adopt amendment.

**Representative Nathe:** Second.

**Chairman Keiser:** Further discussion. If it were to pass as it is, there is in the insurance department budget 9 FTEs for this bill. Although the fiscal note and appropriation are not on this bill, this is a significant expenditure of dollars.

**Voice vote, motion carries.**

**Chairman Keiser:** We have the bill before us that is amended, what are the wishes of the committee?

**Representative N Johnson:** Do Pass as Amended.

**Representative Ruby:** Second.

**Chairman Keiser:** Further questions?

**Representative Boe:** I have a question, when you say it takes 9 FTEs to meet the requirement, what is the down side of not passing the bill?

**Chairman Keiser:** It's not that we are not passing, we are delaying the implementation of moving forward in meeting the standards with PPACA until the insurance commissioner comes with specific requests in November relative to what direction and expenditure he might have. Further discussion.

**Roll call for a Do Pass as Amended on HB 1125 with 12 yeas, 0 nays, 2 absent and Representative N Johnson is the carrier.**

# FISCAL NOTE

Requested by Legislative Council  
12/27/2010

**REVISION**

Bill/Resolution No.: HB 1125

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

This bill clarifies that the Commissioner has authority to administer and enforce the provisions of the federal Patient Protection and Affordable Care Act and of the Health Care and Education Reconciliation Act of 2010 to the extent that the provisions apply to the Commissioner's jurisdiction.

**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.*

The fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

The fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

The fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

The fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation. The Department is requesting an additional appropriation in SB 2010 of \$2,995,022. This amount includes \$1,183,833 for salaries and benefits, \$1,761,189 for operating costs and \$50,000 for software costs. The sources of funding for this appropriation request are \$2,000,000 in Federal funds and \$995,022 from the Insurance Regulatory Trust fund.

The Department is requesting 9 new FTEs in SB 2010.

Name:	Larry Martin	Agency:	Insurance Department
Phone Number:	328-2930	Date Prepared:	01/25/2011

# FISCAL NOTE

Requested by Legislative Council  
12/27/2010

Bill/Resolution No.: HB 1125

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

This bill clarifies that the Commissioner has authority to administer and enforce the provisions of the federal Patient Protection and Affordable Care Act and of the Health Care and Education Reconciliation Act of 2010 to the extent that the provisions apply to the Commissioner's jurisdiction.

**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.*

Some of the fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

Some of the fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

Some of the fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

**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.*

Some of the fiscal impact if enacted is already accounted for in SB 2010, the Department's appropriation.

<b>Name:</b>	Larry Martin	<b>Agency:</b>	Insurance Department
<b>Phone Number:</b>	328-2930	<b>Date Prepared:</b>	01/14/2011

YK  
2/1/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1125

Page 1, line 2, after the semicolon insert "to provide for application;"

Page 1, after line 12, insert:

**"SECTION 2. APPLICATION.** In carrying out the requirements of section 1 of this Act, the insurance commissioner shall provide regular updates to the legislative management during the 2011-12 interim. The commissioner shall submit proposed legislation to the legislative management for consideration at a special legislative session if the commissioner is required by federal law to implement any program or requirement before January 1, 2013. For any program or requirement that must be implemented between January 1, 2013, and January 1, 2014, the commissioner shall submit proposed legislation to the legislative management before October 15, 2012."

Renumber accordingly

Date: Feb 1, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1125

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8109.01001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Nathe

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

voice vote - motion carried

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: Feb 1, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1125

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 Rep Johnson Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/		Representative Amerman	/	
Vice Chairman Kasper		Ab	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 12 No 0

Absent 2

Floor Assignment Rep N Johnson

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

**REPORT OF STANDING COMMITTEE**

**HB 1125: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1125 was placed on the Sixth order on the calendar.

Page 1, line 2; after the semicolon insert "to provide for application;"

Page 1, after line 12, insert:

**"SECTION 2. APPLICATION.** In carrying out the requirements of section 1 of this Act, the insurance commissioner shall provide regular updates to the legislative management during the 2011-12 interim. The commissioner shall submit proposed legislation to the legislative management for consideration at a special legislative session if the commissioner is required by federal law to implement any program or requirement before January 1, 2013. For any program or requirement that must be implemented between January 1, 2013, and January 1, 2014, the commissioner shall submit proposed legislation to the legislative management before October 15, 2012."

Renumber accordingly

2011 SENATE HUMAN SERVICES

HB 1125

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

HB 1125  
3-16-2011  
Job Number 15548

Conference Committee

Committee Clerk Signature

*TAMMSON*

## Explanation or reason for introduction of bill/resolution:

Relating to compliance with federal law by health insurers.

## Minutes:

Attachments

Senator Judy Lee opened the hearing on HB 1125.

Rep. George Keiser (District 47) introduced HB 1125.

Senator Dick Dever said it seemed like there were a few bills that would be in conflict with this.

Rep. Keiser replied that what they did on the House side was take two entirely different tracks towards the federal health care bill. This legislation is based on the assumption that the Federal Health Care Bill exists, is a law, and we have to determine how to position North Dakota in the best way.

On a separate track there is a series of bills that say they disagree and take the other track.

Adam Hamm (ND Insurance Commissioner) testified in support of HB 1125.  
Attachment #1

Senator Dick Dever asked if the levels of income 133-400 are the gross income levels.

Commissioner Hamm said that was correct.

Senator Judy Lee asked if there was negative testimony on the final outcomes of 1125, 1126, and 1127, coming out of the House Committee. She wanted to know if they could expect objections to any of them.

Rep. Keiser replied none that he was aware of. He said there is a difference of opinion between the Dept. and the House on the next bill they would be hearing.

There was no further testimony.

