

FISCAL NOTE
Requested by Legislative Council
01/24/2017

Bill/Resolution No.: SB 2317

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 2317 allows insurance producers to charge fees for their services.

- 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.*

As this bill is written, the Insurance Department cannot provide a meaningful fiscal impact. The bill does not set forth fee amounts or requirements. If producers did put fees in place, the state's General Fund would benefit from the insurance premium tax (1.75%) on those fees, but only from those charged by local surplus lines producers, on surplus lines insurance.

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.*

N/A

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

Name: Melissa Seifert

Agency: Insurance Department

Telephone: 328-2930

Date Prepared: 01/26/2017

2017 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2317

2017 SENATE STANDING COMMITTEE MINUTES

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

SB 2317
2/7/2017
Job Number 27980

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to Insurance Producer charges for fees for services

Minutes:

Attachments 1- 4

Chairman Klein: Opened the hearing.

Senator Campbell: Introduced the bill.

Evan Mandigo, State Executive of the Independent Insurance Agents of ND: In support. Written testimony, see attachment #1. (2:10-14:48)

Melissa Dixon, Dixon Insurance: In support. Written testimony, see attachment #2. (15:20-24:58)

Senator Poolman: You talked about specialized services, OSHA, all of those things. In the bill it says the insurance producer may charge a fee for any service. It doesn't seem to narrow that to cover some of those specialized services.

Melissa Dixon: We drafted this bill with the Insurance Commissioner's Office. I do not believe an insured would sign a piece a paper that says every time I call my insurance agent I want to be charged a dollar because the next agent down the street isn't going to do that. I don't know how you can define all of the specialized areas. That is why the commissioner's office and ourselves have been willing to state that there will be a list of specified things that you may or may not be charged for.

Senator Poolman: You also talked about specialized policies that are higher maintenance, do the commission levels increase with the nature of those policies?

Melissa Dixon: No they diminish.

Chairman Klein: Asked where she got her expertise. You are an insurance producer but how are you trained within the rules of being a producer and how would we know that you are operating within your scope of practice?

Melissa Dixon: You are correct and the reason and manner in which a producer becomes specialized is his or her own journey. She talks to how she became proficient in all of these areas.

Chairman Klein: We know about you but you are suggesting that everyone will have that opportunity to do what you are doing and this will expand that because now we know we can get into that business and make some extra money, and there will be commissions. How do we know the next guy in Bismarck has that same sort of training?

Melissa Dixon: That's why we have the commissioner's office for complaints and that is why we carry insurance. In today's world you can already do that, the law allows it. What they don't allow is for us to act as a consultant and to provide information for your business and collect a fee for it. We can't do both because we are the same individual.

Jon Erickson, Insurance Agent, Certified Risk Manager, Insurance Counselor, and Certified Workers Compensation Advisor: In support. Written testimony, see attachment #3. (33:00-35:33)

Chairman Klein: Asked who people are going to now.

Jon Erickson: Outside vendors it could be an independent consultant. We can't know for sure what service a client may need until we sit down with them. (35:35-38:53)

Chairman Klein: Isn't this the reason they come to you and develop a relationship. Why don't you think this will be a deterrent?

Jon Erickson: The issue here is we aren't seeing a lot of this in North Dakota but from agents outside of North Dakota.

Elaine J. Fremling, CLU, Northwestern Mutual Financial Advisor: In support. She talked about how the insurance business has changed over the years and what is happening globally. She also said they are helping a lot for their clients now with no compensation. (41:00-51:04)

Chairman Klein: We have a lot more than a few fees that we may be charging because if we are looking at the global market we are looking at federal jurisdiction over our insurance industry and you agents not having to deal with the insurance commissioner but rather the FIO and what is going on in Washington. We continue to fight that as legislators, along with the NAIC. When you talk about the Europeans and what they want to do, we have been doing successfully in America, providing coverage for all of our people and doing it in a cost effective way. We certainly don't want to have a global standard.

Senator Poolman: What you are telling us is the market is forcing down commissions, that the way the insurance agents use to make money is not the way they can make money anymore and so in order to be able to survive you need to be able to charge fees and the fees will be approved by the insurance commissioner even the form you hand them to sign will have to be approved by the insurance commissioner, is that correct?

Elaine J. Fremling: That's correct, it would be volunteer, not mandatory.

Chairman Klein: Called for opposition.

Terry Weis, RHU, LUTCF: In opposition. Written testimony, see attachment #4. (53:15-58:05)

Chairman Klein: Do you have a sense that we will go beyond being the workers comp, OSHA, as we move into this and as time goes by soon we will be delivering a death benefit check and there will be a fee for doing that?

Terry Weis: That is what is going to happen.

Senator Casper: Why not let the consumer make the decision.

Terry Weis: That's the way it should be but if you can get them to sign a piece of paper you can charge them a fee.

