

2011 SENATE FINANCE AND TAXATION

SB 2162

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2162  
1/17/2011  
Job Number 12933

Conference Committee

A. Bittmiller

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

Relating to a long-term care insurance premium individual income tax credit and partnership plan premiums individual income tax credit

## Minutes:

Written Testimony Attached

**Chairman Cook** opened the hearing on SB 2162 relating to a long-term care insurance premium individual income tax credit and partnership plan premiums individual income tax credit.

**Senator Nodland** – SB 2162 deals with an income tax deduction relating to people who have purchased long-term care insurance. I understand this bill has come a few times to this committee and the last session this bill had a small type of approval that allowed partnership plans to be eligible for a tax deduction. Of course the tax deduction is the same as it was for the partnership plan, its \$250 for an individual and up to \$500 per couple or for people who file state income tax. The reason I'm bringing this bill is because a few of my constituents have went to their tax man they thought they could get an income tax credit because they were diligent enough to buy in to purchase long-term care insurance and of course they found out they weren't eligible. So I'm looking to allow all long-term insurance plans to be eligible for this income tax deduction. There are 45,734 qualifying policies held in North Dakota. I'd like to talk about that a little bit. There are that many policies in North Dakota but how many would actually qualify for paying any income tax in the state to begin with. I think there are quite a few people because of our low state income tax rate that don't even qualify or aren't paying income tax today. The purpose of this is to encourage people to purchase long-term care insurance. The other factor here is, what are we saving in Medicaid usage for people in North Dakota if they purchase this insurance. Any type of policy would save some dollars and I can use some prime examples. (Handed out testimony on behalf of constituent Ron Lisko) – (See attached testimony A in favor of SB 2162)

**Chairman Cook** asked for further testimony in support of SB 2162.

**Shelly Peterson, President, North Dakota Long Term Care Association** - (See attached testimony B in favor of SB 2162)

**Chairman Cook** asked for testimony opposed to SB 2162. No one came forward.

**Chairman Cook** asked for testimony neutral to SB 2162. No one came forward.

**Norbert Mayer, North Dakota Association of Insurance and Financial Advisors** – (See attached testimony C, neutral to SB 2162)

**Chairman Cook** asked if they took the repeal out of the bill we don't change anything one bit do we?

**Norbert Mayer, North Dakota Association of Insurance and Financial Advisors** – No I don't think that we would.

No further action was taken.

**Chairman Cook** closed SB 2162.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

SB 2162  
2/2/2011  
Job Number 13866

Conference Committee

A. Rittmiller

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

Relating to a long-term care insurance premium individual income tax credit and partnership plan premiums individual income tax credit

## Minutes:

Committee Work

**Chairman Cook** opened discussion on SB 2162.

**Chairman Cook** – This expands the credits available for long-term care insurance to all long-term care policies, \$27 million fiscal note. Committee your wishes?

**Vice Chairman Miller** – I will move a Do Not Pass.

Seconded by **Senator Hogue**.

**Chairman Cook** – Committee discussion?

**Vice Chairman Miller** – It's a well intended bill I think to expand those enrolled in long-term care insurance but I believe it expands the credit too far and the fiscal note is rather large. I think it diminishes the incentive to enroll in a certain type of insurance program, and I think that was the original intent of why this bill came forward in the first place.

**Chairman Cook** – I look at the testimony from Norbert Mayer representing North Dakota Association of Insurance and Financial Advisors, I see they came in neutral on the bill. They certainly supported the one we passed last session. If you recall, this has been an ongoing issue. We use to offer a credit but it was on the long form only, and nobody took advantage of the long form. Last session we removed certain policies to the short form that had some connection to the federal policy but we managed to get that to the short form, then we eliminated the long form. This is an effort to get it back on the short form also.

**Senator Oehlke** – I'm going to vote the other way on this, but it's mainly because I have someone that is really interested in this at home and talking to me on a regular basis. I don't feel that giving an incentive like this is going to increase the sales because I think the sales of long-term care insurance, there are many other reasons for doing it rather than this

and it's not an incentive for individuals buying it or even selling it. I do think the fiscal note however is way overstated which is fairly typical.

**Senator Dotzenrod** – I wish I knew more about this subject because I have heard, over time, people discussing this and I think there are statistics out there, and I think the number of people that, in the course of their lifetimes that spend over 3 months in a nursing home is less than 10%. It's not a very large number. I've been led to believe myself that it's not a very wise thing to buy long-term health insurance. There are a significant number of people who go in and stay for some time. In terms of the overall population, and I don't have those numbers, but I intend to vote no on the bill. From the testimony we saw that the nursing home length of stay is really dropping.

**Senator Oehlke** – Part of the reason for that is because long-term care insurance will pay for the attention you get at home too. It's the home health care portion of it, so most policies now will pay as much for home health care as they do for nursing home health care.

