

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1087

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1087
1/12/2021

Premium taxes & credits for insurance companies & the establishment of an invisible reinsurance pool for the individual health insurance market
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Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

(1:54) Chairman Lefor open the hearing: All members present.

Discussion Topics:

- Reauthorize North Dakota's Reinsurance program.
- Establish an invisible reinsurance program for ND individual health insurance marketplace.
- Removing Sunset clause.

(1:55) **Jon Godfread~ND Insurance Commissioner:** Introduced the bill & submitted testimony # 546

(2:16) **Chrystal Bartuska~Medicare Division Director:** Answers some questions from the committee.

(2:38) **Brian Ritter~Bismarck Mandan Chamber EDC (2:38):** Testified in support & testimony #527.

(2:39) **Arik Spencer~ND Chamber:** Supports this bill.

(2:39) Megan Smith~BCBS of ND: Supports this bill.

(2:40) Shane Goettle~CEO of company with 32 employees: Supports the bill.

(2:41) Rob Hanson~Corn Growers Association: Testified on Zoom in support # 597.

(4:42) Chairman Lefor closes the hearing.

(4:43) Rep Kasper moved the amendment #21.8053.01001

(2:43) Rep Hagert second.

(2:51) Voice vote-Motion carried.

(2:44) Rep Kasper: Moves a Do Pass as Amended & Rerefer to Appropriations.

(2:44) Rep Nehring: Second.

(2:47) Roll call taken.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	N
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
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	Y

Motion passed 13-1-0 & Rep D Ruby is the carrier.

Additional written testimony: # 537 in favor & # 622 & 623 in neutral.

(2:48) End time.

Ellen LeTang, Committee Clerk

January 13, 2021

JP
1/13/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1087

Page 1, line 1, replace "a" with "two"

Page 1, line 1, replace "section" with "sections"

Page 1, line 7, after the second semicolon insert "to provide a continuing appropriation;"

Page 13, after line 19, insert:

"**SECTION 13.** A new section to chapter 26.1-36.7 of the North Dakota Century Code is created and enacted as follows:

Federal funding - Administration of the association - Continuing appropriation.

Federal funding received by the association under the innovation waiver approved under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 11-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.] is appropriated to the insurance commissioner on a continuing basis for the purposes of this chapter."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1087: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1087 was placed on the Sixth order on the calendar.

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Renumber accordingly

Page 1, line 22, remove the overstrike over "~~the commissioner within four months after the filing of the annual statement~~" and insert immediately thereafter an underscored period

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1067: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1067 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1083: Education Committee (Rep. Owens, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1083 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1087: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1087 was placed on the Sixth order on the calendar.

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Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1095: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1095 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1107: Education Committee (Rep. Owens, Chairman) recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1107 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1111: Education Committee (Rep. Owens, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1111 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1114: Education Committee (Rep. Owens, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1114 was rereferred to the **Appropriations Committee**.

JOURNAL OF THE HOUSE

Sixty-seventh Legislative Assembly

* * * * *

Bismarck, January 18, 2021

The House convened at 1:00 p.m., with Speaker K. Koppelman presiding.

The prayer was offered by Major Nelson De La Vergne, Salvation Army, Bismarck.

The roll was called and all members were present except Representatives Becker and Kasper.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your **Committee on Correction and Revision of the Journal (Rep. Bellew, Chairman)** has carefully examined the Journal of the Sixth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 239, line 17, replace "14 YEAS, 0 NAYS" with "13 YEAS, 1 NAY"

REP. BELLEW MOVED that the report be adopted, which motion prevailed on a voice vote.

POINT OF PERSONAL PRIVILEGE

REP. TVEIT rose on a point of personal privilege.

REMARKS OF REPRESENTATIVE TVEIT

MR. SPEAKER: My Pastor, Alan L. Hathaway, Riverdale Community Church, shared the following thoughts. My intent is not intended to offend anyone, but rather to describe the importance of Sanctity of Human Life Sunday and Martin Luther King Day, which ironically are back to back on the calendar. These thoughts reflect who I am, who I have become, and one of the many reasons I have chosen to serve in the North Dakota House of Representatives.

Alan Hathaway stated, "In 1973 the United States Supreme Court determined that abortion was acceptable throughout gestation, up to the moment of birth, and no state could (by state law) restrict access to abortion. This view is established on the principle of right to privacy which has dubious legal standing within the Constitution of the United States. In fact, most legal scholars see Roe vs. Wade as poorly written legal precedent. Those who defend abortion on demand, now defend it as settled law which derives its authority based on longevity and acceptance by the community. Surprisingly, this was the same argument used by pro-slavery advocates who argued that while the allowance of slavery within the Constitution of the United States was inconsistent with the principles stated in the same Constitution, the longevity and acceptance of slavery indicated that it was an acceptable practice. Christianity from its beginning was opposed to abortion as was the Jewish community in which Christianity came into being. The reason Christianity challenged the Greco-Roman culture on this point was that Christians, along with the Jewish people, saw humans in every aspect as being created in the image of God. The wanton taking of human life at any stage was viewed as an offense against God's creation. Both the Old Testament and New Testament support this view. This is the reason I am pro-life."

Although Martin Luther King's involvement was well after the abolition of slavery in this country, he led the charge fighting for equal rights and justice for all. May God help us to remember as we, in the work of this assembly, strive together to respect and honor each other regardless of race, color, or party affiliations. With God as our judge, may we stand together defending today's slavery victims; the slaves of human trafficking, those with mental and physical disabilities, the elderly, the helpless, and the unborn. Their well-being is in the palm of our hands. Never shall we allow any of the above oppressions to become the acceptable law and practices in America based solely on the law of longevity of existence.

HOUSE BILL NO. 1087 TESTIMONY

Presented by: **Jon Godfread**
 Insurance Commissioner
 North Dakota Insurance Department

Before: **Industry Business and Labor Committee**
 Representative Mike Lefor, Chairman

Date: **January 12th, 2021**

Good Afternoon Chairman Lefor and members of the House IBL committee. I am Jon Godfread, North Dakota Insurance Commissioner.

House Bill 1087 is seeking to reauthorize North Dakota's Reinsurance program. This program was established last session and created an invisible reinsurance program for North Dakota's individual health insurance marketplace. The approach of invisible reinsurance allows enrollees to remain in the individual market with their current plan and carrier, while a portion of their claims are reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid by the reinsurance pool meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee. Last session, the

66th Legislative Assembly approved this program for plan years 2020 and 2021. This program was approved with overwhelming support, with only one legislator vote against this program. At the time, the Legislature put a sunset on the program, effectively ending the program at the end of 2021. House Bill 1087 seeks to remove that sunset and continue this program into the plan years for 2022, 2023 and beyond.

As a reminder, for plan years 2020 and 2021, the reinsurance program will cover 75% of claims between \$100,000 and \$1,000,000. The enrollee's health insurer will cover the remaining 25%. We have realized **rate reductions from this program of 20%** for the individual market for the 2020 plan year. Due to the events surrounding 2020 and the lack of utilization, we have been able to also keep rates even (still reflecting those 20% reductions) for individual health insurance plans in 2021. These reductions have been especially helpful for North Dakota's farmers, ranchers, and small business owners as these individuals generally cannot access small and large group health insurance markets and are therefore required to purchase their health insurance on the much more costly individual market.

When we established program, we worked with an actuarial firm, NovaRest, who estimated the reinsurance program's cost. NovaRest estimated the federal government will be funding more than half of the amount with the money this reinsurance program will save the federal

government. This money is known as “federal pass through” money. The federal government made the formulas they use to calculate the federal funding amount available to the public, and NovaRest used these formulas in calculating the cost. The federal government has informed us they will provide us with their official funding amount in early April with a preliminary estimate in January.

In 2020, we received \$21,488,350 of federal pass through dollars and we assessed the carriers a total of \$21,988,170 from July 1, 2019 through June 30, 2020. We have since paused the assessments on the carriers, a point I will cover in more detail in a moment.

For 2021, we are projecting similar numbers with regards to the federal pass through dollars, and as we have paused the assessments, we are currently projecting with our current reserves in the RAND program that we will not need to assess our carriers for 2021. We expect to receive preliminary numbers from the federal government any day now, but as of today we have not received the preliminary numbers.

After deducting the federal funding amount, this leaves \$24,566,249 for North Dakota to fund in 2022 and \$25,966,525 for 2023. You may recall that in order to raise the state’s share of the funding, the Insurance Commissioner has authority to assess North Dakota’s health insurance companies based on the amount of their small and large group business

in the state. This program has also allowed the insurance companies to deduct the amount of money they are assessed from the premium taxes they owe to the state, which will result in future reduced revenues for the state. To date the carriers have taken \$16,976,918 in premium tax credits of the total \$21,988,170 that was assessed during the '19-'21 biennium.

Realizing this, the Insurance Department attached a Fiscal Note to House Bill 1087. The fiscal note reflects \$33,754,507 reduced revenues for the '21-'23 biennium and reduced revenues of \$48,594,447 for the '23-'25 biennium. The increase for the '23-'25 biennium is due to the state's fiscal year starting on July 1 while the plan year for a health insurance policy typically begins on January 1.

