

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1057

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB1057
01/07/2021
House Political Subdivisions

Relating to the statutory caps for liability of political subdivisions and the state

Chairman Dockter opened the meeting (8:16) Roll call all members present. Committee member introductions. Reps. Dockter, Pyle, Adams, Cory, Ertelt, Fegley, Hatelstad, M. Johnson, Klemin, Longmuir, Nehring, Nelson, Simons, Toman.

Discussion Topics:

- Statutory caps for liability
- Raising the liability limits

Tag Anderson, Director of Risk Management Division of Office of Management and Budget (9:02). Testimony #158 in support.

Brennen Quatis, CEO for ND Federal Reserve (9:31). No testimony.

Terry Traynor, Director of Association of Counties (9:44). Testimony #185 in support.

Blake Crosby, Director of League of Cities (9:49). Testimony #37 in support.

Jackie Hall Director of ND Association for Justice (9:57) Testimony #213 in support.

Amanda Mitchell, Nurse Practitioner, (10:04) Testimony #216,217,218 in support.

Kenneth W. Mitchell, Testimony #207, submitted on line.

No testimony in opposition or neutral positions.

Chairman Dockter (10:31) closed the hearing.

Carmen Hickle, Committee Clerk

TESTIMONY OF

Tag Anderson, Director of Risk Management Division

Chairman Dockter, and members of the House Political Subdivisions Committee, my name is Tag Anderson. I am the Director of the Risk Management Division of the Office of Management and Budget (OMB). I appear today in support of HB 1057.

Following the loss of sovereign immunity, the legislative assembly established the Risk Management Fund as the State's self-retention fund to address most third-party liability exposures. The Fund is administered by the Risk Management Division of OMB pursuant to N.D.C.C. Chapter 32-12.2. Political subdivision liability is largely governed by N.D.C.C. Chapter 32-12.1. Both chapters include statutory caps on recovery that are currently consistent with limits of \$250,000 per person and \$1,000,000 per occurrence for four or more persons. This legislation would raise those limits to \$375,000 per person and \$1,500,000 per occurrence. This legislation is the result of discussions between The Risk Management Division and representatives from the North Dakota Insurance Reserve Fund following attempts to raise the statutory caps for political subdivisions last legislative session.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

Thank you.

Testimony Prepared for the
House Political Subdivisions Committee
Thursday, January 7, 2021
By: Terry Traynor, NDACo Executive Director



RE: House Bill 1057 – Government Liability

Chairman Dockter and members of the Political Subdivisions Committee, thank you for the opportunity to address House Bill 1057 on behalf of North Dakota's counties.

By now you have likely heard the history of government liability, with the elimination of sovereign immunity in the 1970's, the lack of insurance carriers willing to underwrite public risk, the creation of the North Dakota Insurance Reserve Fund and subsequently the State Risk Pool. It has been a long and challenging road to provide adequate protection for our taxpayers and just compensation for those harmed by governmental actions.

We believe that the Legislature, local officials, the state risk pool, and our insurance fund have worked well in periodically considering these chapters of Century Code, adjusting limits when appropriate, as was done in 2015. And we have not been alone in this review, as may have been mentioned, the current liability limits for local government were also reviewed and upheld by the Supreme Court in 2018.

This Committee understands better than most, that increasing these limits will have the effect of increasing state and county government costs. And raising costs, for local government at least, prompts one of two outcomes – higher property taxes or reduced services in other areas. For this reason, when the Legislature considered a similar bill last Session, with much more significant changes, NDACo, along with other groups, urged a thorough review of liability limits across the board, so that the state risk pool and the NDIRF could better determine the effects of such a change.

We believe that the conservative changes proposed in HB1057, while increasing governmental costs, are reasonable and continue the balance of taxpayer protection and just compensation. Mr. Chairman and Committee Members, on behalf of our state's counties we agree with OMB on their measured approach to adjusting government liability limits and support a Do Pass recommendation at the levels proposed.



HOUSE POLITICAL SUBDIVISIONS COMMITTEE
January 7, 2021

Chairman Dockter and members of the Committee--for the record Blake Crosby, Executive Director of the North Dakota League of Cities, and a member of the North Dakota Insurance Reserve Fund (NDRF) Board of Directors.

A brief history just to refresh memories— When the private insurance market for government entities collapsed in the 80's or became unsustainably costly, it was the cities, counties, and other public entities that came together and created the North Dakota Insurance Reserve Fund (NDRF). Political subdivisions needed to protect taxpayers by providing reasonable and prudent coverage and at the same time not overburdening the cost to those taxpayers. In 2015, liability caps were appropriately adjusted and the North Dakota Supreme Court agreed to that appropriateness in their 2018 decision.

