

2021 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2253

2021 SENATE STANDING COMMITTEE MINUTES

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

SB 2253
1/26/2021

relating to long-term care insurance policies

Chair Klein called the hearing to order at 8:28. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Cost of senior living
- Insurance premiums
- Prohibit of sale of long-term health insurance plans for three years
- Pricing of long-term care insurance policies

Senator Mathern, introduced the bill, testified in favor, and submitted testimony #3367 [8:29].

Daniel Rice testified in favor and submitted testimony #2902 [8:47].

Jack McDonald, America's Health Insurance Plans [9:00] testified in opposition and submitted testimony #3311.

Steve Becher, Executive Director of the Professional Insurance Agents of ND [9:06] testified in opposition and submitted testimony #3411.

Patt Ward, State Farm Insurance [9:14] testified in opposition.

Jan Graeber, American Council of Life Insurers [9:17] testified in opposition and submitted testimony #3271.

Jon Godfreed, Insurance Commissioner [9:32] testified neutral.

Chair Klein closed the hearing at 9:45 a.m.

Isabella Grotberg, Committee Clerk

1.26.2021

Chairman Klein and members of the Senate Business and Labor Committee

My name is Tim Mathern. I am the Senator from District 11 in Fargo.

I introduced SB2253 regarding long term care insurance policies sold in North Dakota and regulated by the Office of the ND Insurance Commissioner.

As a legislator I periodically hear complaints about this type of insurance. Generally, the complaint is that a family buys the insurance to protect their assets. They later learn the premium increases beyond their capacity to make the payment. The policy then lapses, the family has transferred their assets to the insurance company, and they have nothing to show for it. These increases are sometimes in the 100% or more per year.

Section 1 of the bill places a moratorium on the sale, solicitation, and negotiation of these policies, essentially pausing this aspect of insurance products for a study and product development time. Section 2 suggests an interim legislative study of the long-term care insurance market which is to include members of the insurance industry. Section 3 sets a sunset of the law to be July 31, 2021.

There is a need for such insurance. In fact years ago I was involved in promoting such a product to support estate planning for families and to reduce the Medicaid budget. However, the ensuing problems need to be addressed. I went to the Insurance Commissioner at the request of a citizen upon his frustration that the insurance premium rates seemed impossible to be kept in check. Upon learning that unsavory past policies or that some companies keep selling problematic policies could not be addressed on a case by case basis I worked with the Insurance Commissioner to come up with this bill.

Others are here to testify, and I particularly ask you to listen to Dr. Dan Rice who has researched this matter, the Insurance Commissioner, and other advocates of the senior citizens. I have also spoken with industry officials and their lobbyists who will no doubt testify. If you have a way to separate the bad actors from the good actors in the insurance industry, please amend the bill accordingly.

My goal is to protect ND consumers, support ways to pay for long term care, and to find a way for the Insurance Commissioner to have the tools to end the sale of products that lead people down a path of being taken advantage of. Please vote yes on SB 2253.

Senate Bill 2253 Subject: Long Term Care Insurance**Testimony by Daniel R. Rice, resident of Fargo, ND****January 26, 2021**

Chairman Klein and members of the Senate Business and Labor Committee: My name is Dan Rice and I am retired and living in Fargo. In 2011, my wife and I purchased a Long Term Care policy from Genworth Insurance Company. We bought the policy so that in case one of us needed long term care such as Nursing Home care or in-home services, we would not have to spend all of our savings and sell our home, leaving the other one in poverty. Over 90% of Americans do not have Long Term Care insurance in spite of the fact that between 50-60% of us will need this kind of care at some point in our lives. <https://www.governing.com/archive/sl-long-term-care-insurance.html>

As you know, Medicare does not cover the costs of long-term care.

Our original annual premium was \$4,599. Our annual premium currently is \$8,980 which represents a 95% increase in the rate. We are facing the prospect of having to drop our policy because of these extreme increases. I have been in contact with the Insurance Commissioner's Office to express my concern.

You will hear from the insurance companies, including Genworth, that one of the reasons for these rate increases is the cost of Nursing Home care. I was able to find data on the cost of care in North Dakota for a two-year period from 2016-2018 from a reliable source, a not-for-profit organization called Senior Living that provides information to older Americans. The data indicate that the cost of care in North Dakota increased 4% for a semi-private room and 8% for a private room during that two-year period. <https://www.seniorliving.org/nursing-homes/costs/> During that same period, our long-term care insurance premiums increased 36%. That is a huge disparity--4% and 8 % compared to 36%, and here is the kicker--The data reported by Senior Living was from the Genworth Insurance Company!

