

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

HB 1194

2013 HOUSE STANDING COMMITTEE MINUTES

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

HB 1194
January 21, 2013
Job 17475

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Short-term insurance

Minutes:

Attachment 1

Hearing opened

Chairman Keiser: 0:09 Provided background on bill. Provided attachment 1, proposed amendment. This is one of the issues which has the greatest potential to save the state of North Dakota money long term, if we can get it in the proper form. The fastest growing budget in the state is human services. Through the technology of medicine today, we can save young infants who, not long ago, would not have been saved. On the other end, life expectancy tables are going up. When I started in the legislature in 1993, one of the biggest issues was long-term care insurance. In the early days, it was a significant problem, and the insurance department did a terrific job. Companies jumped in because there was a large potential market. They were underpricing their product at a level that could not possibly make the payments eventually. In the early years, really good people took responsibility, bought long-term care insurance, and made premium payments for years. Then just before they'd need the coverage, the premiums went up so high that they could not afford them, and they dropped the insurance. We enacted legislation to put limiters on it. We made it more actuarially sound but less affordable. Gave an example. What a lot of agents and brokers in this arena are asking for is to provide short-term long-term insurance.

It can happen in two ways or a combination of the two. We can have policies that would provide coverage up to a certain dollar amount or a cost per day. Example. We can limit the number of days of coverage. The average stay in a nursing home is around two years, I think. Can we write a policy for 2.5 years? If they stay longer than that, there is no coverage. If you are a good financial planner or estate attorney, you have the fiduciary reasonability to direct your client so that they can transfer their estates to their children if they wish. When their personal estate gets to a certain point, they qualify for Medicaid, come on the state roll, and we're paying for them. I'm not sure that a short-term policy approach will work, but is my position that we have to try to do something.

As written, this bill gives the insurance department the ability and power and regulatory authority to write rules and regulations to govern and manage those policies as products are developed. We're going to let the market do its thing, but you had better have a lot of disclosure requirements and other significant requirements if we open this door. This is a big door to open. We need to make sure that they can do what they need to do to protect North Dakota consumers.

Questions:

Support:

Opposition:

Neutral:

Dan Ulmer with Blue Cross: One of the issues we have is to make sure applies only to long-term care. That is mentioned only toward the end of the bill.

8:44 Rebecca Ternes, Deputy Insurance Commissioner: Right now, the North Dakota statute defines only long-term care, and that would be anything that is a minimum of twelve months of coverage. We have had five filings in the last five years for short-term care coverage, and we've had to disapprove them based on solely that we have no statute under which to approve them. The amendments you have before you would add a definition. One page 1 after line 6, we would insert text. (Read from proposed amendment, attachment 1.) We do some renumbering as well. On page 2, we were concerned with lines 3 through 6 which have us writing comparison guides, which we do not do and which are essentially marketing materials. We reached out to other states to find out how many had statutes like this and language we could examine, and only one responded. Others require these to come in as limited benefit plans, short-term nursing, or something else. We would offer those amendments because we agreed that we thought it needed a definition, and the department is not in the business of writing marketing materials. Our concerns are that we have the ability to control the way these things would be sold and the way the disclosures would be put out for consumers. These would not be tax qualified or partnership policies, so they would not be eligible for the tax credit.

11:40 Representative Ruby: There might be some companies that have already submitted approval for these types of plans. Wouldn't they figure those costs, actuarial calculations, into a long term plan and sell the product?

Rebecca Ternes: Maybe the answer has been out there with Chairman Keiser's statement that if you designed a long-term care policy, you do design it for long term. Now they are designing it for an even longer term. Longer average life span would be assumed and would have a higher cost than a product like this.

Representative Ruby: In some cases, people wait longer before going into a facility, and then they do not stay in that facility for as many years. That is part of the calculation.

Representative N. Johnson: So there is on the market now a short term policy for this type of thing, but it's not available here yet?

Rebecca Ternes: Yes. We've had only one agent come in asking for this product. Five filings in five years from companies that have come in with only short-term care, and we have had to tell them that we do not have the ability to approve it. There have been others that have filed it, realized we do not have the ability, and then amended their policy so that it turns into something else, such as a limited benefit policy. Are they offering it in other states? Maybe, but we did not hear many responses.

Representative Vigesaa: Are these companies already writing in North Dakota and want to add?

Rebecca Ternes: They all would have to be licensed in the state already, so they are likely already writing long-term care or other types of products.

Representative M. Nelson: Do any states make a deal that if a person has a certain amount of insurance in place, they won't go after their assets for long term care?

Rebecca Ternes: I'm sorry, but I do not know the answer.

Representative Becker: We need one more line on the amendment. It should say, replace 1 with 2.

Rebecca Ternes: Thank you. That is correct.

Representative N. Johnson: The other thing you were wishing we would do is on page 2, remove lines 3 through 6.

Closed hearing

Motion to adopt amendment with the correction made by Representative Becker. Motion made by Representative N. Johnson and seconded by Representative Louser.

Voice vote in favor. The amendments are now on the bill.

Motion on do pass as amended: Representative Vigesaa moved, and Representative N. Johnson seconded.

Yes: 14

No: 0

Absent: 1

Carrier: Representative N. Johnson

January 21, 2013

1/22/13
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1194

Page 1, line 7, after "1." insert:

""Short term care" means any insurance policy, group certificate of insurance, or rider advertised, marketed, offered, or designed to provide coverage for less than twelve consecutive months for each covered period on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, adult day care, or personal care services provided in an insured's own home or a licensed facility setting other than an acute care unit of a hospital.

2."

Page 1, line 10, replace "2." with "3."

Page 2, remove lines 3 through 6

Page 2, line 7, replace "3." with "4."

