

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

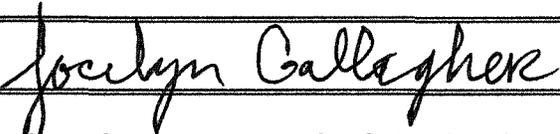
HB 1168

2013 HOUSE STANDING COMMITTEE MINUTES

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

HB 1168
January 21, 2013
Job 17420

Conference Committee



Explanation or reason for introduction of bill/resolution:

Health insurance enrollment periods in individual market

Minutes:

attached testimony 1,2

Rebecca Ternes, Deputy Insurance Commissioner at the North Dakota Insurance Department: Written testimony 1. Elaborated on written testimony. (0:12 - 6:15)

Representative M. Nelson: Would this mean that a company could not have more frequent open enrollment periods if they so desired, they would be limited to the one?

Rebecca Ternes: This bill speaks only to individual plans, not a company group plan.

Representative M. Nelson: It says annual open enrollment, and it's in the bill under individual health plan so is that saying there can only be one open enrollment period per year?

Rebecca Ternes: Under the exchange rules, the exchange will have one open enrollment period per year outside of the exchange because we are not discussing group here, the companies can decide.

Representative M. Nelson: If we are talking annual open enrollment period the exchange also has monthly open enrollment periods for Native Americans, how does this figure into that?

Rebecca Ternes: Indians can enroll every month in exchange plan. The commissioner could pass rules for special enrollment. The carriers requested that be taken out.

Representative Frantsovog: Last paragraph of page 2 of your testimony; please explain again why you chose not to insert specific dates versus changing it via rulemaking in the future?

Rebecca Ternes: We know that those dates aren't going to change with regards to the initial and the annual enrollments in the exchange unless the exchanges go away or congress makes a change to those dates. With regard to the special enrollment and other

types of things allowed by rule, companies were not comfortable putting any specific language in there. We were also worried if something changed in between sessions we would not be able to react.

Representative Kasper: Are there special rules in PPACA for Native Americans?

Rebecca Ternes: (9:55) There are many. She gave examples.

Representative Kasper: For Native Americans in the individual market place there could be adverse selection that is going to result in ND?

Rebecca Ternes: That is correct; the open enrollment is monthly in the exchange.

Representative Kasper: They can get out anytime and come back anytime?

Rebecca Ternes: Theoretically yes. I can get you all the specifics related to Native Americans.

Representative M. Nelson: (10:54) What does this actually change? Doesn't the insurance commissioner have the right now to make rules?

Rebecca Ternes: We are very careful to do rules for things we've been told to do by the legislative body. Could you ask that for the carriers? That is a great question for them. They could all decide to make their enrollment periods synch up.

Chairman Keiser: Anyone else here in support of HB 1168?

Dan Ulmer, Blue Cross Blue Shield of North Dakota: (12:15) Written testimony 2. We support the bill and the rule making process.

Lisa Carlson, Director of Planning Regulation at Sanford Health Plan: (14:23) We drafted this bill collectively with the Department,. Medica also chimed in at the time. This bill gives the department the authority to write rules about how insurance will be sold outside of the exchange in 2014. We are trying to control to what extent the adverse selection will occur in 2014. That in the end will help control premium increases inside and outside of the exchange.

Chairman Keiser: (18:06) I don't think we have much of a choice to do this. We need flexibility through the department to react. Rebecca Ternes gave a great example of what happens when my company decides not to provide coverage anymore. There has to be a way for people to transition to the individual market. We cannot even begin to anticipate the little issues that will come up. It is really important to the carriers, isn't it?

Lisa Carlson: I completely agree, it's very important to the carriers.

Representative Ruby: I noticed that we are defining the health benefit exchange. Is this the first time or only place that term is being defined in our code?

Rebecca Ternes: We drafted an exchange bill and mentioned it in there but that's as far as it got quite a while ago. I am trying to recall, last fall session we did the authority bill. I think that's why it's here because it hasn't been defined, I will double check.

