

2017 HOUSE INDUSTRY, BUSINESS, AND LABOR

HB 1286

2017 HOUSE STANDING COMMITTEE MINUTES

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

HB 1286
1/18/2017
27032

- Subcommittee
 Conference Committee

Committee Clerk Signature

Ellen DeTang

Explanation or reason for introduction of bill/resolution:

Insurable interests in personal insurance.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing of HB 1286.

Rep Kasper~Representing Ascensus Trust Company: Attachment 1. Reads testimony from Ascensus Trust Company.

7:10

Chairman Keiser: Anyone else here to testify in support, opposition, neutral, on HB 1286.

Chrystal Bartuscha~ND State Insurance Dept: We are neutral & echo Rep Kasper concerns. However, one of our biggest concerns is that your making the definition of an employee & a contractor, you are mudding that together.

The intent of the insurable interest law was designed to, in section E, that was designed for that employer/employee relationship. Our preference would be not to change anything in E. If the committee is going to allowing these independent contractors to somehow be encompassed in the insurable interest, we would prefer to have completely different section of F because then it's clear that there is a distinction between an employee & a contractor within this law. Again, within your Dept of Labor, your tax code, Ascensus referenced that, determining that a worker is an independent contractor & not a W2 employee, has significant ramifications in many aspects including tax & unemployment insurance.

We agree, but encompassing that into an insurable interest section of code, we thing it makes it more difficult.

Within a trust or contract itself, between the doctor & the hospitals, they could define employees within that contract & trust. They could have it as part of the contract that that physician is required to have life insurance. We feel there is potential ways around what they

are trying to do versus opening it up this section of code. Unless we narrow the language up, who's to say under the current verbiage, a significant service provided.

Rep Kasper: If you look at the definition "insurable interest" on line 18 page 3, it's good there until you get to this unknown water. I would work with the Insurance Dept & the people who brought the bill forward on an amendment.

Chairman Keiser: Why keyman policy wouldn't work in this application?

Bartuscha: Traditionally, a keyman policy is for example, the president of a company, they are an employee, the employer, the company is providing retirement, health insurance & potentially, life insurance, we can appreciate the similarity in that, if that president passes away, that company is negatively impacted.

Chairman Keiser: If we go to the Vice President level, we allow that, no concern & yet that is an insurable interest question there. If I had a cash flow problem, I would take out the Vice President. Do they sign off on it?

Bartuscha: Yes, as of an insured, you have to go through medical underwriting & sign the application. They know about it. Yes, but in addition to one of these concerns with this is say, if the doctor quits, they will terminate that policy but who is going to maintain that policy on that independent contractor?

Chairman Keiser: But if the contractor quits, there has to be some way to do this. Insurable interest isn't as clean as we might think it is.

Bartuscha: That is why I'm nervous opening up this section of code.

Van Magnuson~ND Insurance Dept: Keyman insurance typically the data as falling under 3B, other parties not related by blood. You have someone that is valuable & there is a rational.

Bartuscha: I think that is the challenge with this bill.

Chairman Keiser: We have new members on the committee, could you explain STOLI.

Bartuscha: Informs the new members.

25:30

Chairman Keiser: Closes the hearing.

2017 HOUSE STANDING COMMITTEE MINUTES

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

HB 1286
1/31/2017
27674

- Subcommittee
 Conference Committee

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Insurable interests in personal insurance.

Minutes:

Attachment 1, 2

Chairman Keiser: Reopens the hearing of HB 1286.

Rep Kasper: Attachment 1.

4:35

Rep Bosch: Wasn't part of this bill also pertaining to contractors that had a special stature in an organization & they weren't employees?

Chairman Keiser: You are correct, it (inaudible) population that this was targeted.

Rep Bosch: Can you review that quickly?

Rep Kasper: This address concern that the trust company originally had, so they would be able to provide these benefits to these people.

Rep Kasper: Attachment 2. The amendment & page 2 is the crux of it. Goes over the amendment.

Rep Kasper: Moves to adopt amendment 17.0396.02001.

Rep Dobervich: Second.