It is important to note that this fiscal note reflects the projections completed by our actuary firm. For the 2021 plan year we do not anticipate the need to conduct assessments. This is a result of the 2020 plan year, and the reduced utilization we saw. Our actual numbers for 2020 are still pending, but the number of claims actually ceded to the reinsurance program were well below our projections. Based on the preliminary claims numbers we have received to date from our carriers, the 2020 federal pass through dollars we received will likely cover the entire amount due for the 2020 plan year leaving RAND with a reserve balance of approximately \$22,000,000. Given that reserve balance along

with the additional federal pass through dollars we anticipate receiving in 2021, we are confident we can pause the assessments to our carriers through 2021. This would reduce our assessments for both this current biennium and the '21-'23 biennium. The fiscal note you have in front of you is a worst-case scenario.

House Bill 1087 as proposed also asks for some changes I would like to point out:

1. Section 3 of the bill on 8, lines 13 -15, requests the authority to develop an amendment to our existing 1332 waiver. I will cover that in more detail later, but this is where we would ask for the authority to go back and amend our existing waiver.
2. Section 7 of the bill on page 11, lines 3-4; would clarify that an insurer writing less than \$100,000 annually in group health benefits plan premiums is exempt from assessments. This amount is modeled after CHAND as assessing carriers that write less than \$100,000 creates unnecessary additional work for both the Department and the carrier do the immateriality of the assessment.
3. Section 12 of the bill, on page 13 lines 16-19 would provide authorization for the Reinsurance Association of North Dakota to use the federal pass through dollars to procure third party reinsurance for the associations portion of eligible claims. We conducted an analysis

of procuring third party reinsurance as a part of our larger health care cost study.

Third Party Reinsurance Program:

To supplement the cost-saving efforts of the 1332 waiver program, we have proposed evaluating purchasing private reinsurance to further reduce costs for individual taxpayers participating in the State's healthcare marketplace. Private reinsurance can assist in driving down/stabilizing rates and preventing spikes while providing consistency for taxpayers/users. For example, Aon, a private reinsurer, has proposed such a system, which is shown in Appendix A.

Using reinsurance to transfer the budgetary/program volatility, creates immediate opportunities for the State of North Dakota including:

- Transferring volatility away from the existing RAND program into the private market
- Reducing the future "known, unknowns", thereby allowing greater funding flexibility with the safety and security of knowing that protection is in place in the event of a higher-than-normal claims year
- Providing stability in rates from payers as a pre-arranged amount of funding is known

- Predictable cash flows for insurers and the state as there is no need, once coverage is purchased, to adjust the reimbursement levels to carriers based on higher-than-expected claim numbers and amounts
- Adjudication and claims processing is handled by the reinsurer, removing some of the operations of running the program in house

In addition, given the current Covid-19 health crisis there is likely to be further pressure on the individual health market. According to a recent Kaiser Family Foundation report, “It is likely that the most significant impacts of the coronavirus outbreak and economic crisis on the individual market will not be evident nationally until data from the second and third quarters of 2020 become available.” These solutions can help mitigate impacts stemming from the global pandemic. I have attached more information to my testimony going through the analysis we have completed on this program.

4. Section 14 of the bill, on page 13 lines 25-31, we are asking for \$200,000 of the RAND reserves to study the possibility of combining the individual health insurance marketplace with the small group health insurance marketplace. We believe there may be value in combining those markets for North Dakota, and in doing so, our small group market would be able to receive the benefits of the reinsurance

program, which should reduce rates for our small employers who purchase coverage through the small group market.

We also would like to introduce an amendment to House Bill 1087 related to the federal pass through funding received under our approved 1332 waiver. During 2020 an oversight was discovered regarding the ability to spend said federal pass through funding. This oversight was not noted during the legislative process or by OMB. This resulted in the Department seeking approval from the Emergency Commission in order to spend the 2020 federal pass through funding. This was approved unanimously by the Emergency Commission at its June 30, 2020 meeting. The proposed amendment seeks to make any federal funding received under our approved 1332 waiver a continuing appropriation. We are asking for this continuing appropriation for a few reasons. First, the amount of federal funding received is not static. It can and will change every year based on the number of individuals insured in the individual market. As this number changes each year, we are unable to ask for a known number and in the case of requesting less than gets awarded it would necessitate the Department having to go to the Emergency Commission potentially on a yearly basis. Second, if our request comes in higher than awarded our budget is therefore inflated. These dollars are truly a pass through and can only be used to administer RAND. Any federal dollars not spent are rolled over to the next calendar

year. We believe having this continuing appropriation is reasonable and will help cut down on administrative burdens to both this body and the Department.

As you can see this program has been successful, it has had a significant impact on North Dakotans who purchase their health insurance through the individual marketplace, and with the changes we are proposing, we believe we can continue this program and expand the benefits to the small group marketplace.

For these reasons, I would encourage a favorable recommendation for House Bill 1087, and I am happy to attempt to answer any questions you may have.

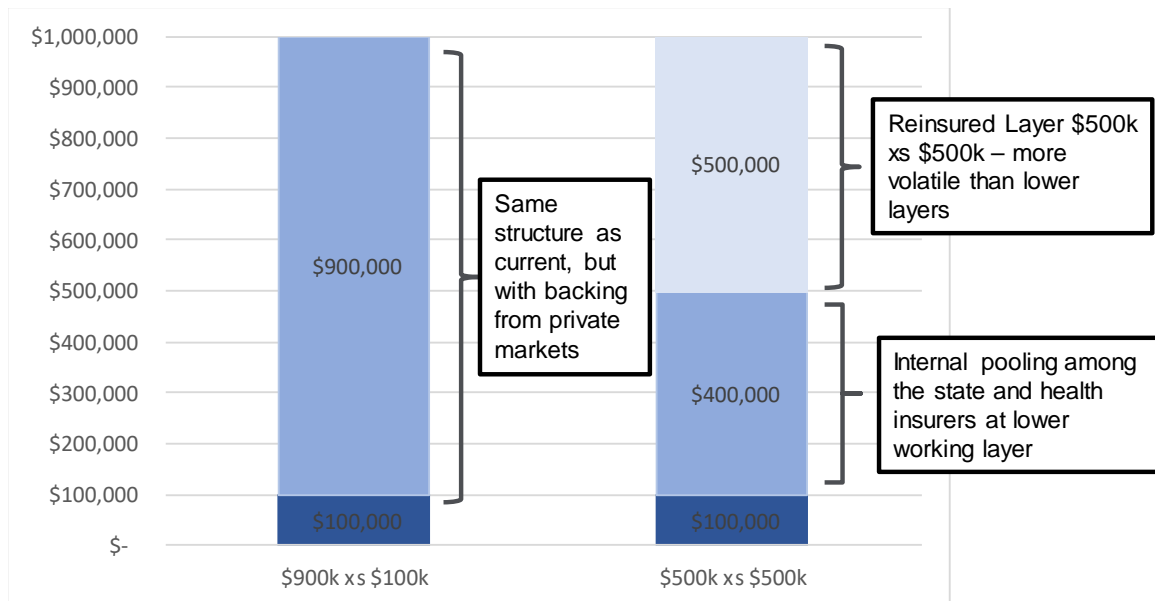
Third-Party Reinsurance – Appendix A:

In conjunction with our health care cost study, we also looked at potential solutions around layering of a private third-party reinsurance program for our existing reinsurance program. HB 1087 would authorize us to further develop and study this idea and with positive results implement the program.

When considering the existing Reinsurance Association of North Dakota (RAND) program, there are two main structural options to consider.

Excess of Loss

- Provides recoveries after a pre-determined amount of loss
- Smooths results in excess of pre-determined attachment point



Aggregate Stop Loss

- Provides recoveries after a pre-determined amount of loss in a defined/determined time period
- Coverage ensures the aggregation of numerous claims do not drain the financial reserves of the risk-bearer/entity



How much would this cost?

We modeled various scenarios using stochastic and deterministic models, we also used market data to derive pricing.

Using available data collected for the initial 1332 Waiver Process to illustrate a few structural and pricing options that would make sense given the current RAND structure. In evaluating solutions for North Dakota our overarching motivation is to maximize coverage, deliver fast payment, and provide clear benefit to the users of the RAND program.

Projected claims costs were derived from North Dakota's 2017 year. In order to secure pricing from the reinsurance markets, typically 3-5 years of data is required, however we believe this 12-month snapshot provides enough information to draw preliminary conclusions.

Pricing is provided on a 100% experience basis, and blended with national market data to provide more credibility to the block of business. It is illustrated on a per member per month basis.

Our analysis is based on following general market underwriting methodologies used across the reinsurance industry to develop a likely premium. Since North Dakota would be transferring the volatility to the market, the amount of money allocated to reinsurance claims in one particular year does not have to be as conservative as what may be traditionally allocated to a self-funded plan. Because RAND is a newly formed self-insured reinsurance program, it is not surprising that additional conservatism was included in the preliminary (NovaRest) actuarial analysis.

Claims Projections:

	75% Coinsurance	
Source	\$900k xs \$100k	\$500k xs \$500k
Nova Rest	\$106.68	
Market	\$67.27	\$8.18
Aon - Deterministic	\$58.53	\$4.38
Aon - Stochastic	\$58.82	\$4.65

Pricing Options:

*XOL Pricing by layer	Premium
1. \$900k xs \$100k	\$70.58
2. \$500k xs \$500k	\$5.58
*Agg Pricing	
1. 110% of expected	\$27.64
2. 120% of expected	\$20.61
3. 130% of expected	\$14.58

Key Takeaways:

- Based on the 2017 claims year costs there are indications that meaningful cost savings can be achieved by a private reinsurance purchase

- Claims costs can be shifted to the private market for less dollars than they are being funded for in the existing program, leaving additional funding to further stabilize rates and pay for the private purchase
- We can transfer claims to the private market for .65-.85 cents on the dollar (this is based on only one claims year and we would need 3-5 years to fully validate this with third party capital)
- The structures presented would provide more program certainty to payers allowing for greater flexibility in rate pricing
- While the premium payments for the State of North Dakota may be higher than the claims cost in some years, high claims years will counterbalance the years where the state ends in a negative net position
- As an example, 1 in 20 years the reinsurer is projected to lose \$20.57 per member per month, paying \$1.30 to the state for every \$1 the state pays in premium

Return Period (1 in X years)	Losses (PMPM)	Reinsurer Position (PMPM)
Average	\$58.82	\$11.76
5	\$72.34	-\$1.76
20	\$91.14	-\$20.57
40	\$99.22	-\$28.64

Considerations for Next Steps:

In order to procure formal pricing from the market, additional information is needed.

