2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2314

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2314

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7723

Committee Clerk Signature

Minutes:

Chairman Klein: Open hearing on SB 2314.

Senator Potter: Written Testimony Attached.

Chairman Klein: One of the issues we will certainly here as we change the numbers, are the insurance companies wondering what are they going to get. Are we moving in the right direction or are we just making sure no one else will come this way?

Senator Potter: I am not concerned if we don't have competition.

Discussion followed.

Don Morrison: Tired of the over the top accesses that we've seen. We've had loss expectations and decreasing amount of regulations. Raising standards for loss ratio will increase the coverage for the consumer. We urge a do pass.

Michael Fix, Director of Life and Health Division: Written Testimony Attached. In opposition of 2314.

Senator Andrist: A company doing a small amount of business is the loss ratio considered an issue?

Michael Fix: Not really. It does impact when there is a larger company coming into the state.

Senator Potter: Are you trying to lure other companies to come into the state?

Michael Fix: No, we're trying to expand the number of companies coming into the state.

Senator Potter: How do you feel about loss ratio being the standard verses the actual?

Michael Fix: It really is anticipated.

Discussion followed.

Pat Ward, Aflac Insurance: Written Testimony Attached. In opposition of SB 2314.

Chairman Klein: How does this reflect your company?

Pat: I don't know. Aflac offers about six different products in North Dakota. I am not sure what the minimum loss ratio is on those products. I am not sure that sixty five percent would be too high.

Senator Potter: We formally regulated specified disease policies, with loss ratio standards. Was Aflac able to do business in North Dakota when there wasn't a loss ratio?

Pat: I think it's a two part question. I know it was before 2001 because I wasn't involved. I don't know what the minimum ratio was at that time but I know they offered certain products.

Joel Gilbertson, The American Council of life Insurers: Written Testimony Attached. In opposition of Senate Bill 2314.

Senator Andrist: If you had an anticipated loss ratio at sixty five percent and you only lost fifty five percent what would be the repercussions?

Joel: The biggest repercussion, for this mandatory minimum, first of all it's a one size fits all. So the different mandatory minimum for all these different companies what will happen is if they can't meet them they will either leave the state or won't come into the state.

Discussion followed.

Chairman Klein: We will adjourn.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2314

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8377

Committee Clerk Signature

Troy Schuchard

Minutes:

Chairman Klein: Let's reopen discussion on SB 2314

Senator Andrist: Made motion to Do Not Pass on SB 2314

Senator Wanzek: Seconded

Chairman Klein: Motion to Do Not Pass SB 2314 is adopted

Senator Wanzek to carry SB 2314

Date: 2/2/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2314

Senate **Industry, Business and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken ☐ **Pass** ☒ **Do Not Pass** ☐ **Amended**

Motion Made By Senator Andrist Seconded By Senator Wanzek

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm		
Senator Terry Wanzek – V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter		✓
Senator George Nodland	✓				

Total (Yes) 5 No 1

Absent 1

Floor Assignment Senator Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2314: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2314 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2314

SENATE BILL NO. 2314

Presented by: **Michael L. Fix**
Director of the Life and Health Division and Actuary
North Dakota insurance Department

Before: **Senate Industry, Business and Labor Committee**
Senator Jerry Klein, Chairman

Date: **January 26, 2009**

TESTIMONY

Good morning, Chairman Klein and members of the Senate Industry, Business and Labor Committee. My name is Michael Fix and I am the Director of the Life and Health Division and Actuary for the North Dakota Insurance Department.

We appear in opposition to Senate Bill No. 2314, which increases the minimum loss ratio requirements for a number of insurance products sold in North Dakota.

Loss ratios are calculated as a percent of premiums that are paid as benefits in a health insurance policy. Minimum loss ratio standards have the effect of requiring that a minimum percentage of the premiums will be paid out as benefits. The portion of the premium not paid out as benefits is available to cover expenses and provide profit.