Chairman Keiser: Anyone else here in support of HB 1168?

Shana Stroh, president of Stroh and Associates: (21:12) My job is to help our consumers in ND elect a health benefit plan that is in their best interest. From a former carrier perspective, I also understand the concerns from the carriers from an adverse selection.

Representative Kasper: (22:38) What does Stroh and Associates do?

Shana Stroh: I started my own consulting firm, we help employer groups and individuals select all types of insurance. We shop on a multi-carrier platform and make recommendations. We look at the individuals and talk to them about and discuss their needs. The goal in any type of arrangement is to have a long-term relationship with that carrier. The idea of having a fixed open enrollment, I don't know of any agency in North Dakota that would be able to handle the sudden influx of an exchange only being open for a few months.

Chairman Keiser: Anyone else here in support of HB 1168?

Rick Shansby, president of Missouri Valley Insurance: (24:43) We handle individual and group products. I support this bill completely. Service is a big issue, especially if you buy online.

Chairman Keiser: Anyone else here in support of HB 1168? Anyone to testify in opposition? Anyone on the neutral position?

Hearing closed on HB 1168

Representative Kasper: Move do pass

Rep. Vigesaa: Second

Chairman Keiser: Any further questions?

Representative M. Nelson: (26:10) Question for Lisa Carlson. What would need to be in place today for Sanford to write child only policies?

Lisa Carlson: (26:30) In 2014 we are going to have to write child-only policies, at this point Sanford health would be inclined to just wait until October open enrollment period for an effective date of 2014.

Chairman Keiser: Roll call vote taken, motion for a do pass carries. 15, 0. Carrier is Rep. Frantsvog. Closed hearing

Date: 1-21-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1168**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Kasper Seconded By Don Vigesaa

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 15 No 0

Absent —

Floor Assignment Frantsvog

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

REPORT OF STANDING COMMITTEE

HB 1168: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1168 was placed on the Eleventh order on the calendar.

2013 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1168

2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1168
February 12, 2013
Job Number 18781

Conference Committee

Committee Clerk Signature <i>Eva Libelt</i>

Explanation or reason for introduction of bill/resolution:

Relating to health insurance enrollment periods in the individual market

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Rebecca Ternes, Deputy Commissioner of the North Dakota Insurance Commissioner:
Written Testimony (1).

Chairman Klein: Asked how far behind they were on the rules. They kept hearing about soft deadlines and hard deadlines by 2014 are we going to be ready to go?

Rebecca Ternes: Said are you speaking specifically to the products or the exchange.

Chairman Klein: Said almost anything in this whole process.

Rebecca Ternes: Said she hopes they are ready. In the insurance department they are trying to cross train folks that do life policies to be able to handle some of the health policies. They are going to have a huge clot of filings come into them after late March when all of the technology systems are ready to receive them at the federal level. They are updating the state system so it can work with the federal system and they are hoping to get plans to file within a period of time and get them all out and approved before October 1, 2013 which is when the exchanges are running.

Chairman Klein: Asked if that was the necessity to move this along as quickly as we can.

Rebecca Ternes: Said yes, they will start working on the rules process. Mr. Ulmer, from Blue Cross and Blue Shield, and her were discussing that this does not have an emergency clause on it which it could.

Chairman Klein: Asked what the downside would be to having an emergency clause.

Rebecca Ternes: Said that there wouldn't be one.

Chairman Klein: Said when they move this along, the whole idea is that the law is in place and once the governor signed it you could get going. Going back to adverse selection, these rules set how you can go in and out of a policy.

Rebecca Ternes: Said yes, for just the individual plans not the small group plans. They had talked as well with the carriers and they preferred to leave their small group the way it is right now and deal with the issues related to the exchange. Adverse selection could also occur if someone doesn't think their plan is rich enough and they jump into a richer plan when I need more benefits. There are all kinds of ways people could gain the system.