Reinsurance Parameters	Key Considerations
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Data Required (last 3-5 years)	<ul style="list-style-type: none"> - Membership Data - Claims Triangles - Large Claim Loss Data - Plan Design Changes (Historical and Proposed)
Attachment Point	<ul style="list-style-type: none"> - Attachment points can allow for any corridor, both overlapping what is being offered or just covering a piece - To reduce total cost coinsurance can be included which will reduce the reimbursement by a percentage for each claim
How Much “Limit” to Purchase	<ul style="list-style-type: none"> - Often relatively small incremental premium to purchase higher limit - Markets will cap the limit they offer based on their risk tolerance
Contractual Considerations	<ul style="list-style-type: none"> - If the State of North Dakota does not cede the entire \$900k xs \$100k layer to the reinsurance market, arrangements will be needed to administer the pooling layer - Additional analysis will be required to confidently opine on the contractual structure between the State of North Dakota reinsurance program and the reinsurers

Who would provide this backstop?

Reinsurance companies are the providers of this protection and have been active participants in the health market for several years.

There is a significant market appetite for health exposure. There are several highly rated counterparties that will be interested in an excess of loss or aggregate structure as these are the main vehicles used to transfer volatility in the space.

While the amount of data available is limited there are indications that meaningful cost savings can be achieved by RAND purchasing third-party reinsurance from the private market. As with any reinsurance contract there are years when the cost of the third-party reinsurance contract may be higher than the claims costs, however, high claims costs years will counter-balance this. By shifting claims costs from RAND to the private market this will potentially lead to a reduction in RAND funding needs from the state while providing stability to the health insurance market in North Dakota.

Reinsurance is used globally by insurers both large and small. As noted above, reinsurance can provide stability and consistency to the ceding entity by smoothing out the peaks and valleys that can and inevitably do occur. The health insurance world is not immune from these peaks and valleys as we have seen during 2020 and RAND has helped. By exploring the option of third-party reinsurance RAND too can take advantage of this stability and consistency in its results.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1087

Page 14, after line 1, insert

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Federal funding – Administration of the association – Continuing appropriation

Annually, the association will be awarded federal funding through its innovation waiver approved under section 1332 of the federal Patient Protection and Affordable Care Act [Pub. L. 11-148; 119 Stat. 124; 42 U.S.C. 1801 et seq.]. Federal funding received under this waiver is appropriated to the insurance commissioner on a continuing basis for the purpose of this chapter.”

Renumber accordingly



House Industry Business & Labor Committee – HB 1087

Representative Mike Lefor, Chair

January 12, 2021

Chairman Lefor, Members of the Committee:

My name is Brian Ritter and I'm President of the Bismarck Mandan Chamber EDC. I am here today on behalf of our organization's approximately 1,200 members in support of HB 1087.

We support this bill and the North Dakota Reinsurance program because it's been proven beneficial to our small businesses, which comprise 56% of all Chamber EDC Members. For example, as Commissioner Godfreed has stated, the program realized 20% rate reductions for the individual market in 2020. That's important to our community's small business owners as they frequently cannot access small or large group health insurance markets which then forces them to purchase their health insurance on the individual market, which can be more expensive.

In addition, Section 14 of the bill requests \$200,000 of reserves to study the possibility of combining the individual health insurance marketplace with the small group health insurance marketplace. There may be value in combining those markets as doing so would allow the small group market would be able to receive the benefits of the reinsurance program. That in turn could reduce rates for our small employers who purchase coverage through the small group market.

Thank you for the opportunity to testify today. If there are any questions from the Committee, I would be happy to attempt to address them.



Testimony of Rob Hanson
On behalf of the North Dakota Corn Growers Association
January 12, 2021
In Support of House Bill 1087

Chairman Lefor and members of the House Industry, Business and Labor Committee,

My name is Rob Hanson. I am the President of the North Dakota Corn Growers Association and a farmer and property owner from Wimbledon, ND.

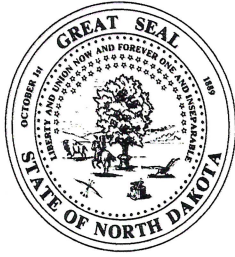
The North Dakota Corn Growers Association appreciates the opportunity to voice our members' support of HB 1087, making the invisible reinsurance pool for the individual health insurance market a permanent fixture in the state. This bill establishes a reinsurance mechanism that essentially functions as "insurance for insurance companies." The pool provides reinsurance for high level health insurance claims on individual health policies. We believe the reinsurance program helped reduce premiums by approximately 20% compared to the baseline premium (without the waiver). In this program, enrollees can remain in the individual market with their current plan and carrier.

Healthcare costs continue to escalate, with double-digit premium increases for many North Dakotans. We believe These individual policy holders have seen some stabilization of premium increases because of this program you approved in 2019, significantly benefitting our state's farmers and small businesses that have individual and family insurance policies, and we thank you for your foresight.

The policies proposed in HB 1087 greatly aid the citizens of North Dakota and help to keep the cost of living in our state manageable, another incentive for our young people to stay in the state. We ask you to support HB 1087. Thanks for your time today and I welcome your questions.

Testimony for 1087

Chairman Lefor and committee, my name is Phil Murphy and I represent the ND Soybean Growers in governmental affairs. Simply put, I encourage you to support this bill because of the savings that it was able to generate for individuals in the past two years and the promise it holds to deliver that once again to our farmers and others. Besides, who wants to argue with our Insurance Commissioner? Thank you all for your service to our state. Sincerely, Phil Murphy



North Dakota Insurance Department

Jon Godfread, Commissioner

Oct. 21, 2020

FOR IMMEDIATE RELEASE

Contact: Ashley Kelsch
amkelsch@nd.gov

Godfread Announces Approved 2021 Health Insurance Rates

BISMARCK, N.D. – Insurance Commissioner Jon Godfread today released the approved health insurance rates for both individual and small group plans for 2021, and encourages consumers to start early, stay informed and shop around.

“2020 has been a year unlike any in recent memory. Amid a global pandemic, the Insurance Department recognizes the importance of affordable, comprehensive and accessible health insurance,” Godfread said. “A vast majority of North Dakotans should see little to no change in the health insurance premiums they are paying from this year to next year. During these uncertain times, we felt it was important to give as much consistency to our consumers as possible, especially when it comes to health insurance.”

The 2021 rates still consider the 20% reduction from last year due to the passage of the state-based reinsurance program. Many of the rate adjustments were made to account for the subsidies that are paid for by the federal government to those individuals who qualify for an income based advanced premium tax credit. Those consumers who do not receive a subsidy should see minimal changes to their premiums.

Three major carriers for the individual market are operating statewide on the exchange (HealthCare.gov) and off-exchange (through a licensed and appointed agent), along with four major carriers for the small group market.

-MORE-

The 2021 rates are outlined below:

2021 Individual Market						
Company Name	Requested Rate Increase			Approved Rate Increase		
	Average	Maximum	Minimum	Average	Maximum	Minimum
Blue Cross Blue Shield of North Dakota *	4.42%	9.00%	1.90%	0.63%	5.40%	0.00%
Sanford Health Plan **	20.33%	31.32%	-11.87%	14.28%	31.32%	-11.87%
Medica Health Plan ***	13.16%	16.34%	0.00%	0.90%	1.94%	-0.01%

*Approved increase on CSR's (affects on exchange only)

**Approved full silver (on exchange) increase and 7% on ALL gold plans

***Approved increase on CSR's (affects on exchange only)

2021 Small Group Market						
Company Name	Requested Rate Increase			Approved Rate Increase		
	Average	Maximum	Minimum	Average	Maximum	Minimum
Blue Cross Blue Shield of North Dakota	4.20%	5.00%	3.60%	0.00%	0.00%	0.00%
Sanford Health Plan	2.85%	4.24%	1.55%	0.00%	0.00%	0.00%
United Health Care	7.91%	14.31%	4.77%	7.91%	14.31%	4.77%
Medica Insurance Company*	1.45%	7.80%	-5.30%	0.16%	2.27%	-3.18%

*Modest increases due to benefit changes

The state-based reinsurance program developed by the North Dakota Insurance Department for the individual health insurance market was approved by the federal government in July 2019 and was put into place for the 2020 and 2021 health insurance plan year. The program created a reinsurance mechanism known as “invisible” reinsurance. The approach of invisible reinsurance allows enrollees to remain in the individual market with their current plan and carrier while a portion of their claims are reimbursed by the reinsurance pool. Although various carriers process claims differently, the beauty of the reinsurance program is that enrollees are not aware of administrative changes. This program will be up for reauthorization with the Legislature during the 2021 Legislative Session.