**Chairman Cook** – Any other discussion? We have a motion for a Do Not Pass on SB 2162. Ask the clerk to take the roll. (5-2-0)

Carried by **Senator Dotzenrod**.

# FISCAL NOTE

Requested by Legislative Council  
01/12/2011

Bill/Resolution No.: SB 2162

**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			(\$27,127,000)			
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).*

SB 2162 expands the existing individual income tax credit for long term care insurance premiums paid by the taxpayer.

**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.*

Section 1 of SB 2162 creates an individual income tax credit of up to \$250 per insured individual for all long-term care insurance premiums.

Section 2 of SB 2162 removes the language from the Century Code that currently limits the deduction to qualifying partnership plans only.

Information from the Insurance Department indicates there were 45,734 qualifying policies held by North Dakotans in 2008. Factoring reasonable growth in policies, we estimate the fiscal impact of SB 2162, if enacted, is a reduction in state general fund revenues of approximately \$27.127 million during the 2011-13 biennium.

**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.*
  
- 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.*
  
- 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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/14/2011

Date: 2-2-11  
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2162

Senate Finance and Taxation 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 Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard		X			
David Hogue	X				
Dave Oehlke		X			

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Dotzenrod

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



**REPORT OF STANDING COMMITTEE**

**SB 2162: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2162 was placed on the Eleventh order on the calendar.**

2011 TESTIMONY

SB 2162

To: Sixty-second Legislative Assembly  
Regarding: Senate Bill 2162—Long Term Care

I want to take this opportunity to thank the Honorable Senators' Nodland, Andrist and G. Lee and Representative Steiner for the Introduction of Senate Bill 2162. I also thank your legislative committee for hearing the bill.

My wife's Aunt Sophie was a lady who continually displayed her initiative and independence. She was married for the first time while in her sixties and learned to drive an automobile during them years. In her 80's she had double knee replacement and came home from the surgery without the need for assistance during the recovery period. She told us she never wanted to go under social services, welfare she called it, and bought an excellent long term care policy to assure this would never happen. However as she aged the cost of her policy kept going up and up until she finally had to resort to trading it in for a lesser policy. She lived to her mid nineties, out living the time of coverage and had to go onto Medicaid for nursing home services. Fortunately by that time she was unaware of who was paying the bill! I am sure if you checked her Medicaid records you would find the state of North Dakota paid a tremendous amount for her care.

I felt I would assure that the government would not have to assist Shirley or me in the event we had to undergo nursing care or enter a nursing home. In my mid 50's I bought a Long term care policy which would provide unlimited benefits. I have had the policy for 10 years. During that period the cost has increased by 98%. Imagine if I live just 20 more years. My cost for this policy, if this trend continues, will probably have risen 300 to 400%. I certainly hope I can continue to pay the premiums, but am sure you can see why assistance would be beneficial to me or to anyone in this situation. Maybe I should consider preparing my financial affairs to assure, in the event I am in the need of nursing home assistance, the state of North Dakota becomes responsible for this cost. The reason—my costs for long term care might rise so much I can no longer afford the policy and have to drop it or move to a lesser policy. Even though I tried I might end up needing assistance. Think of the cost to the state of North Dakota every time someone has to be covered, in long term care needs, by Medicaid.

North Dakota provides a tax credit to those purchasing a Partnership policy. Unfortunately this program assists very few in our state. Why is this credit so limiting? North Dakota should assure as many citizens as possible give thought to covering their needs in the event disaster strikes and they become disabled and have to use nursing care. What would be the savings to the state of North Dakota if just 10% of those receiving state assistance in nursing care had taken care of this on their own? I feel it would be substantial. It could be greater than the amount of taxes lost if a tax credit for long term care was provided for North Dakota citizens.

There certainly are a number of tax credits, deductions, and other methods people use to lower their tax liability. How many of these methods could actually decrease the liabilities of the state? I feel a tax credit for long term care is one that has this potential. How many of the tax credits actually make people more responsible for their own life situations? I feel this tax credit has this potential. I request you recommend approve of Senate Bill 2162. It will help our citizens and be good for the state of North Dakota. Thank you for your consideration.

Ron Lisko  
445-West Broadway, Dickinson, ND 58601  
701-483-7274—Cell-290-4018

**Testimony on SB 2162**  
**Senate Finance & Taxation Committee**  
**January 17, 2011**

Good Morning Chairman Cook and members of the Senate Finance & Taxation Committee. My name is Shelly Peterson representing the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities in North Dakota. I am here to testify on SB 2162. I would like to provide some information on long term care, the cost, who most likely will need care, and why long term care insurance is an important factor in our nation's financial health.

First I want to thank you. In the 2009 legislative session you passed HB 1209, which now provides a \$250 tax credit for individuals who purchase a qualified long term care partnership plan. The credit was made available beginning in tax year 2009. SB 2162 proposes to expand the credit for other types of long term care insurance plans besides the qualified partnership plans.