Chairman Keiser: Further discussion? This amendment is great. This really does what we wanted to do without disrupting up STOLI & all the other sections.

Rep Ruby: Does this allow if somebody gets a policy in place because they do qualify at that point to continue it after termination working for that company?

Rep Kasper: Yes

Chairman Keiser: Further discussion?

Voice vote – Motion carried.

Chairman Keiser: What are the wishes of the committee?

Rep Kasper: Move a Do Pass as Amended.

Rep Laning: Second.

Roll call was taken on HB 1286 for a Do Pass as Amended with 14 yes, 0 no, 0 absent & Rep Kasper is the carrier.

1/31/17 DP

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1286

Page 2, line 13, remove the overstrike over "employees"

Page 2, line 13, remove "service providers"

Page 2, line 15, remove the overstrike over the first "employees"

Page 2, line 15, remove the first "service providers"

Page 2, line 15, remove the overstrike over the second "employees"

Page 2, line 15, remove the second "service providers"

Page 2, line 16, replace "service providers' or retired service providers" with "employees"

Page 2, line 18, remove the overstrike over "employees"

Page 2, line 18, remove "service providers"

Page 2, line 23, remove "As used in this subdivision:"

Page 2, replace lines 24 through 31 with:

"f. In the case of a service recipient or the trustee of a trust providing a nonqualified deferred compensation plan, as defined by section 409A(d)(1) of the Internal Revenue Code [26 U.S.C. 409A(d)(a)], to a service provider, an insurable interest in the life of the service provider for whom the nonqualified deferred compensation plan is provided. The service recipient or the trustee of a trust may purchase, accept, or otherwise acquire an interest in personal insurance with the trust as a beneficiary or owner. Written consent of the insured individual is required. As used in this subdivision:

- (1) "Service provider" means an individual, other than an employee, who provides significant services to a service recipient.
- (2) "Service recipient" means the entity for which services are performed by a service provider."

Renumber accordingly

Date: Jan 31, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE

ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1286

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description:

17.0396.02001 Title 03000

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions

- Reconsider
- _____

Motion Made By Rep Kasper Seconded By Rep Dobervich

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep Laning		
Vice Chairman Sukut			Rep Lefor		
Rep Beadle			Rep Louser		
Rep R Becker			Rep O'Brien		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Boschee		
Rep Kasper			Rep Dobervich		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____ Voice vote ~ Motion carried

Date: Jan 31, 2017

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1286

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
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- Place on Consent Calendar
- Other Actions Reconsider _____

Motion Made By Rep Kasper

Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	X	
Rep R Becker	X		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	X	
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Kasper

REPORT OF STANDING COMMITTEE

HB 1286: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1286 was placed on the Sixth order on the calendar.

Page 2, line 13, remove the overstrike over "employees"

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- (2) "Service recipient" means the entity for which services are performed by a service provider."

Renumber accordingly

2017 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1286

2017 SENATE STANDING COMMITTEE MINUTES

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

HB 1286
3/8/2017
Job Number 28849

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to insurable interests in personal insurance

Minutes:

2 Attachments

Chairman Klein: Opened the hearing.

Representative Kasper: Introduced the bill. I was contacted by a representative of a trust company and was told about a problem with the definition of insurable interest in the North Dakota century code, when it comes to the opportunity for a different type of business entity called a service recipient, if they wish to purchase life insurance on a service provider. What we are talking about is a company that will contract with Doctors, using as an example, who wish to earn additional dollars in their spare time and wish to be contractors and go all over the state and sometimes all over the country to fill in services in a medical center, whether it is a clinic or a hospital because they are short or people are going on vacation or whatever. In many instances these professionals choose to make that their way of life and they become a valuable part of the service recipient or the employer. Although there is no employee, employer relationship there is a contract that is signed. In some cases, these entities wish to provide a carrot sort of speak to these employees, the employees will to stay with them for a number of years and in so doing they will enter into, in some cases, a non-qualified deferred compensation plan. The plan would simply say, Doctor X if you stay with our firm and work with us for fifteen years, as an example, as a result of that we will provide a retirement benefit to you for one hundred thousand dollars for fifteen years. Whatever the number might be, that is negotiated. In return then when the employer makes that guarantee in the contract they purchase a life insurance policy on that employee to fund the benefit and to return to that employer the dollars that they expend because of the tax nature of life insurance, it is received tax free when a death benefit occurs. So you may purchase as an example a three-million-dollar life insurance policy on the life of a person, pay out the cost in benefits and you have the cost of recovery and so on. That is what this bill is all about because in the North Dakota insurance code this type of arrangement, the trust that are set up to house this arrangement said North Dakota law did not allow them to buy the life insurance because the insurable interest definition was wrong in the North Dakota statute. (:35-4:40)