Senator Campbell: Wouldn't the insurance commissioner prohibit that from happening?

Terry Weis: If you give us the ability to charge a fee the commissioner will probably never find out about it because it is legal.

Pastor Keith Ritchie, Cornerstone Church: In opposition. He counsels a lot of young people and has to battle with them to deal with a local representative because insurance agents aren't thought of very well. Not everyone will know what they are signing. (1:03-1:05:20)

Patrick J. Ward, Representing State Farm Insurance: In opposition. He has a high level overview response which he got from State Farm. 1. Agents don't have the authority to charge customers for their services and we would not allow them to do so. We believe this would create confusion for our agents regarding the proper procedures and loyalty, potentially creating exposure for the company. 2. To the extent the commissions are part of our pricing model, if an agent would charge a fee it would result in more expenses for the customer. 3. A captive agent charging fees may create issues with their relationship between the customer and the agent which is a key element of our business. 4. There is a sense that some of the agents want this and some do not. 5. There is the possibility of straining over any unauthorized practice of law. 6. Create an additional work load for the department. (1:06-1:07:13)

Senator Poolman: Does State Farm have a separate entity and as a big company how are you not providing those services?

Patrick J. Ward: State Farm has captive agents. They are not independent agents they work for the company. They are limited in their agreements with State Farm as to what they can and cannot do. They can only sell certain products. They don't act as brokers in that regard. (1:09:07-1:09:59)

Chairman Klein: Neutral testimony.

Jeff Ubben, Deputy Insurance Commissioner for the North Dakota Insurance Department: Neutral testimony. (1:10:47)

Senator Campbell: Going back to Mr. Weis's comment that the insurance commission is blind eyed to the specifics of different things. Where do you guys come into to play in overseeing that from occurring? If the bill is passed how are you going to prevent that?

Jeff Ubben: The law as it is currently written does not allow this practice and obviously we are in charge of enforcing the law. If people are doing it today it is not because the insurance department is turning a blind eye to it but because the insurance department has not been presented with sufficient evidence to investigate or pursue a violation of the law. We are not going to be able to prevent it on the front end. If the consumer signs something, we can't stop it. I did write in as many consumer protections as I could.

Senator Poolman: It does say that you are not only going to approve the fees but you are also going to approve the actual form that the fees are listed on. How often are those forms approved, do people go through a yearly process?

Jeff Ubben: How I envision it working is the insurance department will create one uniform form that everyone will have to use to charge a fee. We will have complete control over what that form says and how it is used.

Senator Casper: Is the change we are making forcing the consumer to pay a fee on top of their premium and is it going to be uniform across all insurance policies in North Dakota or is that going to be something that will be determined by the agent?

Jeff Ubben: The way it would have to work is it would be agent choice and the consumer would have to agree to pay that fee. The credit card fee would only be allowed if both the agent wants to charge a fee and the consumer has agreed to pay the fee.

Senator Casper: I just want to be clear on one part, I could choose to suffer the fee myself if I want to charge it to my credit card?

Jeff Ubben: Yes, and say you are an agent and your client doesn't want to pay it, they don't have to pay it. They can find someone down the street that doesn't charge a fee

Senator Casper: Asked about the unauthorized charging of a fee. Would the consumer come to your office?

Jeff Ubben: I would like to think that insurance agents would know when they are crossing the line and when they are just giving insurance advice. The state bar association would be the one to enforce that since it is a law related violation.

Senator Poolman: You will be approving what fees can be charged. I would assume the insurance commissioner would be considering that in terms of what he was going to allow

someone to charge. If you are approving the form on which they have to sign, I would assume you would approve all the fees listed on the form.

Jeff Ubben: The form we are approving is the form they could use to put the fees in. We are not going to be approving the form after they've signed it and delineated all of the fees.

Senator Poolman: So they can decide what fees to charge under this bill but you are just going to give them the general form to do so?

Jeff Ubben: Yes, which is part of the reason why we are asking for the ability to adopt the administrative rules for this section as part of this bill in case there are issues that arise.

Chairman Klein: We could have a menu of fees and at the bottom will be the total they will charge?

Jeff Ubben: That's exactly correct. With the form we approve, I envision it having a lot of lines on there in case there happens to be a lot of fees. The bill does require them to itemize each fee and list the dollar amount. We would be approving a blank form that allows them to fill in those fees.

Senator Casper: Are we limiting the amount for the fees?

Jeff Ubben: If you turn to page 2, line 12, what we say is the fee charged under this section must bear a reasonable relationship to the services provided and may not be discriminatory.

