

2021 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2029

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Fort Union Room, State Capitol

SB 2029
1/06/2021

Hospital and medical insurance pre-existing conditions and guaranteed issue

Chair Klein called the meeting to order at 2:30 p.m. All members were present. Senators Klein, Larsen, Burckhard, Kreun, Vedaa, and Marcellais.

Discussion Topics:

- Insurance rates
- Availability of health insurance
- Window of enrollment period

Jennifer Clark, ND Legislative Council [14:30] introduced the bill and testified neutral.

Crystal Bartuska, Division Director Life Health & Medicare Division ND Insurance Department [14:37] explained the Bill in regards to the ACA (Affordable Care Act) being repealed and testified neutral.

Rebecca Fricke Chief Benefits Officer NDPERS [14:42] testified neutral and submitted testimony #24.

Dylan Wheeler, Sanford Health Plan [14:48] testified in opposition and submitted testimony #50.

Megan Houn, Director of Government Relations for BCBS of ND [14:54] testified in opposition.

Scott Miller, Executive Director NDPERS [15:03] testified neutral and submitted testimony #16.

Jon Godfread, Insurance Commissioner [15:05] testified neutral.

Chair Klein closed the hearing at 3:10 p.m.

Additional written testimony: #136

Isabella Grotberg, Committee Clerk

TESTIMONY OF REBECCA FRICKE

**SENATE BILL 2029 – Guaranteed Issue Health
Insurance**

Good afternoon, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in a neutral position on Senate Bill 2029. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.



Chairman Klein and members of the North Dakota Senate Industry, Business and Labor Committee,

My name is Dylan Wheeler, and on behalf of Sanford Health Plan, I address the committee today in regard to SB 2029, Guaranteed Issue/Pre-Existing Conditions bill draft. Sanford Health Plan strives to provide North Dakotan's with access to affordable, comprehensive coverage. Moreover, Sanford Health Plan generally supports measures that provide stability, accessibility, and affordability. With that in mind, we do have a couple comments or concerns with the current bill and would respectfully oppose in its current form.

Importantly, SB 2029 is being heard at a point in time where the US Supreme Court has heard oral argument in *Texas v. United States* (court challenge regarding the constitutionality of the Affordable Care Act (ACA)), but, a decision will not likely come until later this year. The ACA addresses much more than pre-existing conditions; should the Supreme Court strike down the ACA—this would be a major disruption—and will require a substantial effort to codify or reinforce its provisions at the State level, and/or the Federal level. We suggest that a prudent approach would be to await any future Court ruling to determine State-level action on this topic.

Respectfully, Sanford Health Plan would oppose this bill at this time due primarily to the uncertainty surrounding the ACA and magnitude of State and Federal action necessary should an adverse court decision be issued. To be clear, opposition to this bill should not imply opposition to the Affordable Care Act or its foundational provisions, but rather opposition due to questioning whether this is the appropriate time and mechanism to address it.

Additionally, this bill does not address other important safeguards of the ACA – such as enrollment periods, underwriting and rating criteria, and other foundational concepts that help stabilize health insurance. Moreover, this bill lacks a contingent effective date – meaning, this bill would become effective in June of this year if passed. A more appropriate approach would be to clarify that this would only become effective should the ACA be struck down or invalidated by the Courts.

We appreciate the opportunity to give brief comments on this issue.

Respectfully Submitted,

Dylan C. Wheeler, JD
Senior Legislative Affairs Specialist
Sanford Health Plan

TESTIMONY OF SCOTT MILLER

Senate Bill 2029 – Guaranteed Issue Health Insurance

Good afternoon, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in a neutral position on Senate Bill 2029. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.



SB 2029
Senate Industry, Business and Labor

January 6, 2021

Janelle Moos, AARP North Dakota
jmoos@aarp.org – (701) 355-3641

Chairman Klein and Members of the Senate Industry, Business and Labor Committee-

My name is Janelle Moos, Associate State Director of Advocacy for AARP North Dakota. I appreciate your time today and look forward to working with you on an issue that is crucial to our members and one we are already seeing that they are passionate about.

AARP is a nonpartisan, nonprofit, nationwide organization with nearly 38 million members. 86,000 of those members live in North Dakota – a staggering number when you consider the overall population of our state.

Our story dates back 60 years, to when our founder, Dr. Ethel Percy Andrus found a former colleague of hers living in a chicken coop. I know we talk about that often, but we think it says a lot about why we fight for what we do. A lot of issues touch older Americans and their ability to live safe, independent and healthy lives. Most of our work fits into three areas; helping people choose where they live, remain financially secure and access affordable health care.

Most Americans get their health insurance through their employer or through government sponsored programs like Medicare or Medicaid. People who do not have access to those forms of coverage-for instance, because they are between

jobs or self-employed- typically buy health insurance directly from private insurers on the individual market.

Since 2014, the Affordable Care act (ACA) has provided a critical protection for individuals who seek insurance on this market: it bans insurance companies from considering people's health when they apply for a plan.

Before the ACA, 45 states and the District of Columbia allowed medical underwriting in the individual health insurance market. This meant that insurance companies could consider applicants' current and past health problems to determine whether and under what terms to sell them health insurance coverage.

Alternatively, they could consider information from people's physician visits or lab results. Diabetes, cancer and rheumatoid arthritis are examples of health conditions that might lead insurance companies to deny a person health insurance- a practice known as preexisting condition exclusions.

Fortunately, the ACA reformed such practices. The law prohibits insurance companies from denying people access to insurance based on their health. It also bans insurers from using a person's health status to set premiums or limit coverage. These important consumer protections have helped millions of Americans- including older adults- access affordable health insurance coverage.

SB 2029, as we understand it, makes modest improvements on existing law. We support the adjustments to the timeframes for the lookback to prior coverage and the length of any exclusion period- both provisions are better for consumers. One suggestion we'd like to offer is that AARP North Dakota would prefer that the state law prohibit any exclusion period as it is outlined on page 12, under Section 4, lines 14-18. We would like to encourage the committee to take this under consideration prior to making any recommendations on the bill.

The ban on considering preexisting conditions protects people of all ages. Moreover, it is a particularly important protection for older adults, because as

people age, they tend to develop more chronic health conditions. AARP North Dakota strongly supports insurance market reforms that make health insurance available and affordable for all American. The ban on preexisting condition exclusions is good public policy and it should be maintained for everyone.

Thank you,

Janelle

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Fort Union Room, State Capitol

SB 2029
1/18/2021

relating to small employer employee health insurance and hospital and medical insurance guaranteed issue and guaranteed availability

Senator Klein opened the hearing at 9:08 a.m. All members were present. Senators: Klein, Larsen, Burckhard, Kreun, Vedaa, Marcellais.

Discussion Topics:

- Affordable Care Act
- Probability of the Bill fixing filling its intended need

Senator Vedaa moved a DO NOT PASS [9:11].

Senator Kreun seconded the motion [9:11].

[9:11]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	N
Senator Shawn Vedaa	Y

Motion Passed 5-1-0

Senator Burckhard will carry the Bill [9:12].

Chair Klein closed the hearing at 9:12 a.m. *Gail Stanek,*

Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2029: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends
DO NOT PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2029 was
placed on the Eleventh order on the calendar.