You will also hear that another reason the insurance companies claim the rates for Long Term Care insurance are increasing so rapidly is because when they began selling these policies they did not realize the extent to which people would be living longer in the future and health care costs would increase. If it true that these companies underestimated these trends, they should not be in business. A first-year student in a college Sociology class learns that life expectancy is going to increase in the future, and economists of all ideologies know that health care costs have been and will continue to increase faster than inflation.

Scott A White, the Virginia Insurance Commissioner and Chair of a Task Force of State Insurance Commissioners studying the Long Term Care insurance issue, reported in 2019 that when some states have not approved large rate increases, the insurance companies have passed those costs off to policy holders in other states where their rate increases **have** been approved.

<https://www.nytimes.com/2019/08/23/your-money/long-term-care-insurance-prices.html>

So those of us here in North Dakota who are paying huge rate increases are likely subsidizing the premiums of people in other states like Illinois, Maryland, New Hampshire, and Oregon.

The current system is rapidly becoming one where only the most wealthy citizens can afford Long Term Care Insurance and most people who eventually need in-home services or nursing home care will end up destitute and on Medicaid. Long Term Care Insurance has the potential to save money for both individual citizens and the state by reducing the cost of Medicaid.

North Dakota offers a tax credit for those who pay for Long Term Care insurance but that credit is \$250 per qualified individual. That is not an incentive to keep your Long Term Care insurance when you are paying \$9,000 a year in premiums!

It is clear that the Long Term Care Insurance system is broken and needs to be fixed. North Dakota is a state with a large aging population and the long-term care crisis is only going to get worse. The Medicaid budget in North Dakota is going to explode in coming years as Baby Boomers grow older, don't have Long Term Care insurance and can't afford to pay for long term care services.

More of our middle-class citizens in North Dakota may spend the last years of their lives living in poverty, especially if they do not have children or grandchildren who are able and willing to pay for their care. These are trends that already exist and are based on demographic facts, not my opinion.

I urge you to support Senate Bill 2253 to join many others states that are studying how to fix this problem. North Dakota can become a state that protects its citizens who are trying to take responsibility for their own care and save money for the state and its taxpayers.

Thank you for allowing me to testify.

Other resources on Long Term Care Insurance:

Basic facts about LTC

<https://longtermcare.acl.gov/the-basics/what-is-long-term-care.html>

A study of the need for effective long term care care

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1464018/>

Time magazine about the demographics and reality of long-term care

<https://time.com/5529152/elderly-caregiving-baby-boomers-unpaid-caregivers-crisis/>

From "Governing"

<https://www.governing.com/archive/sl-long-term-care-insurance.html>

Long-term care insurance explained

<https://www.nerdwallet.com/blog/insurance/long-term-care-insurance/>

January 26, 2021

Senate Industry, Business and Labor
SB 2253

CHAIRMAN KLEIN AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing on behalf of America's Health Insurance Plans or, as it is commonly known, AHIP. AHIP opposes this bill and asks for a no vote.

The benefits of private long-term care (LTC) insurance are significant for both individuals and states. LTC insurance provides protection against the substantial risk from costly LTC services that may quickly deplete an individual's retirement savings, and it affords independence and greater consumer choice in making quality of life decisions for individuals requiring LTC services.

In the absence of private LTC insurance, many individuals are left with spending down their assets and relying on state Medicaid programs as their only viable option. A robust private LTC insurance market is critical in North Dakota and across the states where LTC can consume one-third or more of a state's Medicaid budget.

LTC insurance provides important protections to North Dakota residents. In North Dakota, the 2020 median hourly cost for the services of a home health aide of \$28 easily adds up to over \$62,000 a year. The median cost for a year's stay in an assisted living facility and in a private room in a nursing home in North Dakota is \$55,470 and \$133,316 respectively.¹ At the end of 2019, LTC insurers paid over \$92.4 million in benefits in North Dakota and covered over 32,000 North Dakota residents.²

¹ Genworth, *2020 Cost of Care Study*, December 2020.

² National Association of Insurance Commissioners, *Long-Term Care Insurance Experience Reports for 2019, 2020*.