Senator Sorvaag: Asked if she wouldn't be limited by the rules they write at the federal level. One of the assurances of this plan is that anyone can sign up. What rules can you write?

Rebecca Ternes: Said the federal exchange has a very specific enrollment period. There are some exceptions; Native Americans can enroll every month. There were some suggestions that it wouldn't be just once a year so the department would request comments on that before making the rules but for right now it is once a year. Some of the other rules aren't final.

Chairman Klein: Said even under the Patient Protection Affordable Care Act there is still an opportunity for the insurance companies to deny or concern themselves with adverse selection.

Rebecca Ternes: Said no, guaranteed issue, they have to take everyone, they cannot deny for past history of claims it is still there. Within the exchange plan you can only get into a plan at certain periods each year, unless there are special circumstances. The rating factors have to do with how much they can charge you. Just because they take you, doesn't mean they have to charge you the same amount as the person who smokes or lives in a metropolitan city with a high crime rate verses North Dakota.

Dan Ulmer, Blue Cross Blue Shield: Written Testimony (2).

Jack McDonald, American Health Insurance Plans: Said they participated along with the other health insurers this last summer in drafting this and they are strongly in support of the bill.

Chairman Klein: Closed the hearing. Said we need to add an emergency clause.

2013 SENATE STANDING COMMITTEE MINUTES

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

HB 1168
February 12, 2013
Job Number 18793

Conference Committee

Committee Clerk Signature	
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Explanation or reason for introduction of bill/resolution:

Relating to health insurance enrollment periods in the individual market

Minutes:

Amendment and Vote

Chairman Klein: Opened the meeting. Said if that is all right he would like to get the emergency clause.

Senator Sinner: Moved to add an emergency clause on 1168.

Senator Unruh: Seconded the motion.

Roll Call vote: Yes - 7 No - 0

Senator Sinner: Moved a do pass as amended.

Senator Murphy: Seconded the motion.

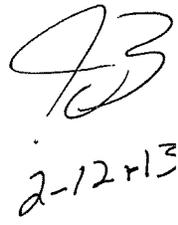
Roll Call Vote: Yes - 7 No - 0 Absent - 0

Floor Assignment: Senator Klein

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Adopted by the Industry, Business and Labor
Committee

February 12, 2013



Handwritten signature and date: 2-12-13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1168

Page 1, line 2, after "market" insert "; and to declare an emergency"

Page 2, after line 21, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1168**

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 Sinner Seconded By Senator Unruh

Senators	Yes	No	Senator	Yes	No
Chariman 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 _____

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

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1168**

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 Sinner Seconded By Senator Murphy

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 Klein

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

REPORT OF STANDING COMMITTEE

HB 1168: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1168 was placed on the Sixth order on the calendar.

Page 1, line 2, after "market" insert "; and to declare an emergency"

Page 2, after line 21, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2013 TESTIMONY

HB 1168

HOUSE BILL NO. 1168

① HB 1168
1-21-2013

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: January 21, 2013

TESTIMONY

Good morning, Chairman Keiser and members of the Industry, Business and Labor Committee. My name is Rebecca Ternes and I am the Deputy Insurance Commissioner at the North Dakota Insurance Department. The Department respectfully requests your support of House Bill No. 1168.

The purpose of this legislation is to define adverse selection and open enrollment periods pertaining to individual health insurance and allow the Insurance Commissioner to adopt rules to set specific requirements for initial, open and special open enrollment periods. Adverse selection concerns exist no matter which Exchange type is present in the state. The Department worked closely with four health insurers in the development of this language.

Enrollment periods are the times when health insurance companies allow customers to purchase insurance or change insurance. Unlike group or employer plans, purchasing insurance as an individual currently is not typically limited to specific timeframes except for "special" periods to deal with change of life situations. Prior to the Patient Protection Affordable Care Act (PPACA), companies had several other tools in addition to enrollment limitations to limit adverse selection, many of which are now severely limited (waiting periods, denying coverage, rating factors, etc.).