Chairman Klein: Do you know what the impotence was of the original bill?

Representative Kasper: There arose about ten, fifteen years ago a new industry in the life insurance industry where by investment companies were organized to buy life insurance policies that were enforced on people who either didn't need them anymore or didn't think they needed them anymore or people who were maybe close to death and wanted to cash up front. The stranger originated life insurance business began and it mushroomed hugely where by these policies were being sold by the owner of the policy to an investment group as an investment in people dying. There was no regulation on that industry and the life insurance industries actuarial charts assume that a certain amount of life insurance policies that are issued will lapse and not pay a death benefit. That is how rate structures are determined so many will stay enforced and pay a benefit and so many will lapse and the life insurance pays nothing unless there is a cash value, they return the cash value. So there was no regulation on that industry and so we introduced legislation to regulate that industry and to make sure that the people who were selling their policies had full understanding of what was going on and that there was no collusion and misrepresentation. North Dakota was recognized by the American Council of Life Insurers as the first state to pass the STOLI regulation bill. Email to Representative Kasper, see attachment #1.

Chairman Klein: It was somewhat during the aids epidemic where the doctors had figured that out and were really cashing in on that opportunity and of course at that point we hadn't found the medical opportunities for aid victims to live longer and it really created across the country an issue that was hard to believe that humans would do that. That was something we addressed quite some time ago.

Senator Roers: You were talking about having insurable interest on independent contractors, correct? Does that open a Pandora's box for many other people to be classified as independent contractors giving the employer the opportunity to have an insurable interest? The second part of my question, would if the employer relationship ceases to exist, does the insurance then continue on forever as a benefit?

Representative Kasper: Yes, and Yes. The key to an issue of a life insurance policy is that, at the time the policy is issued there is insurable interest. Once that insurable interest is established at the time of issue, if that insurable interest changes in the future the policy can still be maintained and enforced by the owner of the policy if they so choose. As far as the industry itself or other areas. I just used the doctors example as an example but I am sure there is other business models that might wish to use the same thing. This is designed to be sure that if that model uses this insurable interest law that it is done properly and we are making sure that there is an insurable interest at the time the policy is issued.

Senator Roers: Is this insurable interest or the benefactor of this independent contractor relationship, is the benefactor and the independent contractor is it the business or is it both of the above?

Representative Kasper: In this case where it was brought to my attention, a trust is established to own the policy and guarantee the benefits. The employee wants to be sure that the benefits that he or she is being guaranteed by the employer will be there if they sign this contract. So a trust is established in this case and the policy is owned by the trust, the death benefits are paid to the trust and the benefits are paid out to the trust and the remainder

would go back to the individual or individuals who set the trust up. In some cases, it could be the contractor employer that owns the policy but that depends upon the type of business model they wish to use.

Senator Campbell: That beneficiary could be changed at any time if both parties agree right? Let's say that relationship had terminated they could change that to have the benefactor to anybody. It could go back to the trust or stay with the individual, is that possible or not?

Representative Kasper: The ability to change the terms of a trust, once a trust is established would be determined by what the trust says you can and cannot do. If there is no trust established, if the business is the owner and the employee is the beneficiary/recipient then they could mutually agree. If that person says, you guaranteed me this benefit but I just don't want to work for you anymore let's negotiate what happens to the insurance policy. The insured could make an offer to buy the policy, there could have been terms in the contract that says if this agreement terminates in advance this will happen to the policy. Maybe be split or something like that. The terms should be addressed in the agreement that the provider and the recipient established at the time that this is done.