The private LTC insurance market has been working to serve North Dakota residents since the 1970s.

SB 2253 would prohibit the sale of private LTC insurance to North Dakotans starting August 1, 2021 until July 31, 2024. Placing a moratorium on the sale of LTC insurance would disadvantage North Dakota residents wanting to plan for their LTC financial future in a time of economic uncertainty and a national health crisis. The bill would not allow consumers the choice or option to purchase coverage for LTC services (which are generally not covered by any other insurance).

The bill would force residents to wait three years to purchase LTC insurance which would have many negative consequences to consumers including the following: consumers may not pass underwriting three years later and may be denied coverage; consumers will be older so the cost for LTC insurance will likely be more due to a higher issue age; and the consumer may have reached an age where insurers no longer issue coverage.

Finally, the bill would create an increased burden on the state's Medicaid program as individuals are unable to fund their LTC costs by purchasing private LTC insurance.

Thank you for your time and consideration. I'd be happy to answer any questions.

Testimony for SB 2253 – ND Senate IBL Committee

Chairman Klein and members of the Senate Industry, Business, and Labor Committee for the record my name is Steve Becher and I am the Executive Director of the Professional Insurance Agents of ND. PIA of ND represents about 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Not Pass recommendation on Senate Bill **2253**.

Senate bill 2253 is a bill designed to put a moratorium on the sale of long term care (LTC) policies in the state for a period of three years while the state can do a study on the market. While there is no doubt that there are issues in the cost of long term care and the pricing carriers have been charging and need to charge going forward putting a moratorium in place without something to replace it is bad policy. LTC companies are struggling with the increasing cost of care that has outpaced inflation for many years as well as a low interest rate environment hurting their ability to accumulate the funds needed to pay these claims. Carriers in North Dakota are paying average costs of over \$50,000 annually for assisted living and over \$105,000 annually for a private nursing home room which were most likely not contemplated when the consumer bought the policy many years ago. There may need to be a different model on how we pay for long term care in the future, but putting a moratorium on the sale of the only solution for consumers in the meantime is not the answer.

Long term care insurance is a policy that is based on paying the premium over a number of years to accumulate the funds necessary to pay for later care. Taking

three years of accumulation time away from people that would have purchased a policy in the next three years would not help the issue. Also, the premiums for these policies are based on the age of the consumer when they purchase the policy. This 3 year moratorium would increase premiums even more than the current increases as all of these consumers would start with a rate for a person three years older than when they originally could have purchased a policy.

Secondly, there are consumers in the marketplace that are planning to purchase a LTC policy within the next three years and now would not be able to do so. What happens if one of these consumers then is in a car accident or has a medical condition that unexpectedly puts them into long term care? With this moratorium they would now have to pay for the costs themselves and if money runs out the state would end up paying their costs through Medicaid. Lastly, long term care insurance is one that can be purchased across state lines. This means that even though North Dakota may put a moratorium on selling LTC policies those that live near a border could go across state lines and purchase a policy from an agent in another state which takes business away from a North Dakota resident agent.

While solving the long term care crisis is something that is in everyone's best interests a moratorium on sales with no alternative will not do anything to solve it. For these reasons, I would encourage a **Do Not Pass** recommendation on **SB 2253** and would welcome any questions that you may have.

STATEMENT OF THE AMERICAN COUNCIL OF LIFE INSURERS

Before The
Senate Industry, Business and Labor Committee

January 26, 2021

Senate Bill 2253 – An Act Imposing a Moratorium on the Sale of Long-Term Care Insurance Policies

Chairman Klein and members of the Senate Industry, Business and Labor Committee, the American Council of Life Insurers (ACLI) appreciates the opportunity to offer the following statement on Senate Bill 2253, which would impose a 3-year moratorium on the sale, of long-term care insurance policies. My name is Jan Graeber, and I am ACLI's Senior Actuary in charge of long-term care insurance issues. ACLI members are the leading writers of life insurance, annuities, disability income insurance, long-term care insurance and supplemental benefit insurance here in North Dakota and across the country.

Senate Bill 2253 would prohibit life insurers and fraternal benefit societies from selling, soliciting or negotiating a long-term care insurance policy to a resident of North Dakota until July 31, 2024, and authorize the legislature to consider studying the long-term care insurance market in the state. For the reasons set forth below, ACLI respectfully opposes Senate Bill 2253.