Renumber accordingly

Date: 123 1-21-13

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1194**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 13.0445.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Johnson Seconded By Louser

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper					
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigesaa					

Total Yes 21 No 4

Absent 0

Floor Assignment _____

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

- with correction

Date: 1-21-13

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1194**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number 13.0445.01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ^{as} ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Vigessa Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigessaa	✓				

Total Yes 14 No 0

Absent 1

Floor Assignment Johnson

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

REPORT OF STANDING COMMITTEE

HB 1194: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1194 was placed on the Sixth order on the calendar.

Page 1, line 7, after "1." insert:

""Short term care" means any insurance policy, group certificate of insurance, or rider advertised, marketed, offered, or designed to provide coverage for less than twelve consecutive months for each covered period on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, adult day care, or personal care services provided in an insured's own home or a licensed facility setting other than an acute care unit of a hospital.

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Page 1, line 10, replace "2." with "3."

Page 2, remove lines 3 through 6

Page 2, line 7, replace "3." with "4."

Renumber accordingly

2013 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1194


2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1194
March 12, 2013
Job Number 19739

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to short-term insurance; and to provide a penalty

Minutes:

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Chairman Klein: Opened the hearing.

Representative Keiser: Introduced and explained the bill. (:40-6:09)

Senator Sorvaag: Asked if this was meant just for them going into a home, to buy a policy that would cover you for one year if you went into a home.

Representative Keiser: Said he didn't think it says that.

Senator Andrist: Gave an example of family members in another state that went into a nursing home just for rehabilitation. He said that's what he thought they were talking about and asked if he was aware of nursing homes in North Dakota doing such a thing?

Representative Keiser: Said he just had a lot of experience with this. He gave an example of transitional care. Those centers and most of the nursing homes in our state have the transitional living center in them and then they have the nursing home component also. He talked about Medicare covering it for a limited period and then it would come back to having a policy or going onto Medicaid.

Senator Andrist: Asked if this would put them in competition with hospital rehab based business.

Representative Keiser: Said transitional living centers are not what this bill is about but hospitals love transitional living centers because of the reimbursement rate. Once a patient is determined to qualify for transitional the hospitals can get a significantly reduced reimbursement rate.

Senator Murphy: Commented that it seems like it is just short-term care and asked how it could be short-term and long-term.

Representative Keiser: Said he just uses that perspective. Long-term care has traditionally been coverage for when you go into a nursing home. The current policies cover you from when you go in until you die or are discharged. The average stay in a nursing home is relatively short but there are exceptions. This plan is designed to be one that the public would consider buying, that they would purchase that would give them coverage for a limited period. After that period they would go onto either Medicaid, self-pay or some other plan. This is just a short-term indemnity program.

Senator Laffen: Asked when someone would purchase this.

Representative Keiser: He asked the Senators if anyone has purchased long-term insurance and commented that it is too expensive. This is a very complicated issue. Ideally you would have bought the insurance around the age of thirty-five years of age because the premiums would have been really low and we would have been paying over a long period of time. Most of us don't do it and put it off. The point is; do we want to pay ten thousand dollars or twelve thousand a year, for long-term care insurance that we may never use. They are underwriting the risk of a very lengthy exposure. This program says there is a new product, limited benefit but affordable.

Discussion and questions continued (12:15-21:19)

Senator Sorvaag: Asked if it was for a twelve month window that could be used once or what is the whole intent?

Chrystal Bartuska, Product Filing Division Director for the North Dakota Insurance Department: Said it depends on how the product is designed. These are specifically designed to be less than twelve months. Anything over twelve months you would be getting into the long-term care type products. That is an option depending on how it is designed.

Senator Sinner: Said this could be like a revolving product but you could never be in longer than twelve months at any given time. Depending on how the rules are written.

Chrystal Bartuska: Right, this bill is to allow the commissioner the ability to monitor these types of products. Many other states have gone a step further and created administrative rules that drill down further as far as what the different requirements for the products are.

Senator Sinner: Asked if the insurance department currently have administrative rules for long-term care products.

Chrystal Bartuska: Said yes.

Senator Sorvaag: Said if you would make it revolving it couldn't be more than twelve, then you are back to an expensive product. Wouldn't the intent be that you have twelve months of insurance that you could use in your life time and that is what you are buying? That is what would keep the product affordable.

Chrystal Bartuska: Said correct. This is literally twelve months so if you hit that twelve month mark the policy is done.

Senator Sorvaag: Said you would be writing that in the rules, the whole intent?

Chrystal Bartuska: Said correct, they would put controls in place around those types of things. The filing analyst would review it to make sure that it meets applicable regulatory requirements that are similar to the long-term care market.

Chairman Klein: Said this was a product that was already being sold around the country and that NAIC has rules already.

Chrystal Bartuska: Said other states do have these types of products and have been selling them.

Chairman Klein: Asked when companies petition North Dakota that has the ability to sell it we will be able to establish rules.

Chrystal Bartuska: Said correct.

Chairman Klein: Closed the hearing.

Senator Andrist: Moved a do pass on HB 1194.

Senator Sorvaag: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent - 0

Floor Assignment: Senator Sorvaag

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1194**

Senate Industry, Business, and Labor 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 Andrist Seconded By Senator Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Sorvaag

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

REPORT OF STANDING COMMITTEE

HB 1194, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1194 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1194

① 1-21-2013

January 15, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1194

Page 1, after line 6, insert the following:

- "1. "Short term care" means any insurance policy, group certificate of insurance, or rider advertised, marketed, offered, or designed to provide coverage for less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, adult day care, or personal care services, provided in an insured's own home or a licensed facility setting other than an acute care unit of a hospital."

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Renumber accordingly