According to the Kaiser Family Foundation, in 2018, most North Dakotans accessed health insurance in one of three ways:

- **Employer-sponsored Health Insurance** – 57% participated in a group health insurance plan offered by their employer. This includes employees of large and small private companies, federal, state and local government employees and active military.
- **Public Health Care Programs** – 27% received healthcare benefits through Medicare and Medicaid.

-MORE-

- **Individually Purchased** – 8% purchased health insurance on their own through the marketplace or an agent.
- **Uninsured** – 8% remained uninsured.

Within each method, there are important developments and information consumers should keep in mind as the Open Enrollment Period begins:

Employer-sponsored Health Insurance

- If already covered by an employer-sponsored plan, consumers should pay close attention to enrollment options this year. Premiums and coverage limits may have changed.
- If an individual has recently changed jobs or plans to change employment, they may be subject to a probationary period, up to 90 days, during which they are ineligible for group coverage.
- If coverage from a previous employer is lost, an individual typically has 60 days to enroll in private individual insurance on an exchange through a Special Enrollment Period.
- Consumers are encouraged to contact their employer with questions about their Health Savings Account or Flexible Spending Account, or if they have questions about enrolling in either.

Public Health Care Programs

- Medicare and Medicaid are government programs that help pay for health care. However, benefits, costs and eligibility requirements differ:
 - Medicare is a federally funded program available to most U.S. citizens and permanent legal residents age 65 or older who have lived continuously in the country for at least five years. People younger than 65 may also be eligible for Medicare if they are disabled, suffer from kidney failure or ALS (Lou Gehrig's disease).
 - In contrast, Medicaid is jointly funded by federal and state governments. Eligibility is means-based, and the program has strict income requirements that vary from state to state.
- Open enrollment for Medicare Advantage and Medicare Prescription Drug coverage (Part D) takes place from Oct. 15 through Dec. 7, 2020. If an individual misses the deadline and did not experience a qualifying event, they can still apply during general enrollment (Jan. 1 through March 31 of each year), though they will have to pay a premium penalty.
- High-income earners (more than \$85,000 single filing tax return or \$170,000 for joint filing tax return) may see increases in 2020 Medicare Part B premiums. Enrollees should contact Medicare for an estimate and plan accordingly.
- Medicaid enrollees should pay attention to possible changes to eligibility and coverage options.

-MORE-

Individually Purchased Health Insurance

- The 2021 Open Enrollment Period will run Nov. 1 through Dec. 15, 2020. Coverage begins Jan. 1, 2021. Consumers can begin researching their options at any time.
- Those who currently have coverage through the exchange and do not choose a plan for 2021 will be re-enrolled in the same or a similar plan. Consumers should take notice that this re-enrollment could result in higher costs to the consumer.
- There are two ways to purchase individual insurance, either through the federally run health care exchange on HealthCare.gov or via a licensed insurance agent. A licensed insurance agent can help you with both methods, but if you qualify for an individual subsidy, you must purchase your insurance through the federally run health care exchange to receive a subsidy. A qualification calculator is available at healthcare.gov/lower-costs/qualifying-for-lower-costs/.

Most North Dakotans are covered by health insurance plans offered through employers that self-insure, participate in “grandfathered” plans purchased before March 2010 or receive benefits from government plans (such as Medicaid, Medicare, Tricare or federal employee plans). Today’s announcement will not affect the rates for these consumers.

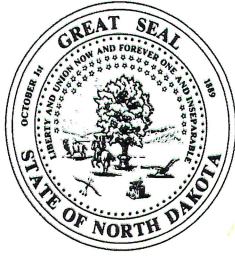
As the 2021 Open Enrollment Period begins on Nov. 1, many North Dakotans must soon make critical decisions about their health insurance amid a barrage of news and opinions regarding health care. To help consumers choose the right coverage for themselves and their families, the Insurance Department recommends consumers:

1. **Start early.** With more information gathered, smarter decisions can be made.
2. **Stay well-informed.** The health insurance landscape is evolving rapidly. What is true today may be outdated tomorrow.
3. **Shop around.** What made sense this year may not be the best solution next year, particularly if an employment situation has changed. Take time to shop around and compare prices and plan benefits amongst different insurance companies.

For more information, visit insurance.nd.gov or contact the Insurance Department at (701) 328-2440.

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It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provides consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.



North Dakota Insurance Department

Jon Godfread, Commissioner

Oct. 1, 2019

FOR IMMEDIATE RELEASE

Contact: Ashley Kelsch
(701) 328-2684
amkelsch@nd.gov

Godfread Announces Decrease of 20 Percent on Average in Individual Health Insurance Rates with Reinsurance Program

BISMARCK, N.D. – Insurance Commissioner Jon Godfread today released the approved health insurance rates for both individual and small group plans for 2020. Godfread approved the 2020 rates which average up to 20% in savings for North Dakotans purchasing an individual health insurance plan due to the implementation of the state-based reinsurance program.

“With the investment made by our state legislature and the approval of our reinsurance program, I am happy to announce a 20 percent decrease in rates on the individual market. The reinsurance program we proposed, which was supported by the Legislature, provides some much-needed relief to our farmers, ranchers and small business owners,” Godfread said. “While we await further reform from Congress, I am pleased that we took steps at the state level to provide this relief. I encourage consumers who purchase their own health insurance to talk with an agent and shop our competitive market.”

The state-based reinsurance program developed by the North Dakota Insurance Department for the individual health insurance market was approved by the federal government in July and will be in place for the 2020 health insurance plan year. The program creates a reinsurance mechanism known as “invisible” reinsurance. The approach of invisible reinsurance allows enrollees to remain in the individual market with their current plan and carrier while a portion of their claims are reimbursed by the reinsurance pool. Although various carriers process claims differently, the beauty of the reinsurance program is that enrollees are not aware of administrative changes. This means that enrollees will receive payment on their claims as usual while enjoying a rate reduction. Ultimately, the only difference the consumer should notice is a decrease in their premium.

-MORE-

Three major carriers for the individual market are operating statewide on the exchange (HealthCare.gov) and off-exchange (through a licensed and appointed agent), along with four major carriers for the small group market. The 2020 rates are outlined below:

2020 Individual Market							
Company Name	Requested Rate Increase Without Reinsurance			Approved Rate Increase With Reinsurance			Difference in Average
	Average	Maximum	Minimum	Average	Maximum	Minimum	
Blue Cross Blue Shield of North Dakota	18.30%	25.90%	14.80%	-1.70%	4.60%	-4.60%	-20.00%
Sanford Health Plan	7.01%	12.37%	-3.70%	-14.39%	-10.11%	-22.39%	-21.40%
Medica Health Plan	3.86%	4.06%	3.55%	-16.98%	-16.82%	-17.23%	-20.84%

2020 Small Group Market						
Company Name	Requested Rate Increase			Approved Rate Increase		
	Average	Maximum	Minimum	Average	Maximum	Minimum
Blue Cross Blue Shield of North Dakota	10.20%	10.90%	6.70%	7.60%	8.30%	4.20%
Sanford Health Plan	10.16%	13.25%	4.77%	10.16%	13.25%	4.77%
United Health Care	6.74%	10.67%	3.90%	6.74%	10.67%	3.90%
Medica Insurance Company	3.08%	4.90%	-2.00%	3.08%	4.90%	-2.00%

According to the Kaiser Family Foundation, in 2017, most North Dakotans accessed health insurance in one of three ways:

- **Employer-sponsored Health Insurance** – 58% participated in a group health insurance plan offered by their employer. This includes employees of large and small private companies, federal, state and local government employees and active military.
- **Public Health Care Programs** – 26% received healthcare benefits through Medicare and Medicaid.
- **Individually Purchased** – 9% purchased health insurance on their own through the marketplace or an agent.
- **Uninsured** – 8% remained uninsured.

-MORE-

Within each method, there are important developments and information consumers should keep in mind as the Open Enrollment Period begins:

Employer-sponsored Health Insurance

- If already covered by an employer-sponsored plan, consumers should pay close attention to enrollment options this year. Premiums and coverage limits may have changed.
- If an individual has recently changed jobs or plans to change employment, they may be subject to a probationary period, up to 90 days, during which they are ineligible for group coverage.
- If coverage from a previous employer is lost, an individual typically has 60 days to enroll in private individual insurance on an exchange through a Special Enrollment Period.
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Most of North Dakotans are covered by health insurance plans offered through employers that self-insure, participate in “grandfathered” plans purchased before March 2010 or receive benefits from government plans (such as Medicaid, Medicare, Tricare or federal employee plans). Today’s announcement will not affect the rates for these consumers.

As the 2020 Open Enrollment Period begins on Nov. 1, many North Dakotans must soon make critical decisions about their 2020 health insurance amid a barrage of news and opinions regarding health care. To help consumers choose the right coverage for themselves and their families, the Department recommends consumers:

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2. **Stay well-informed.** The health insurance landscape is evolving rapidly. What is true today may be outdated tomorrow.
3. **Shop around.** What made sense this year may not be the best solution next year, particularly if an employment situation has changed. Take time to shop around and compare prices and plan benefits amongst different insurance companies.

For more information, contact the Department at (701) 328-2440 or visit www.nd.gov/ndins.

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It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provides consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.