Representative Kasper: In neutral position. He stated that his practice is in insurance. He shared what he has been experiencing over the years in the practice of selling insurance. (1:26:40-1:29:22)

Norbert Mayer, North Dakota Association of Insurance and Financial Advisors: In a neutral position. We had our board meeting yesterday and we are in a neutral position. We have agents from the State Farm captive agents to financial advisors who work for several different organizations. (1:29:39-1:30:11)

Jeff Kleven, National Board of Directors for the Independent Insurance Agents of North Dakota: In support.

Daniel Peterson, President and CEO of e4 Brokerage: In support. Brokers insurance products. (1:32:30-1:34:12)

Chairman Klein: Closed the hearing.

2017 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

SB 2317

2/7/2017

Job Number 27988

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to Insurance Producer charges for fees for services

Minutes:

Attachment 0

Chairman Klein: Asked Kristi Schlosser Carlson to speak to SB 2317 that was heard earlier.

Kristi Schlosser Carlson, General Council for Farmers Union Insurance: In opposition. I am opposed to the bill for a lot of the reasons Pat Ward commented on. I think first and foremost is the conflict of interest issue. There is a distinction between an insurance producer and a consultant, which can't hold an insurance producers license at the same time. That is why you heard they would have two companies because they can't represent both sides at the same time. That is one reason I think this starts to muddy some waters. With regard to the financial products, the agency sells a good deal of life and health products and have not had any of the issues they talked about here. In the financial advisor world as well, which is regulated by securities there is also a distinction between a person who is paid commissions verses a registered independent advisor which can charge a fee for the advice. (1:00-3:31)

Chairman Klein: It always comes back to the willing buyer and being up front with your customer. Does that give us any additional good feelings about being open and transparent not only to the customer but if the customer isn't happy the insurance commissioner will come down on us. It does sound like we will have a uniform disclosure statement. It does concern me about the menu that we could choose though.

Kristi Schlosser Carlson: But the fees themselves aren't approved by the department. I think it is how far you want to go in mudding the waters and do you have to go there or can we leave this clarity in place?

Senator Poolman: By the end of the hearing it became clear that the fees would not be approved by the insurance department and that was unsettling to me for that to come out at the end. Are we opening the door that an insurance commissioner has to approve any rate increases but they don't have to approve any fees? Doesn't that open the door for companies to say, we aren't going to worry about that rate increase now because now we will compensate our agents through fees they can charge instead.

Kristi Schlosser Carlson: I would think that a company and an agent would be a bit adverse on that one. Might a company say we are going to slash commissions even more because we know you can turn around a charge a fee to the insured. I think I am just repeating your question back to you. I acknowledge the potential conflict there.

Senator Roers: Wouldn't competition kind of check what you are talking about here? You are talking about the producers charging excessive fees, how likely is that to happen when buyers are more likely to be checking with other sales people and ask what their fees are. The runaway fee would be checked by competition.

Kristi Schlosser Carlson: I would hope so. I would think it might be helpful, because I know there has been market research on how often somebody leaves their agent and what is that tipping point. I don't know if that would be informative at all.

Chairman Klein: Closed the discussion.

2017 SENATE STANDING COMMITTEE MINUTES

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

SB 2317
2/7/2017
Job Number 28005

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eric Lutell

Explanation or reason for introduction of bill/resolution:

Relating to Insurance Producer charges and fees for services

Minutes:

Attachment 0

Chairman Klein: Said there were some good points that Terry Weis made this morning. I do respect his concerns and we did have a lot of oppositions. One of the questions I was going to ask was on the premium tax and if we would generate additional premium tax. Another question would be could we pass a bill that just provides for an insurance producer to charge a fee for using the credit card.

Senator Casper: I would also add that I wanted to make clear in my understanding was that you know what it is upfront. You get the choice if you want to pay you accept the fee. In a free market and competitive market place if you wanted to absorb the fee you could as well. As a consumer you have all the options there.

Senator Roers: I don't think we should be regulating fees. I think the market will regulate those fees. A question from this morning was what we do in other industries that are similar and the answer was there is no regulation of it. They correct themselves.

Senator Casper: While people are letting this stew over the evening I will educate myself a little bit more on it. I want to be very clear on it and my understanding was essentially the insurance department is going to be doing the rule making. They will be creating a form and they are going to be charge any fee for any amount. They are only going to make the form so that is a little disconcerting because there isn't a high level of regulation from their department but that being said that is only disconcerting if that is only what you care about. I think this market is changing a lot and you will be having in one office attorneys, insurance agents, and accountants advising people holistically on their issues.

Senator Roers: This market is changing, years ago you established a relationship with your insurance council, today you go out and shop for them. The fees are not mandatory. If I go to one of these people and ask them for a proposal within the proposal, I am asking for a fee structure.

Chairman Klein: We will take it up sometime tomorrow. Closed the discussion.