Current and Increasing Need for Long-Term Care Services

- Long-term care (LTC) insurance covers services that provide assistance to individuals with cognitive difficulties, and to those who are unable to perform activities of daily living, such as eating, bathing, or getting dressed.
- There is a misconception among many Americans that Medicare will cover their long-term care expenses.
- Currently, approximately 13 million Americans need long-term care. That number is expected to rise to 27 million by 2050.
- According to the American Association for Long-term Care Insurance, in 2018, long-term care insurance paid over \$10.3 billion in claims to over 300,000 policyholders.

Nationwide Long-Term Care Costs

- Adult day care costs approximately \$17,700 per year.
- An assisted living facility costs approximately \$42,000 per year.
- A private room in a nursing home costs approximately \$92,000 per year.
- Costs are growing approximately 3 percent per year.

- Unfortunately, few Americans have saved enough money to pay for outside help during their retirement.

Challenges

- Designing a level premium product is difficult due to the duration of the product (40 – 50 years) and the complexity of the actuarial contingencies that impact pricing have led to large rate increases.
- Containing cost on products with inflation protection and lifetime benefits.
- Moral hazard associated with LTC insurance, as it currently exists (i.e., use it or lose it).
- The difficulty associated with designing a stable product has led to a decline in insurers actively marketing LTC insurance.
- The analysis of decades of experience generated by older issue year policies has enabled LTC insurers to more accurately price newer issue year policies, making rate increases to them far less likely, and of a lesser magnitude.

LTC Market Innovation

- Combination Products
 - life insurance with a chronic illness riders
 - life insurance with long term care riders
 - life insurance policies with built-in benefits that can help pay for long term care expenses or similar types of expenses
 - annuities

Work at the National and State Levels

- NAIC LTC (EX) Task Force
- Federal Interagency Task Force on Long-Term Care insurance

Negative Impact of a Moratorium on North Dakota Consumers

- The moratorium would impact guaranteed renewable traditional stand-alone LTC, but would also prohibit sales of LTC riders that accelerate life insurance death benefits to pay for LTC services. These LTC riders add great flexibility to a life insurance policy, helping policyholders manage cash flows and avoiding the “use it or lose it” dilemma.
- LTC coverage provides protection to an individual’s assets in the event of a LTC event. Absent of a well thought out strategy for a future LTC event to generate income to fund caregiving costs, North Dakotans could become an increased burden to state and federal social programs (i.e. Medicaid), shifting more responsibility and cost to taxpayers.
- Falling back on self-funding will cause many individuals to rapidly deplete hard earned retirement savings, which may not only impact their life, but their spouse’s future financial security at a time when rejoining the workforce may not be an option.



- The moratorium could have adverse effects on North Dakotans who wish to protect themselves from LTC risks during the moratorium. During this period
- the consumer could develop a medical condition rendering them un-insurable after the moratorium period;
- North Dakotans wishing to purchase coverage would pay higher premiums by having to wait up to three years (based on issue-age premiums).

Mr. Chairman, we appreciate the opportunity to provide our comments on Senate Bill 2253, and stand ready to answer any questions you or Committee members may have.

Respectfully submitted,

Jan Graeber
Senior Actuary
jangraeber@acli.com

2021 SENATE STANDING COMMITTEE MINUTES

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

SB 2253
2/1/2021

Relating to long-term care insurance policies.
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Senator Klein opened the hearing at 9:00 AM. Members present: **Senators Klein, Larsen, Burckhard, Vedaa, Kreun.** **Senator Marcellais absent.**

Discussion Topics:

- Proposed Amendment to SB 2253
- Pricing structure of long-term care

Jon Godfread, ND Insurance Commissioner, presented and explained the Proposed Amendment to SB 2253 - #11744.

Senator Klein closed the committee work on SB 2253 at 3:57 PM.

Rose Laning for Gail Stanek, Committee Clerk

Prepared by the North Dakota
Insurance Department
February 2, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2253

Page 1, line 1, remove “to create and enact section 26.1-45-02.1 of the North Dakota Century Code,”

Page 1, line 2, remove “relating to long-term care insurance policies,”

Page 1, line 2, replace the second “; to” with “relating to long-term care insurance policies and the cost of long-term care”

Page 1, line 3, remove “provide a penalty”

Page 1, line 3, replace “expiration date” with “appropriation.”