2021 HOUSE APPROPRIATIONS

HB 1087

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1087
2/5/2021

Relating to premium taxes and credits for insurance companies and the establishment of an invisible reinsurance pool for the individual health insurance market; to provide for a study

8:30 Chairman Delzer called the meeting to order for HB 1087

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	A
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigessaa	P

Discussion Topics:

- Reinsurance Plan
- 20% Decrease of premiums for participants

8:32 Representative Lefor- Introduces the bill and testifies in favor of HB 1087

8:40 Representative Jon O. Nelson- Motion for a Do Pass

Representative Kempenich- Second the motion

8:42 Discussion on the motion
Roll call vote was taken;

Representatives	Vote
Representative Jeff Delzer	N
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	N
Representative Tracy Boe	Y
Representative Mike Brandenburg	Y
Representative Michael Howe	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	N
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	Y

Motion Carries 16-4-1 Representative D. Ruby will carry the bill

Additional written testimony: No additional written testimony

8:43 Chairman Delzer Closed the hearing for HB 1087

Risa Berube,

House Appropriations Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1087, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO PASS** (16 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1087 was placed on the Eleventh order on the calendar.

2021 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1087

2021 SENATE STANDING COMMITTEE MINUTES

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

HB 1087
3/3/2021

relating to premium taxes and credits for insurance companies and the establishment of an invisible reinsurance pool for the individual health insurance market

Chair Klein opened the hearing at 2:30 pm. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Reauthorizing ND reinsurance program
- Cost projections
- Federal pass-through funding
- Third party reinsurance program

Jon Godfread, Commissioner, ND Insurance Department – introduced the bill and testified in favor #7252, 7253, 7254 [14:30].

Chairman Klein closed the hearing at 2:56 pm. Attendees were discovered in the hallway who wished to testify. They missed the invited to testify due to the delay in the video.

Chairman Klein reopened the hearing at 2:59 pm.

Arik Spencer, President and CEO Greater ND Chamber of Commerce, testified in favor #7206 [14:57].

Shane Goettle, NFIB, testified in favor [14:59].

Megan Houn, Blue Cross Blue Shield of ND, testified in favor [15:00].

Senator Vedaa moved to DP and re-refer to appropriations [15:03].

Senator Kreun seconded the motion [15:03].

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

[15:03].

Motion passed: 6-0-0

Senator Vedaa will carry the bill [15:04].

Additional written testimony: 7189, 7181, and 7077.

Chair Klein closed the hearing at 3:02 pm.

Isabella Grotberg, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1087, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1087 was rereferred to the Appropriations Committee.

ENGROSSED HOUSE BILL NO. 1087 TESTIMONY

Presented by: **Jon Godfread**
 Insurance Commissioner
 North Dakota Insurance Department

Before: **Industry Business and Labor Committee**
 Senator Jerry Klein, Chairman

Date: **March 3rd, 2021**

Good Afternoon Chairman Klein and members of the Senate IBL committee. I am Jon Godfread, North Dakota Insurance Commissioner.

Engrossed House Bill 1087 is seeking to reauthorize North Dakota's Reinsurance program. This program was established last session and created an invisible reinsurance program for North Dakota's individual health insurance marketplace. The approach of invisible reinsurance allows enrollees to remain in the individual market with their current plan and carrier, while a portion of their claims are reimbursed by the reinsurance pool. The enrollee is not aware that their claim is being paid by the reinsurance pool meaning there is no effect on the enrollee as the task of ceding claims to the reinsurance pool is completed on the back end of the process and is without consequence to the enrollee. Last session, the 66th Legislative Assembly approved this program for plan

years 2020 and 2021. This program was approved with overwhelming support, with only one legislator voting against this program. At the time, the Legislature put a sunset on the program, effectively ending the program at the end of 2021. Engrossed House Bill 1087 seeks to remove that sunset and continue this program into the plan years for 2022, 2023 and beyond.

As a reminder, for plan years 2020 and 2021, the reinsurance program will cover 75% of claims between \$100,000 and \$1,000,000. The enrollee's health insurer will cover the remaining 25%. We have realized **rate reductions from this program of 20%** for the individual market for the 2020 plan year. This resulted in approximately \$43M of savings to North Dakota consumers.

Due to the events surrounding 2020 and the lack of utilization, we have been able to also keep rates even (still reflecting those 20% reductions) for individual health insurance plans in 2021. These reductions have been especially helpful for North Dakota's farmers, ranchers, and small business owners as these individuals generally cannot access small and large group health insurance markets and are therefore required to purchase their health insurance on the much more costly individual market.

When we established program, we worked with an actuarial firm, NovaRest, who estimated the reinsurance program's cost. NovaRest

estimated the federal government will be funding more than half of the amount with the money this reinsurance program will save the federal government. This money is known as “federal pass through” money. The federal government made the formulas they use to calculate the federal funding amount available to the public, and NovaRest used these formulas in calculating the cost. Typically, we get our preliminary federal pass through estimate in January with the official number coming in April. I am happy to report that as of last week, we were informed by the federal government that our federal pass through dollars for 2021 are projected at \$14,683,761.

In 2020, we received \$21,488,350 of federal pass through dollars and we assessed the carriers a total of \$21,988,170 from July 1, 2019 through June 30, 2020. We have since paused the assessments on the carriers, a point I will cover in more detail in a moment.

For 2021, we are projecting the pass-through funding from the Federal Government to be \$14,683,761, and the projected claims for 2021 to be approximately \$26,000,000. Meaning the state share of the reinsurance program for 2021 is estimated at \$11,316,239. With these projections along with the reduced claims we saw in 2020 we have paused the assessments and are currently projecting with our current reserves in the RAND program that we will not need to assess our carriers for 2021.

After consultation with the CMS and the Federal Government as well as our contracted actuary, we have determined that the numbers that were projected for RAND were inaccurate. Some of this was a result of a new federal formula which has now been shared with the states, some of this is due to COVID, but the bulk of it is due to now having experience in this area and a better of understanding of the program. Essentially our projections were too high. An example, for 2021, our original projections for the full cost of the program was \$50M, approximately \$25M from federal pass through and \$25M from state funds. Given our new projections, the cost of the program is \$26M, \$14.7M from the federal pass through and \$11.3M from state funds.

Our projections were high as we did not want to risk underfunding a new program, but this illustrates the difficulties in projecting the costs going forward into the 2022 and 2023 plan years. We are continuing to work on the fiscal note to this bill, as currently it dramatically overstates our actual experience with the reinsurance program in 2020.

As you may remember in order to raise the state share of the program funding we assess the insurance companies doing business in our state and they in turn are allowed to deduct the amount of money they are assessed from the premium taxes they owe to the state, which will result in future reduced revenues for the state. To date the carriers have taken

\$16,976,918 in premium tax credits of the total \$21,988,170 that was assessed during the '19-'21 biennium.

The fiscal note reflects the reduction in premium tax revenue due to the ability of the carriers to take a tax credit on any assessments to fund RAND, the expenditure of \$21,500,000 (which should now be changed to \$14,683,761) covers the federal pass dollars through received under the waiver, and an appropriation of \$200,000 out of the funds already in RAND to cover the cost of a study regarding private reinsurance.

For the 2021 plan year we do not anticipate the need to conduct assessments. This is a result of the 2020 plan year, and the reduced utilization we saw. Our actual numbers for 2020 are still pending, but the number of claims actually ceded to the reinsurance program were well below our projections. Based on the preliminary claims numbers we have received to date from our carriers, the 2020 federal pass through dollars we received will likely cover the entire amount due for the 2020 plan year leaving RAND with a reserve balance of approximately \$22,000,000. Given that reserve balance along with the additional federal pass through dollars we anticipate receiving in 2021, we are confident we can pause the assessments to our carriers through 2021. This would reduce our assessments for both this current biennium and the '21-'23 biennium. The fiscal note currently attached to this bill is an

overestimated worst-case scenario. We have prepared a new fiscal note which accounts for the expected reduction in reinsurance payable in 2021. This new note shows an estimated reduction in general fund dollars of \$17,547,170 in the '21-'23 biennium and \$27,346,309 for the '23-'25 biennium, but in the end the estimates for the next biennium will be just that, an estimate. The increase for the '23-'25 biennium is due to the state's fiscal year starting on July 1 while the plan year for a health insurance policy typically begins on January 1.

House Bill 1087 as proposed also asks for some changes I would like to point out:

1. Section 3 of the bill on page 8, lines 13 -15, requests the authority to develop an amendment to our existing 1332 waiver. I will cover that in more detail later, but this is where we would ask for the authority to go back and amend our existing waiver.
2. Section 7 of the bill on page 11, lines 3-4; would clarify that an insurer writing less than \$100,000 annually in group health benefits plan premiums is exempt from assessments. This amount is modeled after CHAND as assessing carriers that write less than \$100,000 creates unnecessary additional work for both the Department and the carrier do the immateriality of the assessment.

3. Section 12 of the bill, on page 13 lines 16-19 would provide authorization for the Reinsurance Association of North Dakota to use the federal pass through dollars to procure third party reinsurance for the associations portion of eligible claims. We conducted an analysis of procuring third party reinsurance as a part of our larger health care cost study.

Third Party Reinsurance Program:

To supplement the cost-saving efforts of the 1332 waiver program, we have proposed evaluating purchasing private reinsurance to further reduce costs for individual taxpayers participating in the State's healthcare marketplace. Private reinsurance can assist in driving down/stabilizing rates and preventing spikes while providing consistency for taxpayers/users. For example, Aon, a private reinsurer, has proposed such a system, which is shown in Appendix A.

