

2023 SENATE HUMAN SERVICES

SB 2158

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2158
1/17/2023

Relating to a legislative management study of the comprehensive health association of North Dakota.

9:02 AM **Madam Chair Lee** called the hearing to order.
Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan were present.

Discussion Topics:

- Affordable care act
- Comprehensive Health Association of ND (CHAND)
- Medical supplements
- Medicare supplements
- Study

9:02 AM **Senator Lee District #13** introduced SB 2158 verbal in favor.

9:05 AM **Chrystal Bartuska, Life Health and Medicare Division Director, North Dakota Insurance Department**, verbally testified in favor. #13639

9:17 AM **Megan Houn, Vice President of Public Policy and Government Affairs, North Dakota Blue Cross Blue Shield of North Dakota**, verbally testified in favor.

9:20 AM **Rebecca Fricke, Chief Benefits Officer, North Dakota Public Employees Retirement System**, verbally testified neutrally. #13231

9:24 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2158
1/17/2023

Relating to a legislative management study of the comprehensive health association of North Dakota.

2: 40 PM **Madam Chair Lee** called the meeting to order.
Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan were present.

Discussion Topics

- Committee action

Senator K. Roers moves **DO PASS**
Senator Weston seconded.

Roll call taken.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed. 6-0-0

Senator Lee will carry S.B. 2158

2:47 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2158: Human Services Committee (Sen. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2158 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE HUMAN SERVICES

SB 2158

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2158
3/15/2023

A BILL for an Act to provide for a legislative management study of the comprehensive health association of North Dakota.
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Chairman Weisz called the meeting to order at 9:05 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. Rep. Clayton Fegley not present.

Discussion Topics:

- Governmental plan status
- Comprehensive Health Association of North Dakota program

Crystal Bartuska, Director of the Life/Health/Medicare Division with the North Dakota Insurance Department, supportive testimony (#24765).

Sen. Lee introduced SB 2158, speaking in favor.

Rebecca Fricke, Chief Benefits Offices of the North Dakota Public Employee Retirement System (NDPERS), supportive testimony (#24276).

Dixie Holland, on behalf of Blue Cross Blue Sheild, spoke in support.

Chairman Weisz adjourned the meeting at 9:19 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2158
3/15/2023

A BILL for an Act to provide for a legislative management study of the comprehensive health association of North Dakota.

Chairman Weisz called the meeting to order at 9:39 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. Clayton Fegley and Brandon Prichard not present.

Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on SB 2158.

Rep. Dobervich moved a do pass on SB 2158.

Seconded by Rep. Anderson.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	AB
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	AB
Representative Karen M. Rohr	Y

Motion carries 12-0-2.

Carried by Rep. Dobervich.

Chairman Weisz adjourned the meeting at 9:41 AM.

Phillip Jacobs, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2158: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2158 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2158

TESTIMONY OF REBECCA FRICKE

Senate Bill 2158 – Study of Dissolution of the Comprehensive Health Association of North Dakota (CHAND)

Good morning, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I am here to testify in a neutral position regarding Senate Bill 2158.

NDPERS understands that we are being included in this study to help determine if the Comprehensive Health Association of North Dakota (CHAND) should be dissolved and if so, where participants of CHAND would be transitioned to for their health insurance coverage. NDPERS is included as a possible option.

NDPERS is a governmental plan, including non-governmental individuals in the health plan raises the question of whether it would jeopardize this government plan status. The federal Department of Labor (DOL) has stated that if a benefit arrangement is extended to cover more than a de minimis number of private sector individuals, the Department may not consider it a governmental plan under Title 1 of ERISA. If that were to happen, then the entire regulatory scheme under ERISA would apply to our group health plan. We have not researched what that would do to our plan, but it may significantly raise its costs and will certainly increase the difficulty of administering the plan. The DOL has not provided guidance on what is a de minimis number of private sector individuals as it relates to plans like ours.

Given the intent of SB 2158 is for a study to be conducted, of which NDPERS would be a participant, we only provide this information so the Committee understands the possible implication should legislation move forward in the future to dissolve CHAND and place the participants under the NDPERS health insurance plan.