Senator Campbell: And this bill allows that to happen right?

Representative Kasper: This bill does not address what the agreement says or the trust document says, that is a negotiation between the employer and the recipient. What this bill allows is to change the definition of insurable interest so that if this entity exists, North Dakota statute would recognize that there is an insurable interest, that they meet these criteria.

Senator Poolman: Just to clarify, someone only needs insurable interest when the policy is taken out and even if the insurable interest goes away they can still keep this policy?

Representative Kasper: That is correct.

Marilyn Foss, Ascensus Trust Company: Written testimony, see attachment #2. (13:00-23:15)

Chairman Klein: The employee is being covered by their employer under this policy and they have negotiated this contract and so the employee will know, the deal being if I work here this is what I am going to get and I may have this and this is a policy on me and I understand that. So I think the question was asked, there is some negotiation as to what happens if I don't make my ten years because something happens and I do die. The employee is compensated somehow because that is the art of the deal? Everybody should be benefiting.

Marilyn Foss: Yes, everybody should be benefiting. Yes, there is negotiation because of course the biggest question is, what happens to the policy if I don't fulfill the terms of the agreement I made in order to be entitled to receive the policy. So yes, they should be negotiating that and these policies could be universal life policies which would have a cash value to it at some point, so you need to figure out how the cash works. It could be a whole life policy that would have a cash or borrowing value to it, so yes you really have to address what happens if I don't fulfill the terms of the arrangement and also what happens if the owner

of the policy whether it is the case of the service recipient doesn't pay the premiums. That is another matter you have to address. We are not talking about lower level workforce we are talking about well compensated critical senior employees who hopefully are sophisticated enough when someone says here there is this contractual arrangement, they will at least read it and conclude if they need to seek additional professional advice.

Chrystal Bartuska, Product Filing Division Director for the North Dakota Insurance Department: Neutral position. Gave some additional information on the original bill. (26:40-29:47)

Chairman Klein: We have changed some language. I heard Marilyn say from the corporation language to an employer and so all of that works out.

Chrystal Bartuska: I think that was recommended by Legislative Council to clear up some of the verbiage and get with the times.

Chairman Klein: The real meat is really section F?

Chrystal Bartuska: Exactly and line two where it is defined.

Chairman Klein: Closed the hearing.

2017 SENATE STANDING COMMITTEE MINUTES

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

HB 1286
3/8/2017
Job Number 28903

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to insurable interests in personal insurance

Minutes:

No Attachments

Chairman Klein: Called the meeting to order. Just a couple of quick comments. I think we are going to go to 1286 first. That was the bill we heard this morning that Representative Kasper brought to us in relationship to the service recipient and it is structuring how we do that so it stays within the law we created a number of years ago.

Senator Poolman moved a do pass.

Senator Casper seconded the motion.

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

Senator Poolman will carry the bill.

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. Engrossed HB 1286**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Poolman Seconded By Senator Casper

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Marcellais	x	
Vice Chairman Campbell	x				
Senator Roers	x				
Senator Burckhard	x				
Senator Casper	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Poolman

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

REPORT OF STANDING COMMITTEE

HB 1286, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1286 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1286

**TESTIMONY IN SUPPORT OF NORTH DAKOTA HB 1286
“INSURABLE INTEREST BILL”
BEFORE THE COMMITTEE OF INDUSTRY, BUSINESS AND LABOR
JANUARY 18, 2017**

Ascensus Trust Company wishes to be recorded in support for HB 1286, and we thank Representative Jim Kasper for his assistance with this legislation.

HB 1286 would expand the century code’s insurable interest language to be more reflective of today’s organizational structures and employment practices. Our company is observing increased utilization of non-qualified deferred compensation arrangements (such as Rabbi Trusts) in the medical field and life insurance investments are the most often used investment vehicle to fund these arrangements. A key aspect of life insurance is the determination that the owner of the policy has an insurable interest (or a financial stake) in the individual that is being insured.

