

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2442

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2442

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 30, 2009

Recorder Job Number: 11570

Committee Clerk Signature

*Eva Lubelt*

Minutes:

Chairman Klein: We will go to Senate Bill 2442.

Senator Tim Mathern: Written testimony in support of the bill.

Senator Andrist: Can you tell us what the 1997 legislation was?

Senator Mathern: Basically at that time the request was to change and permit the legal status of Blue Cross and Blue Shield from the status of charitable non-profit organization to a non-profit mutual insurance company. That was the change we made.

Senator Andrist: Did the law before preclude BC/BS from becoming a mutual company?

Senator Mathern: Yes.

Senator Andrist: So it was legislation that gave them the green light to become a mutual company.

Senator Mathern: Yes and at that time, there were some of these things going on with other organizations as they were moving away from their non-profit status. In this case the assets were permitted to be there in this organization and were not transferred to a separate non-profit foundation. So the legislature said we see you as this and you to be this and we will let you make that change. I think ten years later we need to look at this.

Senator Andrist: I am presuming that you presume this was a mistake. In the total mix of things BC/BS, according to their own financial reports pays less than ten percent to operate the company. I can't see how this would make any difference.

Senator Mathern: I am more in a position of wanting to do more of a study. I don't know that it has been an incorrect decision. It might have been the correct decision but I do know BC/BS covers most of the folks in North Dakota. In fact maybe it will come to the point where this organization would cover everyone. I am not saying that would be outside of the question but I am saying something is going to happen. The federal government is going to move and as it does, we ought to be in a situation and know what the variables are.

Chairman Klein: We passed 1391 out of here. Directed the study which also talks about the federal health care initiatives and so we need to sort out is this just duplication. So committee we need to bring every one up to speed, we had that bill in this committee.

Senator Andrist: It seems to me that this study might be a good idea but I am not sure it is. We aren't talking about it at a federal level. And we're not talking about doing anything to control the cost and the rise in premiums. We're talking about paying for it in different ways. There is nothing on the table that changes the cost structure of medicine and who pays for it. Wouldn't you agree with this?

Senator Mathern: I think there will be more changes than that. There are dramatic pressures to tax a portion of benefits above a certain level. That's a dramatic change that could affect us here. There are I believe dramatic items in the planning to reduce cost. I looked at Montana and their concerned too. So I believe that will be part of the package. It won't be just who pays for it. There will be a new delivery mechanism considered, what's going too covered and the finance. Things are going to change and it will be in those three categories.

Senator Horne: On page two you talk about a clear ingredient in this administration plans include the use of insurance products. What do you have in mind there?

Senator Mathern: That is one of the big controversies. Some folks are saying we don't even need insurance companies. I think President Obama's philosophy is we have an insurance industry out there that can be a part of the way we implement health care reform and finance health care reform. It could be that they decide that the federal plan they have their going to give everyone that option to get into it. You can get into a public program or give everyone a chance to go into Medicare. Should it be a federal plan or each state's largest provider of open up more ways for other commercial companies to provide insurance?

Discussion followed with questions also included was the pay of doctor's.

Don Morrison, ND People.Org: In support of the bill. This bill will help us to see how things work with the bill in 1997. A greater reason for this is health care reform and how are we going to go about this. We've been struggling with health care and how we pay for health care for a long time. It is coming to be a crisis for more and more people, for businesses, for individual families and for government. We have heard in the last weeks and months of insurance companies and the problems they have all been having.

Senator Wanzek: Wouldn't the consumer go to the provider that gives you the best price?

Competition has always worked in favor of the consumer.

Don: We have ration care in North Dakota. There are over one hundred and fifty thousand North Dakotans without healthcare.

Dan Ulmer, BC/BS: We rank in the lower forty in terms of premiums. We are have one of the lowest administrative cost of any plan in the country. We usually average around seven percent. One of the issues we have through the department is whether we pay enough and part of the answer was through a study are providers are not as happy as those in South

Dakota and Minnesota. We have significant competition. There are trying to move almost twenty cents out of every dollar that is spent in America goes to health care. They are trying to move this to where they can include an additional forty seven million Americans who can't afford it. There is rationing now it you can't afford it you don't get it. There are a lot of talks about hospitals. Hospitals under federal law have to take care of you, doctors don't. So what they are looking at is they are going to use the existing system somehow. The question in congress right now is how do you do that? Most of them are looking at the Massachusetts law, granted the cost is going through the roof. They've done a couple things in Massachusetts, one is they require that all citizens have insurance. It is called an individual mandate, everybody has to have it. All employers must provide insurance or pay into a fund for each employee. The question is what is insurance and what benefits do you have to provide? In