2017 SENATE STANDING COMMITTEE MINUTES

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

SB 2317
2/14/2017
Job Number 28331

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to insurance producer charges for fees for services

Minutes:

Attachment 1

Chairman Klein: We had some discussions on that bill last week dealing with charging of fees for services. I know there was a lot of testimony in support suggesting to change the way we do business and there are a lot more functions of your insurance producer today and it would be all disclosed and people would sign on for that and of course we heard from the folks who said this is how we've done our business for forty years and this is concerning.

Senator Casper: I support this legislation. I appreciate the folks that came in and discussed the way things have been done. I appreciate his comments and expertise and taking the time to come in and testify. That being said, I think that this is a rapidly evolving business model and my support is mainly there because; 1. I think it will be disclosed to the people who are signing up for the fees. It's not like we are allowing someone to get hit with a hidden fee and, 2. Essentially people are paying for what they are getting from someone they believe has the expertise to provide that information and counsel to them and to me as this sector of business becomes more and more complicated it makes sense to me that those folks are going to be serving in that capacity and are going to have the expertise to serve in that capacity. I trust our elected official and his team in the insurance department to fether through the individuals that perhaps aren't conducting themselves as they should. That is my initial thought but I am persuadable if someone has a great other reason why we shouldn't support this.

Chairman Klein: Well Senator Casper that was very persuasive because that is all the issues that I think we heard. The evolving industry and things that companies are doing now. I think Senator Roers comments about people he has and I believe there is going to be a lot of transparency in the fees and it's not like you are signing it under duress here.

Senator Campbell: In addition to what you said, there are thirty-four states that have laws with working to open things up in that way. Plus, it is disclosed to the customer. I think it is the wave of the future and I am going to support it too.

Senator Roers: I do support this bill. I think it is a service that I personally have received over the years and whether I pay for it through other relationships or directly, I have done both. I certainly don't think we should restrict these people from asking the question, would you hire me to do this particular service and if the answer is yes then why not. We shouldn't stand in the way of that enterprise.

Senator Burckhard: I am going to oppose this bill for the same reason that most everybody is supporting it. I get the hives when I think of fees. I think they have gone way too far and most people don't understand that they have signed up for them and I am a no.

Senator Poolman: I am also going to oppose the bill. As I went home and thought about it, it was very interesting to me how different factions of the insurance industry came out on each side. If they were from life and health they were in favor of this but if they were from property and casualty, they didn't seem to be in favor of it. I am always concerned when both the little guys and the big insurance players, the big State Farms and Farmers Unions are both on the opposing side. The other thing that tipped me over the edge to vote no is the idea that in banking they get to charge fee all the time but banking isn't exactly the same as insurance because what if I have a health insurance policy that I want to maintain because I have a grandfathered status or something, especially with all the uncertainty in the health insurance market. I don't really have the same freedom to go and pick up my insurance business and take it elsewhere. I feel like you can get trapped in with an agent in a different way that you can't with a bank. I completely sympathize with the people who were in favor of this and I understand why they would want it but I just think that once we allow people to start charging fees then that never goes away and does that start to impact commissions that are paid. Do the commissions get lower and they become dependent on fees and then the fees go up? I just feel like in the long run it is the consumer who is going to pay for this. I feel like it isn't going to be great for the consumers. I certainly waived both sides but I am going to air on the side of caution on this one.

Senator Roers moved a do pass.

Senator Casper seconded the motion.

Roll Call Vote: Yes-3 No-4 Absent-0

Senator Poolman moved a do not pass.

Senator Burckhard seconded the motion.

Senator Casper: I just want to say for the record so it is on the record about consumers because I think that consumers are going to be only paying for what they know what they are paying for and I think they are going to get better service. For the people who are providing me solid counsel on that, that have a high level of expertise, frankly in the long run it is probably a cost savings to me. It may be a fee for their time and advice but I think it is probably a cost savings on the type of insurance that I am getting on the way I am setting up my insurance and lastly if there is ever an incident that I need to recover on my insurance that I am in a better place for that. I just for the record wanted to have another side to the consumers side because I do see it recognized as a concern about a consumer being feed

but I think at the same time I think they are entering into that relationship with eyes wide open and they came make a decision for themselves if they want to go in a different direction with an agent due to the fees that are getting charged.

Senator Campbell: I think it is up to the consumer to do their due diligence because if you are going to restrict or start regulating fees that is a huge can of worms.

Chairman Klein: I don't think we are regulating fees here. We are just providing an opportunity for the producer to charge fees. I think that is the issue. There is no regulation. I don't know where this is going to go. Committee any other discussion? We have a motion for a do not pass from Senator Poolman.

Roll Call Vote: Yes-4 No-3 Absent-0

Senator Poolman will carry the bill.

Handed out: Written testimony, **Steve Becher, Executive Director of the Professional Insurance Agents of ND**, see attachment #1. In support.

