

Testimony to the
House Industry, Business, and Labor Committee

1/20/21

Prepared by Brennan Quintus, CEO
North Dakota Insurance Reserve Fund

RE: House Bill No. 1086

Mr. Chairman and members of the House Industry, Business, and Labor Committee, my name is Brennan Quintus, and I am the CEO of the North Dakota Insurance Reserve Fund (NDIRF). The NDIRF is a government self-insurance pool that offers liability, automobile, and equipment risk coverage to political subdivisions in North Dakota. Over 2,550 local government entities have joined the NDIRF as members since 1986. In addition, the NDIRF contracts with the North Dakota Insurance Department to administer the State Fire and Tornado Fund (“Fund”), which provides property insurance coverage to North Dakota’s state agencies and political subdivisions, and the State Bonding Fund, which provides fidelity risk coverage to North Dakota’s state agencies and political subdivisions.

The NDIRF worked with the Insurance Department on the proposed changes to N.D.C.C. Chapter 26.1-22 contemplated in both the original version of HB 1086 and the proposed amendments. We respectfully request that the committee accept the proposed amendments to HB 1086 and, after accepting the amendments, provide a do pass recommendation on HB 1086.

The purpose of HB 1086 is to provide for a more efficient operation of the Fund by amending Chapter 26.1-22 of the North Dakota Century Code to include recommended changes from NDIRF staff based on our administration of the Fund over the past year and half. Below I will briefly describe the proposed changes and the practical impact those changes would have on the administration of the Fund.

- Section 1 of HB 1086 attempts to expand the definition of “political subdivision” in this Chapter of code to allow for public nonprofits that are performing a government function and receiving their funding in whole or in part from the state, a county, a city, a school district, a park district, or a township to have the option to insure their property with the Fund.

Based on the feedback provided by the committee during the hearing on this bill on January 12 and our research thereafter, it was determined that we were unable to develop a definition that addresses the concerns of the committee while also providing access to the Fund to those organizations whose coverage through the Fund would provide a material benefit to North Dakota taxpayers. Therefore, we are requesting that lines 6 through 14 on page 1 of HB 1086 be removed.

- Section 2 of HB 1086 attempts to allow for the commissioner to develop underwriting guidelines for indirect loss coverage that is provided to Fund members. Indirect loss coverage is coverage for those expenses that an insured might incur after a loss beyond the damage to the property, such as loss of income, extra expense, etc. Currently, Fund members can choose to obtain insurance for indirect losses, but there is not an underwriting component required in law regarding the amount of coverage. This section would allow the commissioner to adopt guidelines regarding indirect loss coverage to protect the Fund and its members from excessive indirect loss coverage being provided to Fund members.

The amendment proposes to replace the word “may” on page 1, line 20 with “shall” to ensure the goal of the commissioner’s underwriting guidelines applying to indirect loss coverage is achieved.

- Section 3 of HB 1086 attempts to remove the requirement that a replacement cost estimate be provided to property that is insured at actual cash value rather than replacement cost. Depending on various property characteristics, the property might be insured at replacement cost or actual cash value. Rather than providing a replacement cost estimate on every property, we are of the opinion that administration of the Fund would be more efficient if a replacement cost estimate is only required on property insured at replacement cost. State agencies and political subdivisions owning property insured at actual cash value would still have the opportunity to work with NDIRF staff to ensure their property is insured at a level they are comfortable with.
- Section 4 of HB 1068 attempts to remove restrictions placed on what the Fund is able to provide for coverage to Fund members. Currently, the Fund is required to provide coverage for certain perils and is limited to what coverage can be provided to what is allowed under N.D.C.C. § 26.1-22-10. We are proposing that the Fund be allowed to provide coverage that might not be in a standard fire insurance policy because a standard fire insurance policy might not be the best coverage solution for state agencies and political subdivisions.

Based on the committee’s comments during the hearing on this bill on January 12, we are proposing that “may insure” be inserted on page 2, line 12 after the word “or” which provides the opportunity for the Fund to insure other risks of loss and we are proposing that HB 1086 be amended to remove the overstrike from “subject to the restrictions” and after “restrictions” insert “and exclusions deemed necessary from the commissioner” to ensure that Fund coverage is subject to exclusions and restrictions that would protect the financial integrity of the fund as deemed necessary by the commissioner.

In addition, Section 4 of HB 1086 would allow for the Fund to insure both personal property and buildings on a blanket basis, easing the administrative burden for all involved.

- Section 5 of HB 1086 attempts to remove references to the Insurance Services Office (ISO) as the sole provider of rates for the Fire and Tornado Fund. While it might be possible that the Fund would continue to rely on ISO rates, having rating flexibility is in the best interest of the Fund and its members.
- Section 6 of HB 1086 attempts to remove the requirement that those premiums owed by Fund members over 60 days past due are charged 6% interest. The NDIRF has encountered various scenarios where the interest owed is less than \$1 and the administrative expense to collect those amounts exceeds the amount collected. However, under Section 6, we are adding language that requires 6% interest on any amounts collected under an enforcement judgement, as provided for under N.D.C.C. § 26.1-22-15.
- Section 7 of HB 1086 attempts to remove the requirement that independent contractors perform repair or replacement of buildings covered by the Fund. We have encountered situations where state agency or political subdivision staff are capable of performing the repairs necessary after a loss at a much lower cost than if performed by a contractor. This would allow cost savings to the Fund and, ultimately, to North Dakota taxpayers.

Mr. Chairman and members of the House Industry, Business, and Labor Committee, that concludes my remarks, and I would be happy to answer any questions the Committee might have.