Using reinsurance to transfer the budgetary/program volatility, creates immediate opportunities for the State of North Dakota including:

- Transferring volatility away from the existing RAND program into the private market
- Reducing the future "known, unknowns", thereby allowing greater funding flexibility with the safety and security of knowing that protection is in place in the event of a higher-than-normal claims year

- Providing stability in rates from payers as a pre-arranged amount of funding is known
- Predictable cash flows for insurers and the state as there is no need, once coverage is purchased, to adjust the reimbursement levels to carriers based on higher-than-expected claim numbers and amounts
- Adjudication and claims processing is handled by the reinsurer, removing some of the operations of running the program in house

In addition, given the current Covid-19 health crisis there is likely to be further pressure on the individual health market. According to a recent Kaiser Family Foundation report, “It is likely that the most significant impacts of the coronavirus outbreak and economic crisis on the individual market will not be evident nationally until data from the second and third quarters of 2020 become available.” These solutions can help mitigate impacts stemming from the global pandemic. I have attached more information to my testimony going through the analysis we have completed on this program.

4. Section 13 of the bill, on page 13, lines 22 – 26 is a continuing appropriation, which was added by the House, related to the federal pass through funding received under our 1332 waiver. During 2020 an oversight was discovered regarding the ability to spend said federal pass through funding. This oversight was not noted during the

legislative process or by OMB. This resulted in the Department seeking approval from the Emergency Commission in order to spend the 2020 federal pass through funding. This was approved unanimously by the Emergency Commission at its June 30, 2020 meeting.

Section 13 of this bill seeks to make any federal funding received under our approved 1332 waiver a continuing appropriation. We are asking for this continuing appropriation for a few reasons. First, the amount of federal funding received is not static. It can and will change every year based on the number of individuals insured in the individual market. As this number changes each year, we are unable to ask for a known number and in the case of requesting less than gets awarded it would necessitate the Department having to go to the Emergency Commission potentially on a yearly basis.

Second, if our request comes in higher than awarded our budget is therefore inflated. These dollars are truly a pass through and can only be used to administer RAND. Any federal dollars not spent are rolled over to the next calendar year. We believe having this continuing appropriation is reasonable and will help cut down on administrative burdens to both this body and the Department.

5. Section 14 of the bill, on page 13 lines 25-31, we are asking for \$200,000 of the RAND reserves to study the possibility of combining the individual health insurance marketplace with the small group health insurance marketplace. We believe there may be value in combining those markets for North Dakota, and in doing so, our small group market would be able to receive the benefits of the reinsurance program, which should reduce rates for our small employers who purchase coverage through the small group market.

One final point, I have also included a document that outlines the discussion we had with the House Appropriations committee and does a nice job of summarizing, where the money is going, where it has gone, and how we got here.

As you can see this program has been successful, it has had a significant impact on North Dakotans who purchase their health insurance through the individual marketplace, and with the changes we are proposing, we believe we can continue this program and expand the benefits to the small group marketplace.

For these reasons, I would encourage a favorable recommendation for House Bill 1087, and I am happy to attempt to answer any questions you may have.

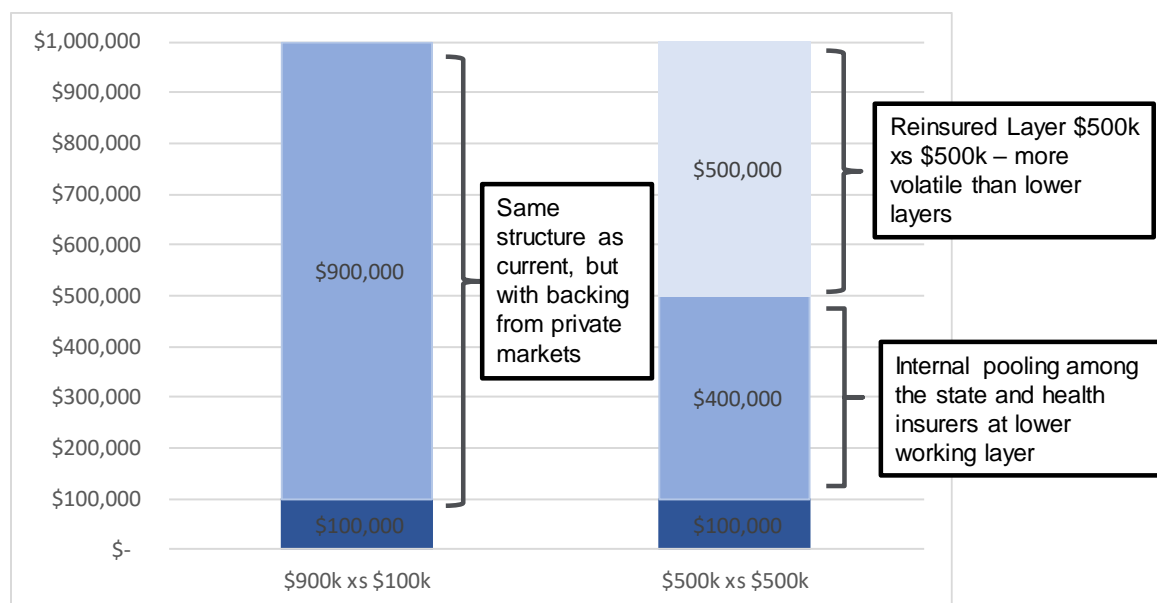
Third-Party Reinsurance – Appendix A:

In conjunction with our health care cost study, we also looked at potential solutions around layering of a private third-party reinsurance program for our existing reinsurance program. HB 1087 would authorize us to further develop and study this idea and with positive results implement the program.

When considering the existing Reinsurance Association of North Dakota (RAND) program, there are two main structural options to consider.

Excess of Loss

- Provides recoveries after a pre-determined amount of loss
- Smooths results in excess of pre-determined attachment point



Aggregate Stop Loss

- Provides recoveries after a pre-determined amount of loss in a defined/determined time period
- Coverage ensures the aggregation of numerous claims do not drain the financial reserves of the risk-bearer/entity



How much would this cost?

We modeled various scenarios using stochastic and deterministic models, we also used market data to derive pricing.

Using available data collected for the initial 1332 Waiver Process to illustrate a few structural and pricing options that would make sense given the current RAND structure. In evaluating solutions for North Dakota our overarching motivation is to maximize coverage, deliver fast payment, and provide clear benefit to the users of the RAND program.

Projected claims costs were derived from North Dakota's 2017 year. In order to secure pricing from the reinsurance markets, typically 3-5 years of data is required, however we believe this 12-month snapshot provides enough information to draw preliminary conclusions.

Pricing is provided on a 100% experience basis and blended with national market data to provide more credibility to the block of business. It is illustrated on a per member per month basis.

Our analysis is based on following general market underwriting methodologies used across the reinsurance industry to develop a likely premium. Since North Dakota would be transferring the volatility to the market, the amount of money allocated to reinsurance claims in one particular year does not have to be as conservative as what may be traditionally allocated to a self-funded plan. Because RAND is a newly formed self-insured reinsurance program, it is not surprising that additional conservatism was included in the preliminary (NovaRest) actuarial analysis.

Claims Projections:

	75% Coinsurance	
Source	\$900k xs \$100k	\$500k xs \$500k
Nova Rest	\$106.68	
Market	\$67.27	\$8.18
Aon - Deterministic	\$58.53	\$4.38
Aon - Stochastic	\$58.82	\$4.65

Pricing Options:

*XOL Pricing by layer	Premium
1. \$900k xs \$100k	\$70.58
2. \$500k xs \$500k	\$5.58
*Agg Pricing	
1. 110% of expected	\$27.64
2. 120% of expected	\$20.61
3. 130% of expected	\$14.58

Key Takeaways:

- Based on the 2017 claims year costs there are indications that meaningful cost savings can be achieved by a private reinsurance purchase
- Claims costs can be shifted to the private market for less dollars than they are being funded for in the existing program, leaving additional funding to further stabilize rates and pay for the private purchase

- We can transfer claims to the private market for .65-.85 cents on the dollar (this is based on only one claims year and we would need 3-5 years to fully validate this with third party capital)
- The structures presented would provide more program certainty to payers allowing for greater flexibility in rate pricing
- While the premium payments for the State of North Dakota may be higher than the claims cost in some years, high claims years will counterbalance the years where the state ends in a negative net position
- As an example, 1 in 20 years the reinsurer is projected to lose \$20.57 per member per month, paying \$1.30 to the state for every \$1 the state pays in premium

Return Period (1 in X years)	Losses (PMPM)	Reinsurer Position (PMPM)
Average	\$58.82	\$11.76
5	\$72.34	-\$1.76
20	\$91.14	-\$20.57
40	\$99.22	-\$28.64

Considerations for Next Steps:

In order to procure formal pricing from the market, additional information is needed.

Reinsurance Parameters	Key Considerations
Data Required (last 3-5 years)	<ul style="list-style-type: none"> - Membership Data - Claims Triangles - Large Claim Loss Data - Plan Design Changes (Historical and Proposed)
Attachment Point	<ul style="list-style-type: none"> - Attachment points can allow for any corridor, both overlapping what is being offered or just covering a piece - To reduce total cost coinsurance can be included which will reduce the reimbursement by a percentage for each claim
How Much “Limit” to Purchase	<ul style="list-style-type: none"> - Often relatively small incremental premium to purchase higher limit - Markets will cap the limit they offer based on their risk tolerance
Contractual Considerations	<ul style="list-style-type: none"> - If the State of North Dakota does not cede the entire \$900k xs \$100k layer to the reinsurance market, arrangements will be needed to administer the pooling layer - Additional analysis will be required to confidently opine on the contractual structure between the State of North Dakota reinsurance program and the reinsurers

Who would provide this backstop?

Reinsurance companies are the providers of this protection and have been active participants in the health market for several years.