The reason for this bill is to counteract the potential for adverse selection due to the open enrollment periods set by PPACA and the requirement that insurers accept all

applicants under guaranteed issue market reforms. The new health insurance Exchanges have specific initial and annual open enrollment periods. Should a person choose to take advantage of different enrollment periods in and outside the Exchange, they could potentially only seek insurance or more valuable insurance when they are more likely to need it.

Ultimately, this could cause adverse selection between plans in general and between plans in and outside the Exchange. In other words, adverse selection could occur if one plan ends up with more high claim customers or if all of the high claim customers end up in plans outside the Exchange. If this legislation is passed, North Dakota could sync up the enrollment periods in and outside of the Exchange restricting individuals from gaming the system.

In addition to defining adverse selection, annual open enrollment period, health benefit exchange individual health plan, initial enrollment period and special enrollment period, the bill allows the Insurance Commissioner to adopt other rules to mitigate adverse selection through enrollment periods, setting requirements for individuals who purchase individual health insurance coverage and any other provisions reasonably required to mitigate adverse selection or other undesirable market effect.

Currently, there is little regulation over enrollment periods. North Dakota has chosen to allow companies for the most part to make these decisions. But for PPACA, the Insurance Department would not be asking for your consideration on a bill like this one.

In drafting this legislation, we considered placing actual language defining specific dates or referring to the open enrollment periods in PPACA in the legislation instead of rulemaking. We decided on rulemaking because it continues the collaborative process we've begun on this issue for companies and consumers. Rulemaking also allows for any changes needed in between Legislative sessions to react to unknowns related to PPACA or subsequent Congressional action taken on the law.

Thank you for your consideration and I would be happy to answer any questions.

② 1-21-2013
HB 1168

Testimony for HB 1168

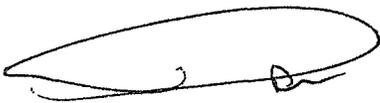
For the record, my name is Dan Ulmer and I testify today on behalf of Blue Cross Blue Shield of North Dakota, a not-for-profit mutual insurance company insuring over 390,000 North Dakotans. Thank you for the opportunity to speak on behalf of HB1168.

Starting January 1st, 2014, the Patient Protection and Affordable Care Act of 2010 (ACA) prohibits health insurers from protecting its existing individual market members from unreasonable risk through the practice of medical underwriting. In an effort to mitigate the financial exposure to existing health plan members, the ACA establishes open enrollment and special enrollment periods for policies sold through the health benefit exchanges established in each state. This action seeks to reduce the potential for individuals waiting until the onset of an illness to purchase insurance. Without these enrollment periods, the upward pressure on premiums would quickly incent healthier members to drop their coverage until faced with expensive treatments, further deteriorating that market.

BCBSND supports the intent of HB1168 as it aligns closely with our company purpose statement: "Delivering affordable solutions to improve the care and health of those we serve." The bill recognizes that without the same types of enrollment protections for policies sold outside of North Dakota's federally-facilitated exchange, the individual health insurance market is placed at risk. It authorizes a reasonable administrative process respecting the North Dakota Insurance Department's responsibility to foster a competitive, viable insurance market. It also maintains a necessary element of flexibility in the rule-making process to address any unforeseen complications that may arise as the market adjusts to significant health care reform provisions.

BCBSND supports the goal of providing more North Dakotans with affordable health insurance options. We believe HB1168 is an important step in making that goal a reality.

Thank you for allowing us the opportunity to participate in today's hearing and I will do my best to answer any questions you may have.



Dan Ulmer

Director of Government Relations

Blue Cross Blue Shield of North Dakota

(1)

HOUSE BILL NO. 1168

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

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

Date: February 12, 2013

TESTIMONY

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