The percentages are "*over the lifetime of the policy*", which may cover a period of 20 years or more. The pattern of benefits paid in relation to premiums paid typically is not level; less benefits in relation to premiums are paid in the early durations of a policy and more benefits are paid in relation to premiums in the later years. It's the "*projected lifetime loss ratio*" that must satisfy the minimum requirement.

Prior to the 2007 Legislative Session, the minimum loss ratio standards defined in N.D.C.C. § 26.1-36-37.2 included **75%** for group insurance polices and **65%** for individual insurance policies. During that session, three bills were introduced to modify those requirements. The final bill that was passed was a compromise. The final bill passed in the 2007 Legislative Session changed the minimum loss ratio for group insurance from 75% to 70%, and for individual insurance from 65% to 55%.

Senate Bill No. 2314 increases those minimum loss ratios to 85% for group insurance, and 75% for individual insurance.

In addition, Senate Bill No. 2314 requires a 65% minimum loss ratio for accident, disability income, specified disease (cancer), hospital indemnity or other limited benefit health insurance. The current minimum loss ratio requirement for these products depends on the type of coverage as follows:

- Noncancellable – 50%
- Guaranteed Renewable – 55%
- Optionally Renewable – 60%

The proposed minimum loss ratio requirements are high relative to the surrounding states, and run counter to the Insurance Department's goal to attract additional companies into North Dakota. While minimum loss ratio requirements will not by themselves attract or discourage companies, it would be a factor that they would consider...particularly if they are out of line with other states.

I would be happy to answer any questions. Thank you.

TESTIMONY OF PATRICK WARD IN OPPOSITION TO SB 2314

Senate IBL Committee

January 26, 2009

Chairman Klein and Members of the Committee,

My name is Patrick Ward and I appear in opposition to SB 2314. I represent Aflac Insurance. I am also proud to be an Aflac policyholder.

Many of you are familiar with Aflac's TV commercials because of the Aflac duck. As you most likely know from those commercials, Aflac sells "supplemental" insurance policies. Aflac issues a number of guaranteed renewable supplemental coverages with small premiums, including policies covering critical illness, intensive care, and accident insurance. These insurance products compete in a healthy major market and fill gaps in individual's health coverage. The average annual family premium for such policies is $500.

Aflac meets all guidelines for loss ratios set by the NAIC. Any minimum loss ratio guideline should take into account the size of the policy and especially the fact that the premium size for such "limited benefit policies" can vary quite a bit. Fixed minimum loss ratios have a disproportionate impact on policies with small average premiums because such policies must devote a larger percentage of their premium to cover fixed policy expenses even though the flat dollar amount is exactly the same. For example, a $50 fixed cost represents 10 percent of the premium for a $500 policy. However, for a $2,000 policy, the same $50 fixed expense is only 2.5 percent of the premium. As premium size goes down and fixed policy expenses take a larger amount of premium, it becomes increasingly difficult for smaller premium policies to meet fixed minimum loss ratio requirements.

These type of minimum loss ratio bills should exclude limited benefit policies for the following reasons:

1. Minimum loss ratio is not "one size fits all."

2. Small premium policies cannot support high minimum loss ratios. This is because, as demonstrated above, a larger percentage of premium must be devoted to fixed maintenance expenses.

3. High minimum loss ratios that do not adjust for premium size risk limiting innovation and will make some types of valuable coverage unavailable in the market.

4. Another point I would like to make is the NAIC in their collective wisdom have set loss ratio guidelines for all types of insurance and have set guaranteed renewable, individual supplemental policies at a 55% loss ratio. This is based in large part on their recognition of a need for lower loss ratio for small premium policies.

We urge you to vote a do not pass on this bill. We believe that section 26.1-36-37.2 of the North Dakota Century Code should continue to exempt insurance for accident, disability income insurance, specified disease, hospital confinement indemnity, or other limited benefited health insurance from the minimum loss ratio requirements in the Century Code. If such loss ratios are to be set, it would be better for them to be set by rule.