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2317**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Roers Seconded By Senator Casper

Senators	Yes	No	Senators	Yes	No
Chairman Klein		x	Senator Marcellais		x
Vice Chairman Campbell	x				
Senator Roers	x				
Senator Burckhard		x			
Senator Casper	x				
Senator Poolman		x			

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

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

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2317**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Poolman Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Marcellais	x	
Vice Chairman Campbell		x			
Senator Roers		x			
Senator Burckhard	x				
Senator Casper		x			
Senator Poolman	x				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Poolman

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

REPORT OF STANDING COMMITTEE

SB 2317: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2317 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2317

Testimony Senate Bill 2317
Senate Industry Business Labor Committee
February 7, 2017

Chairman Klein and members of the Senate Industry Business and Labor Committee, my name is Evan Mandigo, State Executive of the Independent Insurance Agents of ND. I am here today to testify in favor of SB 2317

Mr. Chairman and members of the committee, SB 2317 has its origin in an Attorney General's opinion from 1999 (99-F-03). Senator Wardner posed three questions to then Attorney General Heitkamp which taken together asked if a producer act both as an insurance consultant collecting a fee and place insurance for the same client? The opinion was a producer could do either, but not both. This has been the basis of statutory guidance on this issue since then.

SB 2317 proposes to create and enact a new section of NDCC 26.1-26 which would allow an insurance producer to charge a fee for any service rendered in connection with the sale, solicitation, or servicing of an insurance contract and provides a rigorous and transparent disclosure statement to the party to be charged. The written disclosure must be on a form approved by the Commissioner and signed by both parties in advance.

Sections 1-5 of the bill outline requirements under which a disclosure statement must be memorialized with the party being charged (insured) and the obligations of the producer once a voluntary agreement is reached. The disclosure obligations of the producer are extensive. The signed disclosure form must be maintained by the producer for 5 years and is subject to examination by the Commissioner at any time during the retention period. A producer may not agree to pay or refund part of a fee charged as an inducement to purchase coverage from a particular insurer.

I want to be sure the committee understands such an agreement is totally voluntary between the insured and the producer. It is not for every insured nor should it be. It is intended to cover additional services the insured may wish to

receive not contemplated by the commission paid to the producer according to their carrier contracts.

Examples could include consulting services such as OSHA compliance, Workers Compensation experience analysis for clients having locations outside ND, or loss exposure analysis to name a few. I will be followed by the incoming President of our Association who will speak to the issue in greater detail.

Section 6 of the bill allows a producer to pass on any fee imposed on the producer if an insured chooses to use a credit card or other electronic means to pay some/all of their premium. When an insured chooses to utilize a credit card or other electronic means to pay premium, a down payment is collected by the producer (agency billed premium) and a fee charged to the producer by the credit card company. That fee is a direct cost to the producer and currently not recoverable from the insured. We feel any fee charged to a producer to allow the insured the convenience of paying by electronic means should be passed on to the insured and not absorbed by the producer.

Because these fees apply to the entire premium dollars collected rather than just the commissionable portion, an agent can effectively reduce his/her commission by 30% just so that the insured has the convenience to pay electronically. No business can afford to give up 30% of its earnings, 2-3% perhaps, but not 30%.

Voluntary credit card or other electronic payment of premium is a fact of life in our current internet driven economy. Insurance negotiation, placement, and payment are now frequently conducted over the Internet. Such capability did not exist nor could have been foreseen when Attorney General Heitkamp issued the AG opinion in 1999.

SB 2317 is the final product of extensive consultation with the Department of Insurance who have been invaluable in helping us craft legislation we feel is fair to all parties. The bill draft before you has undergone numerous revisions since our Association began working on the idea several months ago. The Department has provided a great deal of very valuable assistance during drafting so that consumers rights and expectations are protected. We look forward to helping

craft rules for administration of this section to be sure the required disclosure meets the specific requirements contained in the bill.

SB 2317 is not plowing new ground. 34 states currently allow some form of fees and commissions for the same insured based on information we found as of 2009. Michigan does not allow it. Notable among the permissive states is our neighboring state of MN. This bill draws freely from language contained in the other states. I can provide the committee a list of the other states for whom we found existing statute if you wish.

Mr. Chairman and members of the Senate IBL Committee, for the reasons outlined above, our Association respectfully requests a Do Pass recommendation from the Committee. I will be followed by members of our Association who will be speaking to this bill as well. I would be happy to answer any questions you may have.