By more narrowly defining the types of plans covered by the tax credit you limited the state's financial exposure. We supported that position because we wanted to advance the principle of everyone planning for their long term care and reward them for doing so. Should we now expand the types of long term care plans covered by the credit, I don't know. I am here to say we believe the tax credit is good public policy and does encourage the consumer to further evaluate how they are going to pay for their long term care should they need it someday. Long term care insurance is one of the keys we have at our disposal of solving the crisis of how we as a nation and state are going to pay for the needs of our aging population. Medicare and Medicaid cannot do it alone; we must all begin to plan.

## Aging in America

The over 85 population is the fastest growing segment of the United States population and is growing six times faster than the rest of the population.

- North Dakota leads the nation with the highest proportion of individuals age 85 and older (2.3%).
- North Dakota is fourth in the nation in age 65 and older.
- From 2000 to 2030, North Dakota's age 65 and older population will grow by 61% and it is projected (2000 census) our under age 18 population will decrease by 20%.
- Long term care facilities provide care for over 16,000 North Dakotans annually.

## Who Will Need Long Term Care in North Dakota?

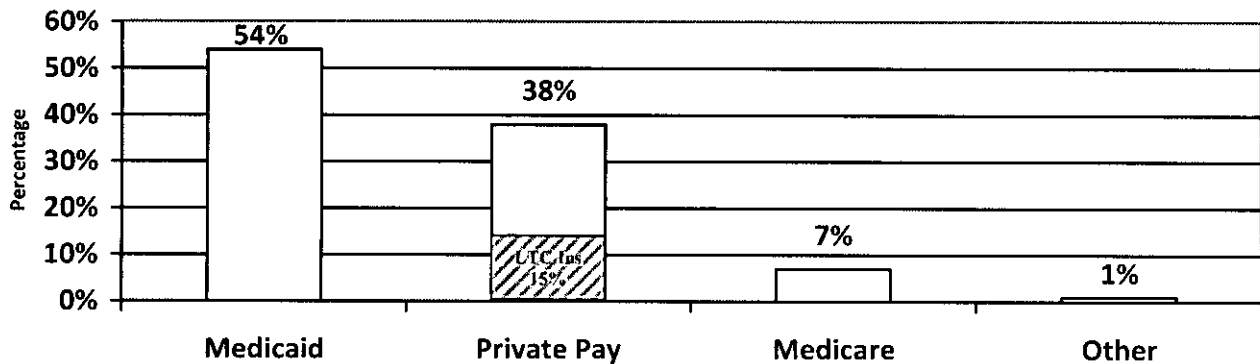
- Two out of every five North Dakotans will need long term care sometime in their lives.
- The need for personal assistance with everyday activities increase with age.
- The three top factors impacting a need for nursing home care are being a woman, being 80 or older, and living alone.
- At age 75, 60% of individuals are living alone.
- The most common reasons given for nursing home placement include the need for assistance with daily care, complex medical needs, and the need for continuous supervision.

In North Dakota, well over two-thirds of nursing home residents are women, their average age being 84. The age range of residents is 18 to 107 years old. Prior to needing long term care the vast majority of individuals are admitted from their own home, with many experiencing a short term hospital admission prior to entry into the nursing facility.

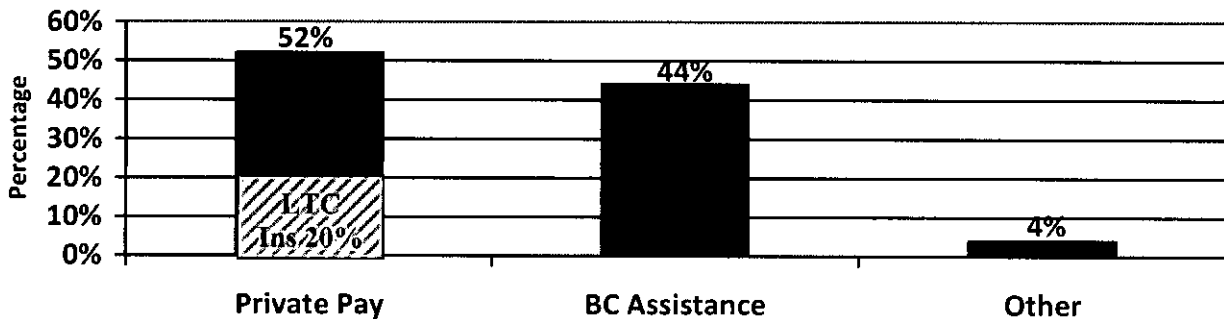
The average length of stay for residents that were discharged last year was 289 days. This is down from 2008, where the average length of stay was 350 days. Today, thirty percent of all residents admitted to a North Dakota nursing facility are discharged back to their own home.