We urge a do not pass on SB 2314.

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STATEMENT OF THE AMERICAN COUNCIL OF LIFE INSURERS (ACLI) AND AMERICA'S HEALTH PLANS (AHIP) IN OPPOSITION TO SENATE BILL 2314

The American Council of Life Insurers (ACLI) and America's Health Insurance Plans (AHIP) respectfully oppose Senate Bill 2314. ACLI is a national trade association whose 340 members account for over 93 percent of the life insurance, annuities, long-term care and disability income insurance in force in the United States. AHIP is a national association representing nearly 1,300 companies providing health insurance coverage to more than 200 million Americans.

This legislation would require a minimum loss ratio for disability income insurance policies to be 65%. In providing disability income coverage, an insurer must collect sufficient premiums to assure that it will be able to meet all of its claims obligations. In addition, an insurer must also insure that premiums are sufficient to cover administrative costs and provide a reasonable rate of return. Simply put, it is not an area of insurance where one size fits all. There are reasons that loss ratios are lower for individual contracts with level premiums to age 65 compared with one or two-year group contracts. There are reasons why premiums are lower for noncancelable forms that guarantee premiums forever compared to guaranteed renewable, conditionally renewable, or optionally renewable policies.

The volatility of claims frequency and long duration and high expense of claims, coupled with long-term premium and/or benefit guarantees, make disability income insurance a difficult product to price and make predictions for loss ratios difficult as well.

Extending a 65% minimum loss ratio standard to disability income products also will not reflect the cost of developing, marketing, underwriting, and ultimately administering the policies. This line of business has many significant costs that need to be resolved over time, and decreasing the amounts available to cover expenses (increased loss ratios) can greatly limit the product offerings to clients at a time when they need it most. The mandated, minimum loss ratio of 65% will have an adverse affect on disability insurance that can be offered to the consumer and likely will have an adverse effect on the disability insurance choices that will be available to all North Dakotans.

For these reasons, ACLI and AHIP respectfully recommend that the current legislation be amended to strike the entire Section 2 from Senate Bill 2314 or that there simply be a Do Not Pass recommendation to the full Senate on this bill.

Contact: J. Bruce Ferguson at ACLI (202.624.2385)
Dianne Bricker at AHIP (202.861.6378) or
Joel Gilbertson, our ND Representative (registered ND Lobbyist No. 1) at 258.7899

Testimony of Sen. Tracy Potter to the Senate Industry, Business and Labor Committee on SB 2314, January 26, 2009

SB 2314 is intended to protect North Dakota health insurance consumers by insisting that all health insurance products achieve some basic and reasonable levels of efficiency.

Insurance policy terms are reviewed by actuaries who predict the number and severity of claims that will be filed under those terms. Then insurance companies set premiums sufficient to cover those anticipated claims, or losses; add necessary costs of administration; and whatever the market or regulators will allow for company profits. The result of all this math work is an anticipated loss ratio. That is, the anticipated loss ratio is the predicted percentage of claims paid cents per dollar of premium paid.

Anticipated loss ratio is the best way to rate an insurance policy. Actual loss ratio has a lot to do with random chance, but anticipated loss ratio subtracted from 100, is the what the company intends to keep for itself. Society and the economy as a whole benefit when health insurance premiums go to pay for health care. The percentage of the GDP going to health care and the percentage of family budgets going to health care are high enough without also financing insurance company excess profits and bureaucracy. So, it is in society's interest to see that health insurance is run as efficiently as possible.

In North Dakota we have long recognized that having a standard for loss ratios on health insurance is an appropriate function of government. Last legislative session we lowered that standard. The idea of the former Commissioner was that if companies were allowed greater profit, they would somehow become more competitive. But, if a policy or a company does not meet high standards, any competition they offer is not healthy. We don't need competition by confusion, or by cherry-picking. And those are the only kinds of competition available to a company offering low anticipated loss ratios.