Producer Compensation Laws Fees & Commissions Permitted As of 2013	
State	Permitted
Alabama	Yes
Alaska	Yes
Arizona	Yes
Arkansas	Yes
California	Yes
Colorado	Yes
Connecticut	Yes
Delaware	Yes
Georgia	Yes
Idaho	Yes
Illinois	Yes
Indiana	Yes
Louisiana	Yes
Iowa	Yes
Maine	Yes
Maryland	Yes
Masachussets	Yes
Michigan	No
Minnesota	Yes
Mississippi	Yes
Missouri	Yes
Nevada	Yes
New Hampshire	Yes
New Jersey	Yes
New York	Yes
Ohio	Yes
Oklahoma	Yes
Oregon	Yes
Pennsylvania	Yes
South Carolina	Yes
South Dakota	No
Texas	Yes
Utah	Yes
Vermont	Yes
Virginia	Yes
Washington	Yes
Wisconsin	Yes

Mr. Chairman – Senator Campbell

SB2317

Today I am here to ^{provide testimony in} give my support of Senate Bill 2317. It is my belief that this Bill clarifies confusion regarding what an agent can and cannot do, as well as provide that opportunity for our customers to have access to and take advantage of additional services that we, as agents, can provide.

For far too long ND agents have been at a disadvantage with ^{other} our state's agents in that we are not allowed to provide additional services for a fee to our insured's, when we are also collecting a commission from an insurance company for a policy written. Agents from neighboring states are able to do this and as such, have an easier time recuping their expenses ^{for} and providing assistance where the insured can really use it.

In addition, in today's world, electronic payments are the normal way of life. This legislation would allow us, as agents, to receive payments on behalf of our insured's via electronic means. This capability is intended for Agency-Bill premiums only, not ^{for} Direct-Bill premiums.

You might ask what the difference is between Agency-Bill and Direct-Bill, well it is easy. Almost everyone in ^{this} the room obtains their insurance via a Direct-Bill relationship with the insurance company covering your assets. This means that you pay the insurance company Direct, most likely via electronic means such as auto-withdrawal from your checking or savings account, or a recurring charge to your mileage-plus credit card if you are trying to build up your air-miles.

Agency- Bill on the other hand means that the insured is paying the Agency not the company. This most generally is experienced on

business accounts, not individual personal lines-type coverages. Additionally, Agency-Bill occurs if the insurance agency is financing the policy on behalf of the insured. It is also more common in Specialty lines of business such as Trucking, Pollution, Commercial GL or Umbrellas for specialized types of industries. Because of the nature of these types of coverages, oftentimes they are placed through a broker. Either way, this type of billing requires the agent to collect the premiums and then forward to the insurance company.

This Bill would enable us as agents, to accept electronic payment, charge the customer back for the fees, and life for the insured will be a much happier place. If an agency desires to accept an electronic payment today, we cannot charge those fees back to the insured and this adversely affects our ability to accept electronic payment. In today's world, most agencies refer a customer to an online service provider who accepts the premiums and charges the customer an appropriate fee, then the cc company sends the monies, less their fee to us and we in-turn send it to the insurance company. This is both inconvenient and time-consuming for the consumer, and becomes double the work for us as well. The only winner in this scenario is the CC Processing company.

I have attached an example of why we, as agents, are unable to accept CC payment at this time, the example clearly demonstrates that because we cannot charge the customer back for this convenience, we would lose 30% of our total income. Can you balance your budget if your earnings suddenly drop 30%?

You might ask how can the insurance company afford to accept monies electronically, that is easy, an insurance company includes the ACH

and/or CC Fee structure inside their filed rates with the Ins Comm office, so they recoup their costs for this convenience. Agents cannot file rates, and since we also cannot charge fees, we cannot pass these fees on to the consumer.

This is why I am in support of this legislation; we need to get our laws in line with the 21st century way of doing business.

I am glad to take any questions you may have.

Respectfully,

Melissa Dixon

**SENATE BILL 2317
"FEE BILL"**

If you or your business had to take a 30% reduction in earnings tomorrow could you do it?

EXAMPLE

Direct Bill Pay Method Cash or Check / In this scenario the Agency receives check for \$1,000:

Premium	1,000	
Premium to Ins Co.		900
10% Comm Due Agent		100

Direct Bill Electronic Pmt / Cost Breakdown: Credit Cardcharge of \$1,000

Premium	1,000	
3% CC Fee	30	
Premium to Ins Co.		900
10% Comm Due Agent		100

REALITY: (\$100 Comm less \$30 CC Fee = \$70 Net Comm) 30% Loss of Income

You can clearly see that by not being able to charge the customer back for the fees associated with accepting an electronic payment, the agent reduces their income by 30% for the convenience of enabling the customer to pay in the manner which they choose.

Testimony on Senate Bill 2317

Senate Industry Business Labor Committee

February 7th 2017

Chairman Klein and members of the Senate Industry Business Labor Committee, my name is Jon Erickson. I am a ND resident and a licensed Insurance Agent. I hold the following professional designations; Certified Risk Manager, Certified Insurance Counselor, and Certified Workers Compensation Advisor. I am President Elect of the ND Independent Insurance Agents. I am here today to testify in favor of SB 2317.

