

## **SENATE BILL NO. 2072**

**Presented by:**        **Jon Godfread**  
                              **North Dakota Insurance Commissioner**  
                              **North Dakota Insurance Department**

**Before:**                **House Industry, Business and Labor**  
                              **Representative Mike Lefor, Chairman**

**Date:**                 **March 9<sup>th</sup>, 2021**

Good Morning Chairman Lefor and members of the committee. My name is Jon Godfread, North Dakota Insurance Commissioner. I appear before you in support of Senate Bill No. 2072.

Senate bill 2072 changes the anti-rebating laws to allow for companies to offer value-added products or services to their consumers.

Senate Bill 2072 comes before this committee after a long and intensive review process from the National Association of Insurance Commissioners. At the NAIC, I serve as the chairman of the Innovation and Technology working group, and one of our charges last year was to develop a draft model law update to modernize the rebating laws across the country. This language has been reviewed and debated and changed at the national level including at other associations such as the National Council of Insurance Legislators. Proposed Senate Bill 2072 does not adopt the model law in its entirety, but it does contain, what I believe to be all the relevant and important pieces for the North Dakota insurance market. Anti-rebating laws have been around as long as insurance contracts have been in effect. The idea around the anti-rebating was to make sure agents or companies were not buying business or creating an unfair playing field. However, with the explosion of technology the anti-rebating laws have become a deterrent for innovative products and technology. This is a prime example of modernizing our code versus creating a “sandbox” for the industry to participate in.

I know this committee has had discussions on the creation of regulatory “sandboxes” in the first half of session and I share the similar concerns that were outlined by the committee. When you talk of “sandboxes” the question always remains how you get the company back on the playground when they grow up. Senate Bill 2072 takes the approach of modernizing our laws for the entire industry, with industry support, rather than segmenting out portions of the industry and applying the rules differently.

One key area of technology has been the Internet of Things (IoT devices). The Internet of Things could be anything that connects to the Internet, but more specific in the insurance world it's a device that helps monitor, track and/or educate the consumer about a risk.

These devices, that help monitor, track and/or educate the consumer, have been a win-win for the consumers and the companies. The consumers reduces their risk, which in turn reduces the

number and severity of claims. Lower risks and reduced claims result in lower premiums for consumers.

Maybe the easiest example that I can give is a water leak detection device. A water leak detection device can be placed either underneath a sink or connected to a main water main for the purpose of detecting water leaks in a home or business. The leaking water is detected early. Instead of causing hundreds of thousands of dollars of damage a water leak detector may result in a claim of \$1,000 or no claim at all.

I also want to give one other example of an IoT device. I know of an individual who has type one diabetes. Within the last three to six months an IoT device has been created for, and is being used by people, who have diabetes. It is a simple device that connects to the back of their arm which monitors their glucose and insulin levels. Within these last 6 months, this particular individual has lost about 60 pounds since wearing this device. And his cost for insulin per month has reduced dramatically.

Water leak detection devices and glucose/insulin monitors are just a couple of examples of the win-win I previously referred to. Healthier consumers, reduced property damage, lower premiums and less severe and less frequent claims benefit everyone. There are many other examples of these types of value-added products and services.

Insurance companies want to be able to give these devices and services to their consumers, but the way the anti-rebating statutes are written these devices and services often fall into the category of prohibited rebates.

I do want to point that it's not just a complete free for all. And that's why the bill is so long. The bill includes safeguards to make sure certain requirements are met before companies can offer these devices and services. The meat of the bill starts on page 3.

Looking at this bill section by section:

Page 3 lines 3-10 clarifies that raffles and drawings are allowed, as long as the prizes are not valued at greater than an amount determined reasonable by the commissioner, which without this bill would be limited to a value of \$100, (see page 2 line 22), and the drawings are open to the public, conducted in a manner that is not unfairly discriminatory. Raffles and drawings is an area where the Insurance Department receives a lot of inquiries. Think of a Facebook ad or drawing which often leads to a situation where one agent contacts our consumer assistance because the agent isn't sure if what another agent is doing is permitted under the anti-rebating laws.

Page 3 section (d) lines 15 through page 4 line 7. This change allows either a company or an agent to give a value-added service or product at a reduced cost or no cost at all to the consumers. A value-added service or product must relate to the insurance policy and also satisfy one or more of the outlined criteria in the bill:

- Provide loss mitigation or loss control

- Reduce claims cost or claim settlement costs
- Provide education about liability risk or risk of loss to persons or property
- Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk
- Enhance health
- Enhance financial wellness through items such as education of financial planning services
- Provide post-loss services
- Incent behavioral changes to improve the health or reduce the risk of death or disability of an individual defined as policy holder, potential policy holder, certificate holder, potential certificate holder, insured, potential insured, or applicant
- Assist in the administration of the employee or retiree benefit insurance coverage.

It short, to be allowed the service or product must either mitigate loss, reduce claims, or provide education.

Page 4 subparagraph (b) lines 8-10 requires that if there is an issue with the product or service that information is provided to the consumer.

Page 4 subparagraph (c) lines 11-13 makes sure that if these products are given away by a company or agents, it is done fairly and not in a discriminatory manner.

Page 4 subparagraph (d) lines 14-15 makes sure that the if an item is given, it is “reasonable in comparison to the insurance premium.”

Page 4 paragraph 2 lines 16-21 permits pilot programs under specific conditions.

Page 3 subdivision e lines 22-25 relates to advertising products and services. Insurers may not use word “free” or “no cost” in advertisements. The products and services are not for the purpose of promotional gimmicks or an inducement to purchase insurance, but rather to reduce risks and educate consumers.

Page 4 subdivision f allows the insurance commissioner to implement rules if need be.

The North Dakota Century Code contains a section regarding property and casualty insurance policy rebates and a section regarding life and health insurance policies rebates. Therefore, to address rebating this bill has two identical sections. This bill was mirrored from half of a NAIC Model Law that was recently revised. The part that was mirrored refers to value added services or value-added products.

The other half of the NAIC model law, which we did not incorporate into this bill, refers to a nominal amount in which agents may provide promotional gifts. The legislative assembly has contemplated this dollar amount over the years. The current value is limited at \$100. The NAIC model differs in that it increases that amount to \$250 or an amount determined to be reasonable

by the commissioner. If that's something this committee wants to explore, I can get an amendment ready for you, if not we can keep it at \$100.

Lastly on page 7 lines 27-30, amends a portion of our law for a health insurance policy and health service contract, specifically related to postdelivery coverage for mothers and newborns to allow for these “rebates” to be offered. This section was discovered when we prepared our update to the rebating law and removal of the words “or rebates” would add clarity to our health insurers.

Thank you, Mr. Chairman, I am happy to stand for any questions.