SB 2314 was intended to set anticipated loss ratio standards higher than the loss ratio standards that are in code today. Unfortunately, I mis-communicated with Legislative Council. We didn't change loss ratio in code to anticipated loss ratio. The reason I suggest doing that is that loss ratio is a matter of chance. A company with a very good policy could have a low loss ratio. Just random chance. Anticipated loss ratio is a matter of actuarial science. I would like to offer an amendment on line 10, after the word "shall" overstrike "return" and replace it with, <u>anticipate returning</u>. A similar change in line 18 will turn the bill into the one I want to offer.

The anticipated loss ratio standards will be easily met by the state's leading health insurer and its major competition. Medica's VP of Regional Health Services reported using only 7.5 cents of premium dollar (North Dakota Medical Association *Checkup*, December, 2006) for administration. The Blues will tell you current loss ratios are over 100%, and their standard anticipated loss ratio is always over 85% on group plans.

By changing the loss ratio standard to anticipated loss ratio, the possibility for healthy competition is clearly enhanced. A company can plan for expansion if it knows it will be judged on how it applies the science of large numbers, not the random relative health of a relatively small group of policyholders.

While the bill allows lower standards than 85% on policies other than major medical group policies, I believe that suggesting that 15% is enough for administration and profit is not at all out of line. Certainly from a consumer's point of view, he might want assurance that his insurance policy has a little better pay-out rate than pull-tabs - predicted by their actuaries to pay 82 or 83 cents per dollar wagered. Even at 15% for administration and profit, our health insurance system will be much more expensive than universal systems, like Saskatchewan where administration runs under 2%, but it will be much better than it has been. I submit that with health care costs increasing at double digit rates every year, we need to make the system as efficient as possible. That's what SB 2314 and the amendment intends.

Health Savings Account Features

Health Savings Accounts, HSAs, are a consumer driven health care option combining a qualified high deductible health insurance plan with the HSA. The HSA is a tax exempt account owned by an individual in which funds accumulate to pay for qualified medical expenses such as the deductible associated with the health insurance plan and other qualified medical expenses.

The high deductible health insurance plan provides comprehensive medical coverage for serious illness and injury at a lower premium due to the higher deductible.

Tax benefits:

-contributions are tax deductible
-growth in the account is tax deferred
-100% of withdrawals are tax free when made for qualified medical expenses

Contributions;

-can be made by the account holder, employers or any third party on behalf of the account owner
-contributions maximums are set by the IRS each year and are not limited to the insurance deductible (2009 limits are $3,000 for an individual or $5,950 for a family)

Distributions;

-funds can be used tax free for qualified medical expenses including OTC drugs
-at age 65, funds may be withdrawn for non-medical expenses at ordinary tax rates

HB
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a Division of State Bank & Trust
HSA Product Overview
January 2009

An HSA product is a depository account that can include a checking, savings, time deposit or investment account. An HSA accountholder needs the ability to withdraw funds at any time without being limited by a maximum number of withdrawals. The HSA product being offered by Healthcare Bank has two components, a non-interest bearing checking account and an investment account.

HSA accountholders' contributions are deposited into a non-interest bearing checking account and those dollars remain in this account until the balance reaches a defined maximum amount. The default level of $2,000 dollars is used in most cases; however, a Third Party Administrator may request an additional or alternative level. When the HSA accountholder's balance reaches the defined level, any dollars in excess of the maximum amount are swept into the HSA accountholder's interest bearing money market account within the investment account, with an Investment (mutual fund) option to exercise and direct at their sole discretion.

When the HSA accountholder's balance in the checking account falls below the maximum level, dollars from the investment account are liquidated on a pro rata basis and transferred back to the checking account. The HSA accountholder is not required to request transfers between the investment account and the checking account, as the transfers are handled automatically by the processing system.

The HSA accountholder has access to their funds by requesting an online distribution or by using a debit card.