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 21

Page 2, replace lines 13 through 21 with

“SECTION 1. REPORT TO THE LEGISLATIVE MANAGEMENT – INSURANCE DEPARTMENT ANALYSIS OF LONG-TERM INSURANCE MARKET. During the 2021-22 interim, the insurance department shall assist the legislative management with the interim study of the long-term care insurance market in the state. During the interim, the insurance department shall conduct a detailed analysis of the long-term care insurance market in the state and submit the report to the legislative management. Upon the request of the insurance department, the ten largest long-term care insurance insurers in the state shall participate in this study to review the current premium market, benefits, consumer options in relation to premium increases, long-term care partnership program options, and overall market products or riders. The insurance department will also coordinate with the department of health, the department of human services, and the North Dakota long term care association for data regarding long-term care facilities. The legislative management shall report the findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 2. REPORT TO THE LEGISLATIVE MANAGEMENT – INSURANCE DEPARTMENT ANALYSIS OF THE COST OF LONG-TERM CARE. During the 2021-22 interim, the insurance department shall assist the legislative management with the

interim study of the cost of long-term care in the state. During the interim, the insurance department shall conduct a detailed analysis of the cost of long-term care in the state and submit the report to the legislative management. Upon the request of the insurance department, long-term care facilities shall provide the insurance department requested data regarding billing and payment information, financial information, management information, and other information the insurance department deems necessary to complete a detailed analysis of long-term care in the state. The department may not request data that include personally identifiable information and the long-term care facilities may provide data in the aggregate. If a long-term care facility fails, without cause, to provide the insurance department with requested data as required under this section, the insurance commissioner may charge the long-term care facility a civil penalty of up to one thousand dollars per day the long-term care facility is in violation.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the insurance department for the purpose of assisting the legislative management with the interim studies of the long-term care insurance market and the cost of long-term care in the state.”

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

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

SB 2253
2/2/2021

relating to long-term care insurance policies

2:45 PM

Chair Klein opened the meeting at 2:46 p.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Long-term care policies and penalty
- A study on long-term care

Jon Godfread, Insurance Commissioner testified in support [14:46].

Chris Jones, Director for Department of Human Services testified in favor [14:54].

Senator Vedaa moved a to adopt Amendment 21.8036.01002[14:50].

Senator Larsen seconded the motion [14:50].

[14:57]

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

Motion passed: 6-0-0

Senator Vedaa moved DO PASS AS AMENDED and rerefer to Appropriations [14:57].

Senator Larsen seconded the motion [14:58].

[14:58]

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

Motion passed: 6-0-0

Senator Klein will carry the bill [14:59].

Chair Klein closed the hearing at 3:00 p.m.