Massachusetts they can up with this basic benefit package and they put it in this connector that folks could pick from. They then looked at people's income based on a sliding scale and said we will subsidize these folks based on their income of these particular basic products. I think that's the debate that will be coming before congress. The problem overtime is cost were looking at double digit increases every year. The data is showing that 2.4 million is wasted every year on unnecessary treatment that's 700 billion dollars. It's also showing that you have a fifty percent chance of getting the right care at the right time. They are some real problems.

Discussion and questions continued.

Chairman Klein: Closed the hearing.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2442

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: April 6, 2009

Recorder Job Number: 11737

Committee Clerk Signature

*Eva Lubelt*

Minutes:

Chairman Klein: Called the meeting to order. This is a delayed bill. Rachel is looking up the Housed Bill that's provides for the study of insurance in North Dakota that can be real extensive. That is coming are way. I am in support of passing 2442 and we can look at the House Bill and we can reconcile them at the end.

Senator Andrist: Moved a do pass.

Senator Horne: Seconded the motion.

Passed 7-0

Senator Horne to carry the bill.

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Date: 4/6/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2442

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Pass  Do Not Pass  Amended

Motion Made By Senator Andrist Seconded By Senator Horne

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) 7 No 0

Absent 0

Floor Assignment Senator Horne

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

**REPORT OF STANDING COMMITTEE (410)**  
April 6, 2009 10:10 a.m.

**Module No: SR-58-6210**  
**Carrier: Horne**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2442: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2442 was placed on the Eleventh order on the calendar.**



2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2442

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2442

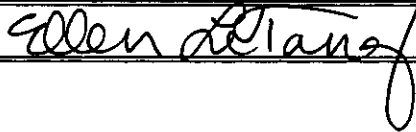
## House Industry, Business and Labor Committee

Check here for Conference Committee

**Hearing Date:** April 13, 2009

**Recorder Job Number:** 11828

Committee Clerk Signature



**Chairman Keiser:** Opened the hearing on SB 2442 to provide for a Legislative Council study of Blue Cross Blue Shield of North Dakota to determine whether legislative changes are appropriate to the laws relating to nonprofit mutual insurance companies.

**Senator Tim Mathern~District 11 in Fargo.** See testimony attachment.

**Vice Chairman Kasper:** You mentioned the level and time line you see on Federal legislation coming down the pike. If fact if that is the case, what can we do in North Dakota about anything that the Federal government decides they are going to do in the health care area if they decide they are going to have a national payer system?

**Senator Mathern:** This time line limit that I indicated here, I believe is just putting cards on the table. I don't think that we will implement this plan that they have come up with. I think they are putting issues forward and we will be fighting this issue for quite a few years. An interim committee that's meeting while this debate is going on in DC will help us prepare for the next legislative session. My hope that there will not be anything imposed by then.

**Representative Ruby:** You have a couple of areas where you talk about the structure of the company, do you think the situation we are in now would be any different than a structure that hadn't converted to a mutual company for a "for profit" entity?

**Mather:** I don't know the difference if any, I just think it's the major player.

**Chairman Keiser:** Have you had a chance to see HB 1577?

**Mathern:** I believe that has a broader scope. That is a great bill and I support that study too. My concern is that we have the biggest provider in the state and that we don't (inaudible) that part of the study.

**Vice Chairman Kasper:** Could you comment on the item b, page one, line 13 where you talk about the charitable trust and fiduciary duty of a nonprofit entity has remained. Is there still a requirement with the BCBS structure to be charitable involved or was that away when we changed their structure?

**Mathern:** As you note the word "whether" in there. I think there is various points of view about that. That's an open question.

**Chairman Keiser:** Anyone here to testify in support, opposition of SB 2442, neutral?

**Vice Chairman Kasper:** I wonder whether BCBS or the insurance department could comment on the charitable aspect.

**Dan Ulmer~Blue Cross Blue Shield.** I will do this from recall. When we were worded from a non-profit health service corporation, which was the original statute, the issue of a charitable trust came up. In numerous states that were non-profit health service corporations and converted to for-profit companies, as a result of that going from a non to for profit statute, it created a question of a charitable trust. Many of our sister companies created a charitable trust that was set aside in a foundation that was run by a board that was run by the legislature. By us going from a non to non, we did not move forward with the charitable trust and if I remember right, that we basically skipped over that question by promising that we would never go for for-profit.