The charts below show payment sources on October 1, 2010. Nursing facilities: 54% of residents are on Medicaid, 38% are private pay (of which 15% have long term care insurance) and 7% are covered by Medicare. Basic care facilities: 52% of residents are private pay (of which 20% has long term care insurance), 44% receive basic care assistance and 4% are covered by other payment sources.

**Who Pays the Bill in Nursing Facilities?**



**Who Pays the Bill in Basic Care?**



Medicaid is the largest public source of funding for long term care in the United States and in North Dakota. It is an essential lifeline for most vulnerable Americans. State financing of long term care is a significant issue every legislative session.

# BASIC CARE AND NURSING FACILITY APPROPRIATION HISTORY

## Growth of Nursing Facility Budget:

Year	NF Appropriation	Growth	# of Individuals
2003-2005	\$318.4 million	\$19.2 million	3664
2005-2007	\$343.0 million	\$24.6 million (7.7%↑)	3600
2007-2009	\$371.4 million	\$28.4 million (8.3%↑)	3494
2009-2011	\$425.7 million	\$54.4 million (14.7%↑)	3323
2011-2013	\$471.8 million	\$46.1 million (10.8%↑)	3451

## General Fund Growth for Nursing Facilities 2007-2013:

<u>2007-2009</u>	<u>2009-2011</u>	<u>2011-2013</u>
\$116,825,825	\$132,267,271	\$208,393,333
		(Base Budget & 3% inflator) 57.5%↑ or \$76.1 million increase over last Biennium

## Growth of the Basic Care Budget:

Year	BC Appropriation	Growth	# of Individuals
2007-2009	\$15,121,476		415
2009-2011	\$18,113,925	\$2,992,449 (19.8%↑)	455
2011-2013	\$24,836,381	\$6,722,456 (37.1%↑)	536

## General Fund Growth for Basic Care Facilities 2007-2013:

<u>2007-2009</u>	<u>2009-2011</u>	<u>2011-2013</u>
\$7,083,693	\$8,219,552	\$14,859,341
		(Base Budget & 3% inflator) 80.7%↑ or \$6,639,789 increase over last Biennium

We need to improve the financing of long term care and encourage North Dakotans and all Americans to plan for their future.

The more we entice individuals to plan and pay for their own care, the less burden for our state and country.

Thank you for allowing me to update you on what is occurring in long term care. I would be happy to answer any questions you may have.

Shelly Peterson, President  
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Neutral Testimony on SB 2162  
January 17, 2011 - 9:45 AM  
Senate Tax and Finance Committee  
Senator Dwight Cook, Chairman

Chairman Cook and members of the Senate Finance and Taxation Committee. I am Norbert Mayer, representing the ND Assn. of Ins. & Financial Advisors. Our Assn. is made up of life & health ins. agents and financial services advisors.

We take a neutral position on SB 2162 because there are both good and undesirable parts of this bill.

The good is that the tax credits provided for LTC Ins. Premiums provide a meaningful incentive for our ND Citizens to purchase LTC Ins. This helps pay for their long term care costs. More Citizens paying for their own LTC costs means fewer on Medicaid, thereby slowing the growth of the Medicaid budget.

The undesirable part of the bill is the repeal of ND Century Code Section 57-38.29.3. While this makes everyone who has a LTC Ins. policy eligible for the tax credit it also creates a large fiscal impact which has not been acceptable to prior Legislative Bodies.

Section 57-38.29.3 provides a "Credit for premiums for long-term care partnership plan insurance coverage." It so defines a "qualified long-term care partnership plan" that it "Is a qualified long-term care insurance policy, as defined in section 7702B(b) of the Internal Revenue Code of 1986, with an issue date on or after the date specified in an approved Medicaid state plan amendment that provides for the disregard of assets."

The ND Medicaid state plan amendment providing for the disregard of assets was approved as of January 1, 2007, therefore this credit applies for qualified plans purchased on or after January 1, 2007.

The definition defines also, what type of inflation protection must be included in the plan. Inflation protection is critically important because someone purchasing a plan now most likely will not be using the plan until 15, 20 or even 30 years from now at which time those long term care costs will have inflated and a plan without proper inflation protection will be inadequate to cover those costs.

For these reasons we take a neutral position on this bill. We feel it is important that ND Citizens be provided an incentive to purchase LTC Ins. to help pay for their LTC costs and slow the growth of the Medicaid budget, but we are concerned that the fiscal note required to include everyone with LTC Ins. will be rejected by this Legislative Body. We also feel the definition should not be changed, so that it excludes the requirement of purchasing plans with appropriate inflation protections and to assure that the plans meet all asset disregard requirements of the ND Medicaid plan.

Thank you and I will be pleased to try and answer your questions or find the answers and get back to you.