

**Testimony in Support of  
House Bill No 1314  
House Industry Business and Labor Committee  
February 1, 2021**

Good morning, Chairman Lefor, Members of the House Industry Business & Labor Committee, my name is Deb Birgen. Unfortunately, I am unable to attend today's hearing in person but I have asked Todd D. Kranda, an attorney at Kelsch Ruff Kranda Nagle & Ludwig law firm in Mandan, a lobbyist for Missouri River Energy Services (MRES), to appear on my behalf and provide this testimony and the amendment that is attached regarding HB 1314, the cyber security report bill.

I serve as the Vice President of Legislative & Governmental Relations for MRES. I am speaking to you on behalf of MRES which is a municipal power agency that provides wholesale electricity to sixty-one (61) municipal electric utilities in four (4) states: North Dakota, Iowa, Minnesota and South Dakota. Six (6) of the communities we serve wholesale power to are in North Dakota (Riverdale, Cavalier, Northwood, Hillsboro, Lakota & Valley City with a 7<sup>th</sup> associate member community of Maddock).

What many of you probably don't know is that MRES is a unique power supplier organized under Iowa 28E law and exists under the inter-governmental cooperation laws of Iowa, Minnesota, North Dakota, and South Dakota, headquartered in Sioux Falls, South Dakota. One of the quirks of being organized under Iowa law is that the Iowa law is often interpreted to make MRES a "political subdivision" of any state in which MRES provides power—which would include North Dakota. This is despite being headquartered in South Dakota. This has caused MRES to navigate differing state laws on a variety of subject matters. That navigation has sometimes proved burdensome with layers of

legislation that require a lot of work on MRES's behalf to obtain the same objective that would have been achieved if MRES could have only followed one state's law. Therefore, to maximize efficiency and minimize unnecessary redundancy, MRES has occasionally requested a state law to be drafted in such a way to clarify that MRES will follow South Dakota's law on a matter, rather than trying to navigate the conflicts and differences among four different state laws.

Therefore, I come before you today to ask for a very simple clarifying amendment. That is to amend the definition of "entity" at page 1, line 22, to apply only to political subdivisions "within the state". With the headquarters of MRES in South Dakota, we are already subject to a cyber-security reporting law in South Dakota and are compliant with that law. MRES is also subject to a variety of federal cyber-security laws that pertain specifically to the electric industry, which MRES is also in compliance with. So, to be clear, MRES is not asking to be excused from taking prudent security measures on behalf of MRES or our customers. Rather, MRES is simply asking that we avoid unnecessary and additional work so that we may focus on the current cyber mandates of South Dakota and the federal government.

This clarification would also avoid any delays and distractions at a critical time. If MRES did have a breach that triggered the reporting requirements of the North Dakota and the South Dakota laws, MRES would have to spend time checking back and forth with both states' regulatory bodies. Not to mention the two states have different reporting and timing aspects. This could cause confusion and even interfere in effectively and quickly mitigating the breach. To be clear, MRES does support HB 1314 and the important breach procedures it puts forth. MRES is only asking that in the event of an

emergency like a breach, that it would work side-by-side with the regulatory forces that it has local contacts with in South Dakota.

Finally, by clarifying that MRES is, for lack of a better phrase, “South Dakota’s problem”, you alleviate any additional burdens for North Dakota’s own Information Technology Department.

Thank you for taking the time to consider these comments and the proposed amendment for HB 1314.

#### **PROPOSED AMENDMENT**

Page 1, line 22, after “subdivision” insert “within the state”

Renumber accordingly