In this modern economy our clients expect robust risk management solutions and Independent Insurance Agents in ND have the ability to deliver these solutions. However, the current laws in regard to Agent compensation prevent innovation in risk management solutions that would benefit our ND businesses. Included in our handout is an illustration of services that go beyond the traditional sale of insurance. Our clients need and expect to receive these services from us. This legislation will provide a means by which the consumer and the Insurance Agent can decide, in cooperation together, the best method of compensation in a way that is transparent to the consumer. We have worked with the Department of Insurance to incorporate consumer protection into this legislation.

Mr. Chairman and members of the Senate IBL Committee, I respectfully ask for a Do Pass recommendation for the Committee. Thank you for your time.

Expect a Full Spectrum of Solutions

From compliance to communication, let us provide a full spectrum of solutions for you and your company. We understand the challenges today's employers face and know you're asked to take on more than ever. Expect more from a broker- expect our full spectrum of solutions.

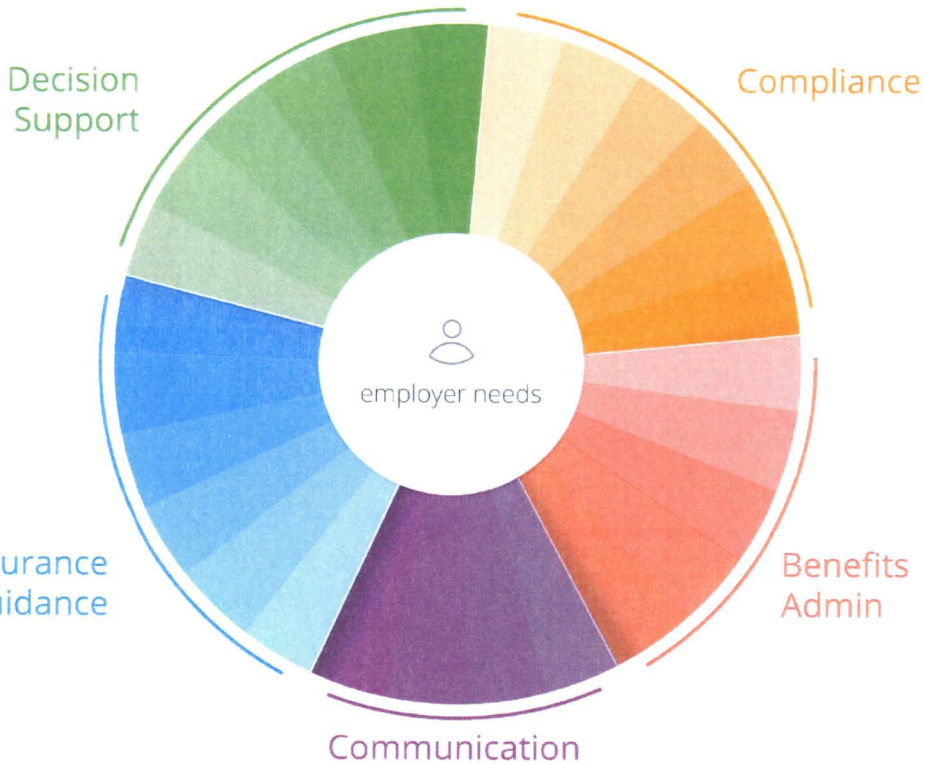
- Risk Management & Loss Control
- Plan Disruption Analysis
- Employee Retention Strategies
- Medical & Rx Analytics
- Mod Management
- Business Continuity Planning

- ACA & DOL Compliance
- OSHA & GHS Compliance
- ACA Reporting & Tools
- HR Assistance
- Employee Benefits Statements
- Employee Handbook

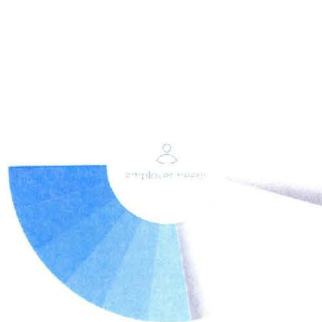
- Vacation Tracking
- Online Enrollment
- On-boarding/Off-boarding Assistance
- Plan Design Decision Support
- Employee Portal/HR Intranet

- Health & Safety Training
- Wellness Information
- Employee Newsletters & Videos
- Employee Safety Manual

- Quote Plans
- Claims & Billing Assistance
- Negotiate Renewal
- Plan Comparison
- Coverage & Policy Expertise
- Application Submission



Typical Services



From Brokers

Break away from the mold of the traditional broker. The average broker meets your basic needs when it comes to claims, plans and renewal negotiation. What about open enrollment? New legislation? The DOL?



From Technology Companies

New tech giants can be focused on curing the pains of HR such as benefits administration and small compliance issues, but lack the personal touch and insurance expertise that an independent broker like us provides.



32%

32% of business plans audited by the DOL received fines of over \$10,000.