There is a significant market appetite for health exposure. There are several highly rated counterparties that will be interested in an excess of loss or aggregate structure as these are the main vehicles used to transfer volatility in the space.

While the amount of data available is limited there are indications that meaningful cost savings can be achieved by RAND purchasing third-party reinsurance from the private market. As with any reinsurance contract there are years when the cost of the third-party reinsurance contract may be higher than the claims costs, however, high claims costs years will counter-balance this. By shifting claims costs from RAND to the private market this will potentially lead to a reduction in RAND funding needs from the state while providing stability to the health insurance market in North Dakota.

Reinsurance is used globally by insurers both large and small. As noted above, reinsurance can provide stability and consistency to the ceding entity by smoothing out the peaks and valleys that can and inevitably do occur. The health insurance world is not immune from these peaks and valleys as we have seen during 2020 and RAND has helped. By exploring the option of third-party reinsurance RAND too can take advantage of this stability and consistency in its results.

HB 1087 - Reinsurance Association of North Dakota (RAND)

Passed the house last session with unanimous support.

HB 1087 seeks to reauthorize the program that has effectively reduced rates on the individual market by 20+%

Individual market is made of 40,000 North Dakotans, of those individuals 19,000 receive a subsidy to essentially cap their health insurance premiums, based on income. The other 21,000 receive no assistance and have taken the brunt of the Affordable Care Act rate increases since its inception.

RAND addresses that population and stabilizes the individual marketplace, helping to put some downward pressure on health rates across the market.

Biggest impact of this program is to farmers, ranchers and small business owners who do not have access to the large and small group markets and earn too much to receive any kind of subsidy from the federal government.

In 2020, we estimate that with RAND being in place we saved the consumers of North Dakota approximately \$43M in reduced premiums.

How this program is funded:

Approx. 50% - Federal passthrough dollars from cost savings on the individual market

Approx. 50% - Assessments on North Dakota Health Insurers (who then can take a tax credit for those assessments)

2020 Actual Costs:

Federal Funds – \$21,488,350

Assessments on Carriers - \$21,988,170 (of which \$16,976,918 in tax credits have been credited to the carriers)

Actual State Cost of the Program:

2019-21 Projections - \$31,702,006

2019-21 est. Actual Cost - \$16,976,918

Actual costs of the program came in below estimate by - \$14,725,088

For 2021, we are projecting similar numbers with regards to the federal pass through dollars, and as the actual cost has been below estimates, we are currently projecting that with our current reserves in the RAND program there will be no need to assess our carriers for 2021.

Fiscal Note of HB 1087:

The fiscal note reflects \$33,754,507 reduced revenues for the '21-'23 biennium and reduced revenues of \$48,594,447 for the '23-'25 biennium. The increase for the '23-'25 biennium is due to the state's fiscal year starting on July 1 while the plan year for a health insurance policy typically begins on January 1.

It is important to note that this fiscal note reflects the projections completed by a contract actuary firm. For the 2021 plan year we do not anticipate the need to conduct assessments. This is a result of the 2020 plan year, and the reduced utilization we saw. Our actual claims numbers for 2020 are still pending, but thus far the number of claims actually ceded to the reinsurance program are well below our projections. Based on the preliminary claims numbers we have received to date from our carriers, the 2020 federal pass through dollars we received will likely cover the entire amount due for the 2020 plan year leaving RAND with a reserve balance of approximately \$22,000,000.

Given that reserve balance along with the additional federal pass through dollars we anticipate receiving in 2021, we are confident we can suspend the assessments to our carriers through 2021 which would reduce the fiscal note to \$11,751,684 for the '21-'23 biennium. This would reduce our assessments for both this current biennium and the '21-'23 biennium. The fiscal note you have in front of you is a worst-case scenario.

In sum, this program has cost the state \$17M in reduced revenues from tax credits and saved the people of North Dakota approx. \$43M. We do not anticipate needing to assess our companies in 2021, and with the potential inclusion of private reinsurance that will be studied, we are hopeful that the cost of this program will continue well below our projections.

Changing the attachment point from \$100,000 - \$200,000:

This would essentially cut the effectiveness of this program in half, our 20% reduction would be cut to 10% and result in an increase in premiums for consumers on the individual market. This would again primarily impact those farmers, ranchers and small business owners who do not receive a subsidy to purchase their own health insurance.

Changing the attachment point would also significantly reduce the federal funds that would be passed through to the program, our estimation is that the change would result in \$13M less in federal funding for 2021 plan year.

Changing the attachment point would also reduce the level of assessments needed from our health insurers, our estimation is that it would reduce the assessments on our carriers by \$10M for the 2021 plan year.

We would also need to reapply to the federal government as this would be a substantive change in our program. Our waiver was approved (for 5 years) with an attachment point of \$100,000, moving to \$200,000 would require federal approval to change our program. To further this reapplication, the federal government would also require us to complete another actuarial analysis that would need to be performed by a third-party contract actuary firm. The reapplication process allows the federal government 45 days to deem an application complete and then another 180 days to review after deeming this application complete. The process in working with the federal government for the waiver approval to establish RAND for the 2020 plan year took 18 months. The process culminated with the 2019 Legislative Session.

The real reductions that have been felt by our farmers, ranchers, and small business owners along with this program costing the state approximately half of what we projected are proven successes of this program. In addition to the fact that we are currently coming out of a global pandemic and haven't seen a true look at what this program will ultimately cost in claims and in assessments along with the expected increase of the rates on the individual market we could expect from making this change, I would be adamantly opposed to moving the attachment point from \$100,000 to \$200,000.

Continuing Appropriation:

During 2020 an oversight was discovered regarding the ability to spend said federal pass through funding. This oversight was not noted during the legislative process or by OMB. This resulted in the Department seeking approval from the Emergency Commission in order to transfer the 2020 federal pass through funding to RAND. This was approved unanimously by the Emergency Commission at its June 30, 2020 meeting. The proposed amendment seeks to make any federal funding received under our approved 1332 waiver a continuing appropriation. We are asking for this continuing appropriation for a few reasons. First, the amount of federal funding received is not static. It can and will change every year based on the number of individuals insured in the individual market. As this number changes each year, we are unable to ask for a known number and in the case of requesting less than gets awarded it would necessitate the Department having to go to the Emergency Commission potentially on a yearly basis. Second, if our request comes in higher than awarded our budget becomes inflated. These dollars are truly a pass through and can only be used to administer RAND. Any federal dollars not spent are rolled over to the next calendar year. We believe having this continuing appropriation is reasonable and will reduce the administrative burdens to both this body and the Department.

Support HB 1087 – As presented

This program is effective, it is saving our citizens \$43M while reducing state revenue by \$17M (in one year). Our carriers are not getting “rich” off this program, what this program is doing is stabilizing our marketplace and keeping carriers operating in our marketplace. We have conducted a Private Health Insurance Marketplace study and through that study we found our carriers are averaging about 2% loss year over year. We also conducted a health care cost study, as that is the true underlying issue with the rising cost of health insurance. We have a healthcare cost problem in this state, not a health insurance cost problem.

During the hearing the committee received supportive testimony from the Insurance Department, insurance carriers, The Greater North Dakota Chamber of Commerce, The Bismarck-Mandan Chamber and Economic Development Corporation, North Dakota Soybean Growers Association, and the North Dakota Corn Growers Association. There was no opposition to HB 1087.

The attachment point of \$100,000 or \$200,000 was discussed at great length in the previous session. The legislature approved this program and approved the Department implementing it at the \$100,000 attachment point. Maintaining this program is critical for our farmers, ranchers, and small business owners, and we also will be studying if it is possible to expand to our small group market to continue to find solutions for our small business owners. I strongly urge your support for HB 1087 as it came out of the policy committee nearly unanimous (13-1) and would urge your support of the continuing appropriation that was supported by your policy committee.

- 1A. **State fiscal effect** : Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2019-2021 Biennium		2021-2023 Biennium		2023-2025 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenue	(21,842,587)		(17,540,170)		(27,346,309)	
Expenditures		21,488,350		14,683,761		14,683,761
Appropriations				200,000		

- 1B. **County, city, school distric and township fiscal effect** : Identify the fiscal effect on the appropriate political subdivision.

	2019-2021 Biennium	2021-2023 Biennium	2023-2025 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2A. **Bill and fiscal impact summary**: Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

HB 1087 would allow companies to take the assessment created by the bill as a premium tax credit, but limited to the amount of premium tax due.

- 2B. **Fiscal impact sections**: Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

The amounts assessed to insurers as a result of HB 1087 would reduce premium tax revenue in the year paid, limited by the amount of premium tax due.

3. **State fiscal effect detail**: For information shown under state fiscal effect in 1A, please:

- A. **Revenues**: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

The actuarial study done indicated the amounts needed to fund the invisible reinsurance pool. These amounts were allocated in accordance with the bill, in proportion to projected premiums written, and limited to estimated premium tax due.

- B. **Expenditures**: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The expenditures cover the federal pass-through funding received under our approved 1332 wavier.

- C. **Appropriations**: Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

The appropriation would come out of special funds already in possession of the reinsurance association of North Dakota.

**Greater North Dakota Chamber
HB 1087
Senate Industry, Business, and Labor Committee
March 3, 2021**

Mr. Chairman and members of the Senate Industry, Business, and Labor Committee, my name is Arik Spencer with the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization. We stand in support of House Bill 1087.