SENATE BILL NO. 2158

Presented by: **Chrystal Bartuska**
 Life/Health/Medicare Director
 North Dakota Insurance Department

Before: **Senate Human Services Committee**
 Senator Lee, Chairwoman

Date: **January 17, 2023**

Good morning, Chairwoman Lee and members of the committee. My name is Chrystal Bartuska and I am the Life/Health/Medicare Division Director with the North Dakota Insurance Department. I am here today in support of Senate Bill 2158.

The Insurance Department was awarded a federal grant to review North Dakota's insurance market and as a result we hired consultants to review and evaluate the Comprehensive Health Association of North Dakota (CHAND) program. This program was originally created and designed to assist individuals that could not obtain health insurance due to their preexisting conditions. However, under the Affordable Care Act (ACA) preexisting conditions can no longer be used to deny coverage and so all individuals are guaranteed the ability to purchase insurance on the individual market.

The consultant's study did an extensive comparison between the CHAND plan and other plans in the market and found that due to the low enrollment, CHAND has become a program that we could potentially discontinue. Based on this study the CHAND board voted to start the process of dissolving CHAND.

A study is needed to determine the best way to achieve the goal of dissolving CHAND. The insurance plans under CHAND insures consumers that were once considered uninsurable in the traditional market, so we want to ensure that the transition for these consumers is clearly communicated and has as little disruption as possible to their lives. This is not something that should be done hastily, and given we are outside of any kind of open enrollment window there is ample time to methodically consider the process so

that enrollees maintain the access to health care that they need after CHAND is dissolved.

When the ACA went into effect, states were given the option to dissolve their high risk pools, but we as a state chose to continue CHAND due to the many unknowns surrounding the ACA at that time. However, we are twelve years into ACA, and the time has come to determine next steps with CHAND. Enrollment in CHAND is low since ACA provisions prohibit new members, but the current statute does not give the state or the board the authority to effectively discontinue the plans. We also have the challenge of the plan requirements and guaranteed issue of the Med Supp block of plans. Therefore, we see this study as living us the options available for consumers and then during the 69th Legislative Assembly we will be prepared to propose legislation to change statute to allow for those changes.

We want to evaluate all options for the consumers; therefore we envision working with the CHAND board, DHHS and even ND pers to determine next steps.

Thank you Madam Chair and members of the committee, happy to take questions.

TESTIMONY OF REBECCA FRICKE
Senate Bill 2158 – Study of Dissolution of the
Comprehensive Health Association of North Dakota
(CHAND)

Good morning, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I am here to testify in a neutral position regarding Senate Bill 2158.

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Given the intent of SB 2158 is for a study to be conducted, of which NDPERS would be a participant, we only provide this information so the Committee understands the possible implication should legislation move forward in the future to dissolve CHAND and place the participants under the NDPERS health insurance plan.

SENATE BILL NO. 2158

Presented by: **Chrystal Bartuska**
 Life/Health/Medicare Director
 North Dakota Insurance Department

Before: **House Human Services Committee**
 Representative Weisz, Chairman

Date: **March 15, 2023**

Good morning, Chairman Weisz and members of the committee. My name is Chrystal Bartuska and I am the Life/Health/Medicare Division Director with the North Dakota Insurance Department. I am here today in support of Senate Bill 2158.

The Insurance Department was awarded a federal grant to review North Dakota's insurance market and as a result we hired consultants to review and evaluate the Comprehensive Health Association of North Dakota (CHAND) program. This program was originally created and designed to assist individuals that could not obtain health insurance due to their preexisting conditions. However, under the Affordable Care Act (ACA) preexisting conditions can no longer be used to deny coverage and so all individuals are guaranteed the ability to purchase insurance on the individual market.

The consultant's study did an extensive comparison between the CHAND plan and other plans in the market and found that due to the low enrollment, CHAND has become a program that we could potentially discontinue. Based on this study the CHAND board voted to start the process of dissolving CHAND.

A study is needed to determine the best way to achieve the goal of dissolving CHAND. The insurance plans under CHAND insures consumers that were once considered uninsurable in the traditional market, so we want to ensure that the transition for these consumers is clearly communicated and has as little disruption as possible to their lives. This is not something that should be done hastily, and given we are outside of any kind of open enrollment window there is ample time to methodically consider the process so

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We want to evaluate all options for the consumers; therefore we envision working with the CHAND board, DHHS and even ND pers to determine next steps.

Thank you, Chairman Weisz and members of the committee, happy to take questions.