In the past, doctors that worked at a local hospital or clinic would have been *employees* of that entity. However, in the medical industry it is now common for the most highly compensated providers to not be employees of the hospital. Rather, they are often considered to be *independent contractors*. Determination that a worker is an independent contractor, and not a W-2 employee, has significant ramifications in many aspects including tax and unemployment insurance.

In today’s increasingly complex tax, regulatory and compliance environment, it is becoming increasingly common for an otherwise common and straightforward term (such as *employee*) having a unique definition based on each individual law or regulation. We feel that HB 1286 provides additional clarity regarding the *intent* of North Dakota’s insurable interest language.

At its core, HB 1286 updates the insurable interest language by replacing ‘corporation’ with ‘employer’. This is essential to acknowledge that insurable interests should not necessarily be strictly defined by the legal structure of the sponsoring entity. HB 1286 also replaces ‘employees’ with the term ‘service provider’ to accommodate similar flexibility regarding the proper classification of the insured individual’s employment status. The explanations at the bottom of HB 1286 provide additional context regarding the intended definition of both employer and service provider.

To avoid concerns of the ‘service provider’ definition in 3.e.2.b from being interpreted as too broad, the definition on page 2 / line 29 could be replaced with “An individual other than an employee who provides significant services to an employer” (underlined for testimonial emphasis only). This language would then be similar to what can be found in certain statutes outside North Dakota that do not reference corporations (Arizona - ARS §20-443.02.B.8).

Passing HB 1286 will provide firmer ground for any entity in North Dakota that wishes to obtain an insurable interest in the key individuals that provide essential services to that entity. Those entities will no longer have to be left wondering if an attorney’s or court’s strict and narrow interpretation of North Dakota’s insurable interest language could cause significant financial strain or uncertainty on the employer or their service providers.

Ascensus Trust urges the Committee of Industry, Business and Labor to support HB 1286 and to advance the bill out of committee favorably.

Kasper, Jim M.

From: Bartuska, Chrystal A.
Sent: Tuesday, January 31, 2017 12:43 PM
To: Kasper, Jim M.
Cc: Behrens, Sara R.
Subject: FW: HB 1286- Insurable Interest--WRITTEN EXPLANATION ON WHAT THE AMENDMENTS DO AND WHY WE NEED THEM

Dear Representative Kasper,

Sara forwarded me your e-mail below.

The amendment that we sent to you are requested changes from the insurance department to protect both the current intent of the insurable interest law and prevent STOLI from being an option for people to abuse. This amendment is intended to be a suggestion from the department so that we are able to stay neutral on the bill and not fully oppose the bill altogether. When we talked to the company wanting these changes and once we understood their intent being tied to a non-qualified deferred comp plan we got a better understanding. We can appreciate situations where if you are providing some sort of retirement benefits through a non-qualified deferred comp plan that an insurance policy is a viable option for that arrangement. By putting this verbiage into a whole new section of code (f) it narrows the scope for these arrangements. We did not want to change section e because that section of code was originally designed for a true employer to employee relationship and VEBA trusts. It also still keeps the door of STOLI tight because in order to do section f in the future you would need to have the connection through a non-qualified deferred comp plan.

Please let us know if you need anything else. Thank you

Chrystal Bartuska
Product Filing Division Director
North Dakota Insurance Department
600 E. Boulevard Ave. | Bismarck, ND 58505
cabartuska@nd.gov | 701.328.2441 | F 701.328.4880

From: Behrens, Sara R.
Sent: Tuesday, January 31, 2017 7:02 AM
To: Bartuska, Chrystal A. <cabartuska@nd.gov>
Subject: FW: HB 1286- Insurable Interest--WRITTEN EXPLANATION ON WHAT THE AMENDMENTS DO AND WHY WE NEED THEM

From: Kasper, Jim M.
Sent: Monday, January 30, 2017 6:10 PM
To: Behrens, Sara R. <sbehrens@nd.gov>; Kasper, Jim M. <jkasper@nd.gov>
Cc: Clark, Jennifer S. <jclark@nd.gov>
Subject: RE: HB 1286- Insurable Interest--WRITTEN EXPLANATION ON WHAT THE AMENDMENTS DO AND WHY WE NEED THEM