Isabella Grotberg, Committee Clerk

February 2, 2021

SL
1882

PROPOSED AMENDMENTS TO SENATE BILL NO. 2253

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to long-term care insurance policies and the cost of long-term care; to provide a penalty; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. ANALYSIS OF LONG-TERM INSURANCE MARKET - LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the insurance department shall assist the legislative management with an interim study of the long-term care insurance market in the state. The study must include the receipt of a report from the insurance department including a detailed analysis of the long-term care insurance market in the state. Upon the request of the insurance department, the ten largest long-term care insurance insurers in the state shall participate in the study to review the current premium market, benefits, consumer options in relation to premium increases, long-term care partnership program options, and overall market products or riders. The insurance department shall coordinate with the state department of health, the department of human services, and the North Dakota long term care association for data regarding long-term care facilities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 2. ANALYSIS OF THE COST OF LONG-TERM CARE - LEGISLATIVE MANAGEMENT STUDY - PENALTY. During the 2021-22 interim, the insurance department shall assist the legislative management with an interim study of the cost of long-term care in the state. The study must include the receipt of a report from the insurance department including a detailed analysis of the cost of long-term care in the state. Upon the request of the insurance department, long-term care facilities shall provide the insurance department data regarding billing and payment information, financial information, management information, and other information the insurance department deems necessary to complete a detailed analysis of long-term care in the state. The department may not request data that includes personally identifiable information and the long-term care facilities may provide data in the aggregate. If a long-term care facility fails, without cause, to provide the insurance department with requested data as required under this section, the insurance commissioner may charge the long-term care facility a civil penalty of up to one thousand dollars per day the long-term care facility is in violation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the insurance department for the purpose of assisting the legislative management with the interim studies of the long-term care insurance market and the cost of long-term care in the state."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2253: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to long-term care insurance policies and the cost of long-term care; to provide a penalty; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. ANALYSIS OF LONG-TERM INSURANCE MARKET - LEGISLATIVE MANAGEMENT STUDY. During the 2021-22 interim, the insurance department shall assist the legislative management with an interim study of the long-term care insurance market in the state. The study must include the receipt of a report from the insurance department including a detailed analysis of the long-term care insurance market in the state. Upon the request of the insurance department, the ten largest long-term care insurance insurers in the state shall participate in the study to review the current premium market, benefits, consumer options in relation to premium increases, long-term care partnership program options, and overall market products or riders. The insurance department shall coordinate with the state department of health, the department of human services, and the North Dakota long term care association for data regarding long-term care facilities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 2. ANALYSIS OF THE COST OF LONG-TERM CARE - LEGISLATIVE MANAGEMENT STUDY - PENALTY. During the 2021-22 interim, the insurance department shall assist the legislative management with an interim study of the cost of long-term care in the state. The study must include the receipt of a report from the insurance department including a detailed analysis of the cost of long-term care in the state. Upon the request of the insurance department, long-term care facilities shall provide the insurance department data regarding billing and payment information, financial information, management information, and other information the insurance department deems necessary to complete a detailed analysis of long-term care in the state. The department may not request data that includes personally identifiable information and the long-term care facilities may provide data in the aggregate. If a long-term care facility fails, without cause, to provide the insurance department with requested data as required under this section, the insurance commissioner may charge the long-term care facility a civil penalty of up to one thousand dollars per day the long-term care facility is in violation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-eighth legislative assembly.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the insurance department for the purpose of assisting the legislative management with the interim studies of the long-term care insurance market and the cost of long-term care in the state."

Renumber accordingly

2021 SENATE APPROPRIATIONS

SB 2253

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2253

2/9/2021

Senate Appropriations Committee

A BILL for and Act to provide for a legislative management study relating to long-term care insurance policies and the cost of long-term care.

Senator Holmberg opened the hearing at 9:40 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern,** and **Heckaman.** **Senator Bekkedahl** absent.

Discussion Topics:

- Premiums
- Affordability

Senator Mathern testified in favor of the bill and presented amendment LC 21.0836.02001 – testimony #6080.

Jon Godfread, North Dakota Insurance Commissioner – testified in favor of the bill.

Senator Holmberg closed the hearing at 9:54 a.m.

Senator Mathern moved DO PASS on amendment LC 21.0836.02001.
Senator Heckaman second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	A	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call Vote 13-0-1.

Senator Mathern moved DO PASS on SB 2253.
Senator Heckaman second.

Senators		Senators	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	A	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call Vote 13-0-1.

Motion passed.

Senator Klein carry the bill.

Rose Laning, Committee Clerk

February 8, 2021

SB
219

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2253

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to the long-term care insurance market."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE INSURANCE MARKET. During the 2021-22 interim, the legislative management shall consider studying the long-term care insurance market in the state. The insurance commissioner and, as requested, the ten largest long-term care insurance insurers in the state shall participate in this study to review the current premium market, benefits, and consumer options in relation to premium increases and overall market. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2253, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to the long-term care insurance market.

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Renumber accordingly

February 8, 2021

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2253

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SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE INSURANCE MARKET. During the 2021-22 interim, the legislative management shall consider studying the long-term care insurance market in the state. The insurance commissioner and, as requested, the ten largest long-term care insurance insurers in the state shall participate in this study to review the current premium market, benefits, and consumer options in relation to premium increases and overall market. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2253

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2253
3/3/2021

Legislative management study relating to the long-term care insurance market

(9:00) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	A	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	A

Discussion Topics:

- Long-term care
- Life insurance to protect financial wellbeing.

Jon Godfread~ND Insurance Commissioner. Introduced the bill.

Shelly Peterson~Long Term Care Association. Testified in support.

Josh Askvig~AARP North Dakota. Testimony #7137.

Chairman Lefor closes the hearing & the bill will be held to have an amendment drafted.

Additional written testimony: Attachment #7107.

(2:57) End time.

Ellen LeTang, Committee Clerk



House Industry, Business and Labor Committee
IN SUPPORT – SB 2253 – Long Term Care Insurance
March 3, 2021
Josh Askvig, State Director
jaskvig@aarp.org – 701-355-3642

Chairman LeFor and members of the House Industry, Business and Labor Committee- I am Josh Askvig, State Director at AARP North Dakota and I am speaking in support of the study on the long-term care insurance market as outlined in SB 2253.