The steep increase in health insurance costs is of great concern to businesses of every size and in every sector. Reauthorization of North Dakota's reinsurance program will continue to help hold down the cost of health insurance for those on the individual marketplace including small business owners, farmers, and ranchers. By helping those on the individual marketplace, those in group plans will also benefit by reducing the negative health insurance impacts of uninsured medical visits.

In addition, Section 14 of the bill requests \$200,000 of reserves to study the possibility of combining the individual health insurance marketplace with the small group health insurance marketplace. GNDC is supportive of this study to determine the rate benefit of the reinsurance program on the small group market.

In conclusion I ask that HB 1087 receive a do pass recommendation and I will stand for any questions the committee has.



Senate Industry Business & Labor Committee – HB 1087

Senator Jerry Klein, Chair

March 3, 2021

Chairman Klein, Members of the Committee:

My name is Brian Ritter and I'm President of the Bismarck Mandan Chamber EDC. I am submitting testimony today on behalf of our organization's approximately 1,200 members in support of HB 1087.

We support this bill and the North Dakota Reinsurance program because it's been proven beneficial to our small businesses, which comprise 56% of all Chamber EDC Members. For example, as Commissioner Godfreed has stated, the program realized 20% rate reductions for the individual market in 2020. That's important to our community's small business owners as they frequently cannot access small or large group health insurance markets which then forces them to purchase their health insurance on the individual market, which can be more expensive.

In addition, Section 14 of the bill requests \$200,000 of reserves to study the possibility of combining the individual health insurance marketplace with the small group health insurance marketplace. There may be value in combining those markets as doing so would allow the small group market would be able to receive the benefits of the reinsurance program. That in turn could reduce rates for our small employers who purchase coverage through the small group market. As such, I would respectfully ask that the Committee give a DO PASS recommendation to HB 1087.

North Dakota Stockmen's Association
Testimony to the
Senate Industry, Business & Labor Committee on HB 1087
March 3, 2021

Good afternoon, Chairman Klein and members of the Senate Industry, Business and Labor Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, a 91-year-old beef cattle trade organization representing approximately 3,000 North Dakota cattle-ranching families across the state.

The Stockmen's Association wants to add its support for HB 1087, which renews the invisible reinsurance program for the individual health market established during the last session. The program has already proven effective in reducing health insurance premiums on the individual market by 20 percent, a meaningful savings for many of our members.

The program is designed to stabilize the individual market by reducing rates and keeping citizens – especially those on the brink of not being able to afford health insurance – insured. Farmers, ranchers and small business owners especially benefit from the reinsurance program since they often carry individual and family insurance policies.

HB 1087 aids North Dakota citizens in keeping insurance costs down. We ask for your favorable consideration of it.

Testimony for 1087

Good afternoon, Chairman Klein and committee, for the record my name is Phil Murphy and I represent the ND Soybean Growers in governmental affairs. Simply put, I encourage you to support this bill because of the savings that it was able to generate for individuals in the past two years and the promise it holds to deliver that once again to our farmers and others. We trust the Insurance Commissioner and your committee to make the correct decisions. Thank you all for your service to our state. Sincerely, Phil Murphy

2021 SENATE APPROPRIATIONS

HB 1087

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1087
3/24/2021
Senate Appropriations Committee

Relating to premium taxes and credits for insurance companies and the establishment of an invisible reinsurance pool for the individual health insurance market.

Senator Holmberg opened the hearing at 2:40 PM.

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

Jon Godfread, Commissioner, State Insurance Department – testified in favor and submitted testimony #10672.

Senator Mathern moved Do Pass on HB 1087
Senator Rust 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>	Y	<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 – 14-0-0. Motion passed.

Senator Holmberg closed the hearing at 2:51 PM.

Rose Laning, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1087, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1087 was placed on the Fourteenth order on the calendar.

HB 1087 - Reinsurance Association of North Dakota (RAND)

Passed last session with only one vote against.

HB 1087 seeks to reauthorize the program that has effectively reduced rates on the individual market by 20+%

Individual market is made of 40,000 North Dakotans, of those individuals 19,000 receive a subsidy to essentially cap their health insurance premiums, based on income. The other 21,000 receive no assistance and have taken the brunt of the Affordable Care Act rate increases since its inception.

RAND addresses that population and stabilizes the individual marketplace, helping to put some downward pressure on health rates across the market.

Biggest impact of this program is to farmers, ranchers and small business owners who do not have access to the large and small group markets and earn too much to receive any kind of subsidy from the federal government.

In 2020, we estimate that with RAND being in place we saved the consumers of North Dakota approximately \$43M in reduced premiums.

How this program is funded:

Approx. 50% - Federal passthrough dollars from cost savings on the individual market

Approx. 50% - Assessments on North Dakota Health Insurers (who then can take a tax credit for those assessments)

2020 Actual Costs:

Federal Funds – \$21,488,350

Assessments on Carriers - \$21,988,170 (of which \$16,976,918 in tax credits have been credited to the carriers)

Actual State Cost of the Program:

2019-21 Projections - \$31,702,006

2019-21 est. Actual Cost - \$16,976,918

Actual costs of the program came in below estimate by - \$14,725,088

Fiscal Note of HB 1087:

The current fiscal note reflects \$33,754,507 reduced revenues for the '21-'23 biennium and reduced revenues of \$48,594,447 for the '23-'25 biennium. The increase for the '23-'25 biennium is due to the state's fiscal year starting on July 1 while the plan year for a health insurance policy typically begins on January 1. This fiscal note was an overestimated, worst-case scenario prepared before 2021 plan data was available. This data is now available, and we have prepared a new fiscal note which accounts for the expected reduction in reinsurance payable in 2021. This new note shows an estimated reduction in general fund dollars of \$17,547,170 in the '21-'23 biennium and \$27,346,309 for the '23-'25 biennium, but in the end the estimates for the next biennium will be just that, an estimate. The increase for the '23-'25

biennium is due to the state's fiscal year starting on July 1 while the plan year for a health insurance policy typically begins on January 1.

For the 2021 plan year we do not anticipate the need to conduct assessments. This is a result of the 2020 plan year, and the reduced utilization we saw. Our actual numbers for 2020 are still pending, but the number of claims actually ceded to the reinsurance program were well below our projections. Based on the preliminary claims numbers we have received to date from our carriers, the 2020 federal pass through dollars we received will likely cover the entire amount due for the 2020 plan year leaving RAND with a reserve balance of approximately \$22,000,000. Given that reserve balance along with the additional federal pass through dollars we anticipate receiving in 2021, we are confident we can pause the assessments to our carriers through 2021. This would reduce our assessments for both this current biennium and the '21-'23 biennium.

In sum, this program has cost the state \$17M in reduced revenues from tax credits and saved the people of North Dakota approx. \$43M. We do not anticipate needing to assess our companies in 2021, and with the potential inclusion of private reinsurance that will be studied, we are hopeful that the cost of this program will continue well below our projections.

Continuing Appropriation:

During 2020 an oversight was discovered regarding the ability to spend said federal pass through funding. This oversight was not noted during the legislative process or by OMB. This resulted in the Department seeking approval from the Emergency Commission in order to transfer the 2020 federal pass through funding to RAND. This was approved unanimously by the Emergency Commission at its June 30, 2020 meeting. The proposed amendment seeks to make any federal funding received under our approved 1332 waiver a continuing appropriation. We are asking for this continuing appropriation for a few reasons. First, the amount of federal funding received is not static. It can and will change every year based on the number of individuals insured in the individual market. As this number changes each year, we are unable to ask for a known number and in the case of requesting less than gets awarded it would necessitate the Department having to go to the Emergency Commission potentially on a yearly basis. Second, if our request comes in higher than awarded our budget becomes inflated. These dollars are truly a pass through and can only be used to administer RAND. Any federal dollars not spent are rolled over to the next calendar year. We believe having this continuing appropriation is reasonable and will reduce the administrative burdens to both this body and the Department.

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During the hearing the committee received supportive testimony from the Insurance Department, insurance carriers, The Greater North Dakota Chamber of Commerce, The Bismarck-Mandan Chamber and Economic Development Corporation, North Dakota Soybean Growers Association, and the North Dakota Corn Growers Association. There was no opposition to HB 1087.

The attachment point of \$100,000 or \$200,000 was discussed at great length in the previous session. The legislature approved this program and approved the Department implementing it at the \$100,000 attachment point. Maintaining this program is critical for our farmers, ranchers, and small business owners, and we also will be studying if it is possible to expand to our small group market to continue to find solutions for our small business owners. I strongly urge your support for HB 1087 as it came out of the policy committee with a unanimous (6-0) 'Do Pass' recommendation and would urge your support of the continuing appropriation that was supported by your policy committee.

- 1A. **State fiscal effect :** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2019-2021 Biennium		2021-2023 Biennium		2023-2025 Biennium	
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Appropriations				200,000		

1B.

County, city, school distric and township fiscal effect : Identify the fiscal effect on the appropriate political subdivision.

	2019-2021 Biennium	2021-2023 Biennium	2023-2025 Biennium
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- 2A. **Bill and fiscal impact summary:** Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

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- 2B. **Fiscal impact sections:** Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

The amounts assessed to insurers as a result of HB 1087 would reduce premium tax revenue in the year paid, limited by the amount of premium tax due.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

- A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

The actuarial study done indicated the amounts needed to fund the invisible reinsurance pool. These amounts were allocated in accordance with the bill, in proportion to projected premiums written, and limited to estimated premium tax due.

- B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The expenditures cover the federal pass-through funding received under our approved 1332 wavier.

- C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

The appropriation would come out of special funds already in possession of the reinsurance association of North Dakota.