Bello Sara:

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Renumber accordingly

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MEM

no Sara:

TESTIMONY OF MARILYN FOSS
IN FAVOR OF ENGROSSED H.B. 1286

Chairman Klein, members of the Senate IBL Committee, I am Marilyn Foss. This morning I am appearing on behalf of Ascensus Trust Company (ATC) to support Engrossed H.B. 1286. Ascensus Trust Company is a North Dakota state-chartered trust company. ATCs primary business lines are i) acting as trustee, custodian or service provider for qualified and non-qualified employee benefit plans such as 401(k) plans, 457 plans (which is a deferred compensation plan for government employees), profit sharing plans, money purchase plans and rabbi trusts and ii) administering Individual Retirement arrangements (IRAs).

Engrossed H.B. 1286 is an updates our law by adjusting and expanding the Century Code's "insurable interest" language so that it is reflective of contemporary business organizational structures, worker classifications, and workforce compensation. ATC is seeing increased interest in the use of non-qualified deferred compensation arrangements such as Rabbi Trusts. Life insurance investments are the most often used investment vehicle to fund these arrangements and a key aspect of life insurance is the critical determination that the owner of the policy has an insurable interest (essentially, a lawful financial interest or stake) in the individual who is being insured.

One issue ATC has faced with determining whether a policy owner has an insurable interest under current North Dakota law involves how to interpret terminology now used in N.D.C.C. 26.1-29-09.1. In its current form, our insurable interest law does not clearly apply to work situations where the worker isn't technically an "employee", the business paying the compensation or funding the deferred compensation arrangement isn't organized as a "corporation", and the work arrangement is something other than an employer/employee relationship..

Here is an example of a situation that gave rise to this bill. In the past, doctors were *employees* of a local hospital or clinic which probably was organized as a *corporation*. However, in the medical industry it is now common for the most highly compensated medical service providers, such as doctors, to not be employees of the hospital at all. Rather, they are now often *independent contractors*. Determination that a worker is an independent contractor, and not a W-2 employee, has significant ramifications in many areas, including life insurance law as it relates to insurable interests because while the situations specified by our insurable interest law to meet insurable interest requirements include work arrangements, the law with its specific references to corporations, employers, and employees is not clearly applicable to work arrangements that are legally independent contractor relationships or arrangements between a worker and a business has an organization form other than as a business corporation.

In today's complex tax, regulatory and compliance environment, it is common for an otherwise common and straightforward term (such as *employee*) to also have a unique definition for the purposes of a specific law or regulation, Engrossed HB 1286 updates the statutory language by adding the term "service recipient" to acknowledge an insurable interest is not necessarily defined by the legal structure of the sponsoring entity and also incorporates the term, "service provider", to accommodate changes regarding the proper classification and work status of the insured individual who is not classified by law as an "employee".

Engrossed HB 1286 also adds a new subsection to specifically establish a new insurable interest that allows insurable interest requirements for a non qualified deferred compensation plan to be met by a "service recipient" or a "trust" providing a non-qualified deferred compensation plan for a "service provider", meaning "an individual, other than an employee, who provides significant services to a service recipient", defined as "an entity for which services are performed by a service provider".

The House made several amendments. Among them is a prohibition so that no insurance policy may be obtained with the written consent of the insured individual. The House amendments were to resolve concerns about Stranger Owned Life Insurance (STOLI”).

With Engrossed HB 1286 North Dakota law will better accomplish the intent of this Legislative Assembly to provide businesses and workers with specific compensation tools as needed in today's workplace and will provide firmer ground for any entity in North Dakota that wishes to be sure it has an insurable interest as needed to provide a deferred compensation option for key workers who provide essential services to that entity. With this legislation, North Dakota businesses and key workers will no longer be uncertain about the ability to enter enforceable, life insurance funded, deferred compensation plans or and won't be placed at risk of significant financial strain by the need to hire legal to interpret statutory terminology that, really, just doesn't quite fit.

The full House gave Engrossed HB 1286 a unanimous DO PASS and that is what we are asking of you as well.

Thank you. I am happy to try to answer your questions.