AARP is a non-profit, non-partisan membership organization with more than 84,000 members in North Dakota. Our mission is to empower people to choose how they live as they age.

We appreciate this committee's work to dig into issue important to older North Dakotans and this need will continue to grow. Today our population age 50+ is almost 256,000 and 50% of those households are age 65 or older. Today in North Dakota over 9 counties have a mean age of over 50 and a number of others are right on their heels.

North Dakotans need options to help pay for the long-term services and supports they may need, including to help them live in their homes and communities. As an organization with millions of members nationwide that helps people 50 + have independence, choice and control, we have a strong interest in ensuring that consumers have the information necessary to make an informed and educated choice when it comes to selecting a long-term care insurance policy that best meets their needs.

In recent years, long term care insurance policies have become more comprehensive; many insurers now cover home health care, adult day services, assisted-living, personal care and respite care. However, despite these improvements, the products have limited potential reach due to the high cost and complexity of long-term care insurance. Consumers need objective information to help them determine exactly what a particular policy provides so they may use these details to make an educated decision about purchasing private long-term care insurance-based on their financial circumstances, age, living situation and health status.

The study called for in SB 2253 will help the state better understand the current market, benefits of current products and how consumers are impacted. Additionally, it will help consumers understand what options they may have and how the state can best facilitate the information for them to make beneficial choices.

I want to thank the committee for their time and encourage a favorable recommendation on SB 2253 for a study on the long-term care insurance market.

STATEMENT OF THE AMERICAN COUNCIL OF LIFE INSURERS

Before The
House Industry, Business and Labor Committee

March 3, 2021

**Senate Bill 2253 – An Act to Provide for a Legislative Management Study
Relating to Long-Term Care Insurance**

Chairman Lefor and members of the House Industry, Business and Labor Committee, I am writing on behalf of the American Council of Life Insurers (ACLI) regarding Senate Bill 2253, which would direct the legislative management committee to study the long-term care insurance marketplace in North Dakota.

ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry and its consumers. Ninety million American families rely on life insurers to protect their financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, and reinsurance as well as supplemental benefits such as dental and vision plans.

As introduced, Senate Bill 2253 would have imposed a three-year moratorium on the sale of long-term care insurance in the state while the issue was studied. ACLI appreciated the opportunity Senator Mathern gave us to express our concerns with the moratorium, which ultimately was deleted from the bill in the Senate Industry, Business and Labor Committee before the study bill now before you passed the Senate.

ACLI respectfully recommends that if this Committee decides to support a legislative management study of the long-term care insurance marketplace, the study should consider the volume of existing research on the long-term care insurance marketplace that has recently been conducted. For the Committee's convenience, attached to this statement please find a list of several such research materials and studies.

Mr. Chairman and members of the Committee, thank you for the opportunity to provide these written comments.

Respectfully submitted,

J. Bruce Ferguson
Senior Vice President, State Relations
bruceferguson@accli.com
202.624.2385 office
301.980.4820 mobile

Recent Studies on the Long-Term Care Insurance Marketplace

[Bipartisan Policy Center](#) –

- Report and analysis by Milliman, Inc. on financing long-term services and supports, including improvements to private long-term care insurance.
- <https://bipartisanpolicy.org/report/financing-long-term-services-and-supports/>

The [Milken Institute](#) –

- Collaboration currently taking place on a research project to evaluate the most pressing barriers to effectively meeting the LTC needs of Americans.
- Examining the predominant issues surround the LTC market, including pricing, data modeling, and market forces impacting the future of LTC.
- Market Scan: Future of Long-Term Care amid Current Landscape of Barriers and Opportunities.
- <https://milkeninstitute.org/reports/market-scan-future-long-term-care-amid-current-landscape-barriers-and-opportunities>

The [SCAN Foundation](#)