No need to worry- you can rest easy with our regular compliance newsletters, articles, action plans & support keeping you up-to-date and in the know.

Employers with established "Return to Work" programs see a reduction in paid time off by 3-4 weeks.

Our decision support tools identify cost-drivers and help us create cost reduction strategies for you. We'll create Safety Manuals, Business Continuity plans and Return to Work programs specified to your business needs and goals.



3-4
Weeks



54%

54% of employees say selecting a health plan is more complicated than solving a Rubik's cube.

Take the guess work out of plan selection and simplify your day-to-day with our streamlined online enrollment, vacation tracking and more on a customized intranet site.

An inactive employee can cost you up to \$1,500 extra in health costs per year; only 34% of employees were aware of any wellness plan offered by employers.

Communication is the most important part of any relationship. Let us help you engage and educate your employees by providing Health & Wellness plans, Benefits Guides and numerous safety and awareness materials.



1,500



We're Your Trusted Source.

Get all these services plus the guidance to navigate the complexities of insurance from a partner you can trust.

JEFF KLEVEN
(701) 640-0593
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<http://www.insureforward.com>

Testimony SB 2317

By

Terry Weis, RHU, LUTCF

On January 6, 1973 I became a licensed insurance agent in North Dakota. At that time I had a lot to learn in the insurance business. I thought I could help people with the protection they needed.

I went to hear a motivational speaker by the name of Zig Ziglar and came away with a philosophy that would define my entire career. It simply made sense to me. Zig Ziglar sold Kirby vacuum cleaners and pot and pans for many years very successfully. His philosophy was, "**you can have everything in life you want, if you will just help enough other people get what they want**". This has served me very well over the many years as my career grew into Estate Planning, Retirement Planning, with attorneys, Trust Officers and CPA's for John Deere Dealers through- out the Midwest.

Insurance Agents work as commission only sales people from premiums paid

- Agents have a contract with the insurance companies
- Agents generally are not employees of the insurance companies
- Agents generally do not get expenses paid by the companies
- Agents pass client requests on to the Home Office IE: address changes, beneficiary changes
- Agents Work for and Loyalty lies with the insurance companies, not the Client
- Agents receive commission for products sold
- Agents Receive renewal commission for service work to retain the business yearly
- Agents commission is part of the premium of the products sold
- All insurance products are approved by the Insurance Department

Insurance Agents can choose to charge a fee for consulting work for Clients

- Get licensed as a Consultant
- Consultants work for the Client, loyalty lies with the Client
- Get their fee schedule approved by the Insurance Commissioner
- Use fee based products to meet clients' needs

There will always be a conflict of interest if you are working for both the Insurance Company and the Client. Insurance Agents will be more apt to get **{terminated for cause.}**

The insurance Agents that have promoted fees and commission for the past 20 years have not lost their Cadillacs, lake homes, and they have been able to pay their office rent.

I do not want our industry to be viewed by our clients as "double dippers" and greedy.

I ASK FOR A NO VOTE ON SB 2317

Testimony for SB 2317 – ND Senate IBL Committee

Chairman Klein and members of the Senate Industry, Business, and Labor Committee for the record my name is Steve Becher and I am Executive Director of the Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 independent agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on Senate Bill **2317**.

Under current North Dakota law, insurance agents are only allowed to collect commissions from insurance companies on policies that they sell. Many of our agents provide other services for their clients that would fall outside of the “selling of a policy” and under current law the agent is unable to get paid for providing these services. Some examples of the services that our agents provide for their clients are risk management, loss control surveys, implementing safety programs, help with filing state and federal forms, and premium financing. Many times the client is willing to pay an agent to provide these services to them, but currently the agent is unable to be reimbursed. Senate bill 2317 would alleviate this issue by allowing agents to charge fees in addition to collecting a commission as long as the fees are disclosed to and agreed to by the client beforehand.

In doing some research on this issue I contacted my counterparts with PIA affiliates across the country to find out what their state does in regards to this issue. I found that most states allow this practice with a few common themes found among all of the states – must be disclosed beforehand, must be agreed to in writing, and must be for other services and not for the sale of a policy. Senate

bill 2317 addresses these same issues and is very similar to what most other states are currently allowing. This bill will not raise the cost of insurance for consumers, but it will allow agents to provide additional services for those clients that want them and are willing to pay for them. Those that are not willing to pay the fee will either decline the service or they will go to another agent that does not charge fees.

Today's insurance consumer wants more service than ever from their insurance agent and Senate bill 2317 allows agents to be reimbursed when they provide these services that their clients want. It also provides full disclosure to the client beforehand so there are no misunderstandings on what they are being charged and provides for a greater duty of care when an agent is providing loss control and risk management services. For these reasons, I would respectfully ask for a "Do Pass" on Senate Bill **2317**.