The hearing on HB 1125 was closed.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

HB 1125  
3-22-2011  
Job Number 15852

Conference Committee

Committee Clerk Signature *TPManson*

## Explanation or reason for introduction of bill/resolution:

## Minutes:

**Senator Judy Lee** opened committee work on HB 1125.

There was discussion on what types of insurance provisions are under the exclusive jurisdiction of a federal agency – lines 11-12.

**Senator Tim Mathern** asked Rod St. Aubyn what he thinks the changes to the bill were and the significance.

**Rod St. Aubyn** (BC/BS) recalled the House added some standard language in 1125, 1126, and 1127. They added the application section for all the PPACA bills.

**Senator Dick Dever** – this bill says the Commissioner shall submit proposed legislation for consideration in special session.

**Mr. St. Aubyn** said the reason is because of all the changes coming. If something should happen before the special session this would give the Commissioner the responsibility of submitting any changes.

**Senator Gerald Uglem** asked if they needed to put something in about the Human Services Dept. like they are considering on the other bills.

**Mr. St. Aubyn** said it wasn't necessary on this one.

**Senator Tim Mathern** wondered if there might be some provisions that the state or the Insurance Commissioner might want to turn over to the federal authority.

**Mr. St. Aubyn** couldn't think of anything. This is really a benefit to the consumer in ND in respect to customer service. It would be a real maze for the consumer to go to the federal government.

**Senator Dick Dever** asked if the federal government has been trying to pull some power away from the states on the insurance and bring it under the regulation of the federal government even before PPACA.

**Mr. St. Aubyn** replied that they have established some new mandates but didn't know if they were necessarily trying to take away regulatory authority from the state government.

**Senator Gerald Uglem** moved a **Do Pass**.

Seconded by **Senator Spencer Berry**.

Roll call vote 5-0-0 -- **Motion carried**.

Carrier is **Senator Dick Dever**.

Date: 3-22-2011

Roll Call Vote # \_\_\_\_\_

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1125

Senate HUMAN SERVICES 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 Sen. Uglem Seconded By Sen. Berry

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Devers

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

**REPORT OF STANDING COMMITTEE**

**HB 1125, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1125 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1125

**HOUSE BILL NO. 1125**

**Presented by:** Adam Hamm  
Commissioner  
North Dakota Insurance Department

**Before:** House Industry, Business and Labor Committee  
Representative George Keiser, Chairman

**Date:** January 17, 2011

**TESTIMONY**

Good morning, Chairman Keiser and members of the committee. My name is Adam Hamm, the North Dakota Insurance Commissioner. I appear before you today in support of House Bill No. 1125.

On March 23, 2010, the Patient Protection and Affordable Care Act was signed into law. One week later, the Health Care and Education Reconciliation Act of 2010 was signed. These laws are sometimes referred to as "federal health care reform", or "PPACA". I will refer to these laws collectively as "PPACA".

PPACA imposes requirements on individuals as well as health insurance companies. For example, it requires most people to have health insurance. It also requires states to operate American Health Benefit Exchanges through which individuals can purchase coverage, with premium and cost sharing credits available to individuals and families with incomes between 133-400% of the federal poverty level, and it provides for exchanges through which small businesses can purchase coverage. It will require employers to pay penalties for employees who receive tax credits for health insurance through an exchange, with exceptions for small employers, and it imposes new regulations on health plans in the exchanges and in the individual and small group markets. It also requires more regulation of health insurance companies by requiring more reporting from the state government to the federal government, additional

monitoring by state regulators of insurance company medical loss ratios, involvement in external review, and additional information to be reviewed in filings and disclosures.

This bill before you today deals with enforcement of the requirements imposed on the entities that sell health plans. It provides that the Commissioner shall administer and enforce the provisions of PPACA to the extent that the provisions apply to insurance companies subject to the Commissioner's current jurisdiction and to the extent that the provisions are not under the exclusive jurisdiction of any federal agency.

I fully expect affected insurers to comply with PPACA even if this bill is not passed. But current state law does not explicitly give the Commissioner the authority to enforce the consumer protections in the federal law if a company is out of compliance. This bill would make it crystal clear that the Insurance Commissioner continues to regulate health insurers according to the laws passed by the North Dakota Legislature. States have the primary role in enforcing many of the new standards. But if a state fails to enforce a standard, the federal government may step in to do so. It is my belief that states should take the lead role in providing insurance consumer protections because states are closer to the consumer and have the experience and resources to do a better job. If a state is found not to have authority to enforce the law, its consumers will have to rely on federal enforcement.

Arguably the state has some authority to secure compliance by using its power under existing law, such as the one that requires insurers to file their insurance policy forms and contracts with the Commissioner for approval. I can encourage insurers to file amendments to standard policy forms that would bring them into compliance with federal law. But it could be argued that we do not have authority right now to require it. The language of the bill does not supplant other enforcement remedies available to the Commissioner, such as monetary penalties and revocation of a company's authority to do business in this state. If this bill is enacted, the Commissioner would continue to have the ability to use existing sanctions already provided in state law to enforce PPACA.

The bill has an immediate effective date and emergency clause to ensure that it can be implemented as soon as possible since several provisions of PPACA became effective last August (within six months of its passage).

Lastly, this bill is not an endorsement of PPACA or the wisdom or effectiveness of its provisions. It is merely the means by which the issue of whether the state or federal government should enforce the law is brought before you.

I would be happy to try to answer any questions you may have. Thank you.

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Engrossed  
HOUSE BILL NO. 1125

**Presented by:** Adam Hamm  
Commissioner  
North Dakota Insurance Department

**Before:** Senate Human Services Committee  
Senator Judy Lee, Chairman

**Date:** March 16, 2011

**TESTIMONY**

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