**Vice Chairman Kasper:** Could I have literature that goes back to what we just talked here?

**Ulmer:** I believe that is in statue but I can pull it up for you.

**Representative Ruby:** How many wholly own subsidiaries?

**Ulmer:** A bunch of them. Goes on to name all.

**Representative Ruby:** Those subsidiaries are many of them for profit?

**Ulmer:** Yes.

**Representative Ruby:** It's interesting the agreement would be to go to the mutual non-profit with the understanding whether it will go profit. Yes, we have subsidiaries that are profitable, sort of a back way of getting to a profitable operation.

**Chairman Keiser:** About three legislations ago, we passed a law permitting to form these subsidiaries as an economic development. The other side of this question is how many jobs are in Fargo and other communities in our state as a function of these subsidiaries which we would have given a million dollars in Bismarck to get them here. Do you have any idea how many jobs were created?

**Ulmer:** We employ over 2,000 people.

**Chairman Keiser:** How many jobs are in the BCBS insurance division versus the subsidiaries?

**Chm. Svedjan** The number is 600 to 800 under BCBS and the rest is subsidiaries.

**Chairman Keiser:** Your recollection is pretty close to mine that we did address that issue and it was clearly stated that should you ever want convert to a for-profit, that we would create that trust.

**Chairman Keiser:** Closes the hearing on SB 2442, what are the wishes of the committee?

**Vice Chairman Kasper:** Could we wait until I get my information.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2442

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: April 13, 2009

Recorder Job Number: 11839

Committee Clerk Signature
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**Chairman Keiser:** Opened the committee work session on SB 2442.

**Vice Chairman Kasper:** I have the information that I needed.

**Chairman Keiser:** What are the wishes of the committee?

**Representative Nottestad:** Moves a Do Not Pass.

**Representative Vigesaa:** Second.

**Chairman Keiser:** Further discussion.

**Vice Chairman Kasper:** HB 1577 goes way beyond SB 2442 that is zeroing in on BCBS. I certainly don't like a bill that zeros in on a company. HB 1577 is a broad based and look at all health care issues & costs.

**Chairman Keiser:** Looking at the testimony, he makes three critical points. One was the charitable beginnings issue question that not going to affect the cost of health care at this point. Two, we are in the struggle with the process of how rates are approved or denied. If you look at HB1577, it's addressed in several areas in that bill. Number a, on 18, the rate form and reserve approval requirement and etc. The Federal Healthcare reform is also addresses in HB 1577. Senator Mathern is very much focused on BCBS. HB 1577 is focused on healthcare cost and insurance issues including everything that is in Senator Mathern's bill. I will support Representative Nottestad's motion.

**Chairman Keiser:** Further discussion?

**Voting rolling was taken on SB 2442 for a Do Not Pass with 7 ayes, 4 nays, 2 absent and**

**Vice Chairman Kasper is the carrier.**

Date: Apr 13-2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2442

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By Nottestad Seconded By Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	*		Representative Amerman		*
Vice Chairman Kasper	*		Representative Boe		*
Representative Clark	*		Representative Gruchalla		*
Representative N Johnson			Representative Schneider		
Representative Nottestad	*		Representative Thorpe		*
Representative Ruby	*				
Representative Sukut	*				
Representative Vigesaa	*				

Total (Yes) 7 No 4

Absent 2

Floor Assignment Kasper

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

**REPORT OF STANDING COMMITTEE**

**SB 2442: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends DO NOT PASS (7 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). SB 2442 was placed on the Fourteenth order on the calendar.**



2009 TESTIMONY

SB 2442

Industry Business and Labor Committee

March 30, 2009

Senator Tim Mathern

Chairman Klein and Members of the Industry Business and Labor Committee

My name is Tim Mathern. I am a Fargo Senator here to introduce SB 2442. Passage of this bill will direct a legislative council of our past legislative actions in regards to Blue Cross Blue Shield of North Dakota and to review the process of rate setting for insurance premiums.

There are three primary reasons why I encourage you to support this bill.