- Partnered with [AARP](#) and [LeadingAge](#) to fund a data analytics and economic modeling completed by the [Urban Institute](#) and [Milliman, Inc.](#) to complete high-level insurance concepts for long-term care financing.
- “Microsimulation Analysis of Financing Options for LTSS”
Older adults face a significant risk of developing chronic health problems and becoming unable to perform basic tasks on their own. In 2011, 7.7 million adults ages 65 and older received help.
https://www.thescanfoundation.org/media/2019/10/nov_20_revised_final_microsimulation_analysis_of_ltss_report.pdf
- “Premium Estimates for Policy Options to Finance Long-Term Services and Supports”
Evaluation of policy options under modifications to the existing private LTC insurance market, and new voluntary LTC insurance programs, which could be structured as public or private.
- https://www.thescanfoundation.org/media/2019/08/milliman_report_-_premium_estimates_for_policy_options_to_finance_ltss.pdf
- “Learning from New State Initiatives in Financing Long-Term Care Services and Supports” – <https://www.ltsscenter.org/wp-content/uploads/2020/07/State-LTSS-Financing-Full-Report-July-2020.pdf>
State Long-Term Care Reform Proposals in California, Hawaii, Maine, Michigan, Minnesota, and Washington.

[Genworth's Cost of Care Study](#)

Highlights the cost of various types of care.

[Center for Insurance Policy Research](#)

The State of Long-Term Care Insurance: The Market, Challenges and Future Innovations
https://www.naic.org/documents/cipr_current_study_160519_ltc_insurance.pdf?12



Financial Security for Life

[AARP Public Policy Institute](#) –

- “Disrupting the Marketplace: The State of Private Long-Term Care Insurance, 2018 Update”
- Looks at who buys LTC insurance, the types of LTC products currently available, and the costs and benefits of LTC insurance.
- <https://www.aarp.org/content/dam/aarp/ppi/2018/08/disrupting-the-marketplace-the-state-of-private-long-term-care-insurance.pdf>

California Department of Insurance Website provides publicly available rate increase histories, <http://www.insurance.ca.gov/01-consumers/105-type/95-guides/05-health/01-ltc/rate-history-active.cfm>

Society of Actuaries – various studies including:

[Long-Term Care and the Middle Market Sizing the Opportunity for New Ways to Finance Long-Term Care](#)

[Long-Term Care Intercompany Experience Study](#) - Aggregate Database 2000-2016 Report

August 12, 2020

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2253
3/15/2021

Legislative management study relating to the long-term care insurance market.
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(9:25) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	A	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	A

Discussion Topics:

- Committee work

Vice Chairman Keiser~Introduced an amendment. Attachments #9139 & 9140.

Vice Chairman Keiser moved to adopt amendment 21.0836.03001.

Rep D Ruby second.

Voice vote Motion carried.

Rep Nehring moved a Do Pass as Amended.

Rep Hagert second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	A
Rep Scott Louser	A
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	A

Vote roll call taken Motion carried 11-0-3 & Rep Stemen is the carrier.

(9:42) End time.

Ellen LeTang, Committee Clerk

DE 3/18/21
10x1

21.0836.03001
Title.04000

Prepared by the Legislative Council staff for
Representative Keiser
March 11, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2253

Page 1, line 9, after the period insert "Additionally, the department of human services and insurance department shall report to the legislative management regarding the long-term care partnership program, including data addressing utilization of the program, whether there are barriers to access to the program, and how utilization of the program might be increased."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2253, as reengrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Reengrossed SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 9, after the period insert "Additionally, the department of human services and insurance department shall report to the legislative management regarding the long-term care partnership program, including data addressing utilization of the program, whether there are barriers to access to the program, and how utilization of the program might be increased."

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2253

Introduced by

Senators Mathern, Hogan

Representatives P. Anderson, Guggisberg

1 A BILL for an Act to provide for a legislative management study relating to the long-term care
2 insurance market.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - LONG-TERM CARE INSURANCE**

5 **MARKET.** During the 2021-22 interim, the legislative management shall consider studying the
6 long-term care insurance market in the state. The insurance commissioner and, as requested,
7 the ten largest long-term care insurance insurers in the state shall participate in this study to
8 review the current premium market, benefits, and consumer options in relation to premium
9 increases and overall market. Additionally, the department of human services and insurance
10 department shall report regarding the long-term care partnership program, including data
11 addressing utilization of the program, whether there are barriers to access to the program, and
12 how utilization of the program might be increased. The legislative management shall report its
13 findings and recommendations, together with any legislation required to implement the
14 recommendations, to the sixty-eighth legislative assembly.

21.0836.03001
Title.

Prepared by the Legislative Council staff for
Representative Keiser
March 11, 2021

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