1. As a legislature we created the option for this organization to form as it is. It is appropriate that we look at our actions to determine if we did the right thing. It is also important to assess the possibilities for the future for this organization which came about because of the contributions of countless North Dakotans. The charitable beginnings are clear when we recall that Cardinal Aloysius Muench had policy #1, Bishop Leo Dworckek policy #2, and Monsignor Anthony Peschel policy #3.
2. There is constant struggle regarding the process of determining how rates are approved or denied. SB 2306 is just one example. We should be looking at how this is done to determine if there is a better way.
3. The greatest concern I have is that of federal health care reform. Reform is moving forward than we seem to acknowledge in North Dakota. I believe issues of delivery of health care will be marked up in congress in April, coverage in May, and finance in June. This is an

ambitious pace but the contacts I have developed over the years suggest this administration will not be delayed and that major American business corporations will be supportive at this attempt when they were opposed at the last reform effort in 1993.

It is clear that a key ingredient of this administration's plans include use of the insurance products. If a state does not have full coverage options in place I believe a federal solution will be imposed. Our major insurance company is BCBS and we need to be very much aware of what is going on here so we are comfortable and have the expertise to decide a role if any for this organization.

Gentlemen, health care reform is coming, we can be proactive to assure a North Dakota fit, or we can let it happen to us. I believe a legislative study of BCBS will be an important variable in setting our future.

Members of the Committee I know you have the talents to understand the situation at hand to help make the right decisions. Thank you for your work in weighing the issues coming before you and ask that you give a Do Pass recommendation to SB 2442. I hope some of you will also come forward to support the study with Legislative Council and be key interim committee members. I believe this is where the action will be if we are forward thinking enough to see it.

Thank you.

Industry Business and Labor Committee

April 13, 2009

Senator Tim Mathern

Chairman Keiser and Members of the Industry Business and Labor Committee

My name is Tim Mathern. I am a Fargo Senator here to introduce SB 2442. Passage of this bill will direct a legislative council study of our past legislative actions in regards to Blue Cross Blue Shield of North Dakota and to review the process of rate setting for insurance premiums.

There are three primary reasons why I encourage you to support this bill.

1. As a legislature we created and permitted the option for this historical nonprofit organization to form as it is, a nonprofit mutual. It is appropriate that we look at our actions to determine if we did the right thing. It is also important to assess the possibilities for the future for this organization which came about because of the contributions of countless North Dakotans. The charitable beginnings are clear when we recall that religious leaders had policy #1, policy #2 and policy #3.

BCBS provides health insurance for most North Dakotans which gives us further reason to be aware of its operations. Our constituents are concerned about health care more than any other issue.

2. There is constant struggle regarding the process of determining how rates are approved or denied. Occasionally we should be looking at how this is done to determine if there is a better way.
3. The greatest concern I have is that of federal health care reform. Reform is moving forward faster than we want to acknowledge in North Dakota. Already the United States House and Senate have supported spending for health care reform. I believe issues of

**delivery of health** care will be marked up in congress in April, **coverage** in May, and **finance** in June. This is an ambitious pace but the contacts I have developed over the years suggest this administration will not be delayed. Major American business corporations are supportive at this attempt when they were opposed at the last major reform effort that went flat in 1993.

It is clear that a key ingredient of this administration's plans include use of the insurance products. If a state does not have full coverage options in place I believe a federal solution will be imposed. Our major insurance company is BCBS and we need to be very much aware of what is going on here so we are comfortable and have the expertise to decide a role if any for the State and this organization.

Members of the Committee, health care reform is coming, we can be proactive to assure a North Dakota fit, or we can let it happen to us. I believe a legislative study of BCBS will be one important variable in setting our future. While the Insurance Commission has the most direct impact on rate setting, the Legislature will be right in the middle of any new policy direction. Let's not let a crisis in the health sector sneak up on us as it did for many in the banking sector.

Members of the Committee I know you have the talents to understand the situation at hand to help make the right decisions. Thank you for your work in weighing the issues coming before you and ask that you give a Do Pass recommendation to SB 2442. I hope this time around we do not follow the predictable lobbying pattern of passing bills regarding BCBS in one house and killing them in the other.

I hope some of you will also come forward to support the study with Legislative Council and be key interim committee members. I believe this is where the action will be if we are forward thinking enough to see it.

Thank you.