We are aware that increasing the liability limits will increase premium cost but our initial review and projections appear to be in the 5%-8% range at least for the next coverage period. While the limits proposed in HB 1057 increase by 50%, that does not equate to a 50% increase in premium costs. Premium costs going forward will be determined, as per standard course of business, by an actuarial analysis.

On behalf of the North Dakota League of Cities we request a DO-PASS on HB 1057.

Thank you for your time and consideration. I will do my best to answer any questions.



North Dakota Association for Justice
"The Trial Layers of North Dakota"
PO Box 365
Mandan, ND 58554
www.ndaj.org

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Jaclyn Hall and I am the Executive Director of the North Dakota Association for Justice. NDAJ is an association for attorneys who practice law in courtrooms all across the state. They come from a variety of backgrounds, working together towards the common goal to protect the civil justice system and the rights for all North Dakotans.

I come before you today to show my support to raise the liability limits for political subdivisions and state agencies represented here in HB1057.

As many of you know, legislation was drafted in the last session to address the low limits currently in statute. Although it did not pass, it opened the door for many of us in this room to discuss the current levels and work towards a solution in the interim. We are thrilled that a bill was drafted to support an increase. It is a good start, but I believe we need to do more to support North Dakotans. I ask you today to not only support a do pass recommendation, but to amend and raise these limits even further to \$500,000 per person and \$2 million per occurrence.

This legislation was last adjusted in the late 1970s. To put that into perspective, the cost of a home in North Dakota was \$43,000. The median cost of a home in 2020 is \$200,000. According to North Dakota Housing Finance's 2020 housing report, on September 1 of 2020, 56% of the homes for sale in the state were over \$300,000. The per person limit when this bill was last adjusted was over 500% more than the value of a person's home. To put that into today's dollars, the per person limit today would be \$1 million dollars. We are asking you to increase the per person limit to half of that value.

According to the American Hospital Association, one night's stay in a hospital in 1979 was \$127. Today, that would equal 5 minutes of your doctor's time at an outpatient clinic. We all know the cost to do business or raise a family is expensive, we ask you to support our citizens by raising the limits to cover their expenses.

If you consider the liability limits of neighboring states, Minnesota has a liability cap of \$500,000 per person and \$1.5 million per incident. Montana increases the per person to \$750,000 with a \$1.5 million per incident cap. South Dakota does not have a cap at all. These states realize that the cost of property and medical expenses have increased and the limits need to reflect these increases.

We know that as you increase these limits, premiums will increase as well. A 5 - 10% premium increase for large communities is not as cost prohibitive as a small, rural city or township. We believe the initial investment is worth the safety of their citizens and their property. In a recent discussion with the North Dakota Insurance Reserve Fund, these political subdivisions have the opportunity to receive rebates for minimal liability claims that will help defray the initial premium increase.

As I close, I urge you to not only approve HB1057, but do so with the increased caps I am requesting. By doing so, these limits align with our neighboring states and support the increased costs to keep all North Dakotans safe.

Thank you for your time and I will take any questions if you have them.

Jaclyn Hall
Executive Director

My name is Amanda M. Mitchell. I am a board-certified Advanced Practice Registered Family Nurse Practitioner, a member of the American Nurses Association and North Dakota Nurses Association, and a member of the American Association of Nurse Practitioners.

I want to thank Brandy Pyle, our District 22 ND House Representative for her advocacy efforts and encouragement. It took a lot of courage on my part to be present today, however I knew that despite my disabilities, I needed to be present today. Brandy has gone above and beyond to help bring attention to the inadequacies of ND Century Code Section 32-12.1-03(2) on Government Liability.

I am here today to provide testimony in opposition to proposed changes to House Bill 1057.

The proposed changes are to amend and reenact subsection 2 of section 32-12.1-03 and subsection 2 of section 32-12.2-02 of the ND Century Code relating to the statutory caps for liability of political subdivisions and the state and to provide an effective date.

The proposed increase in statutory caps for liability for political subdivisions and the state are not adequate, nor do they include retroactive measures or future inflation.

According to Brainline.org, "Each year, traumatic brain injuries (TBI) contribute to a substantial number of deaths and cases of permanent disability." Here are some statistics provided by Brainline.org:

- An estimated 2.8 million people sustain a TBI annually. Of them:
 - 50,000 die,
 - 282,000 are hospitalized, and
 - 2.5 million, nearly 90%, are treated and released from an emergency department.
- Direct medical costs and indirect costs of TBI, such as lost productivity, totaled an estimated \$60 billion in the United States in 2000.

That last statistic is most concerning to me. In the year 2000, direct medical costs and indirect costs of TBI estimated \$60 billion in the U.S.

The Centers for Disease Control and Prevention (CDC) reported that in 2010, the lifetime economic cost of TBI, including direct and indirect medical costs, was estimated to be approximately \$76.5 billion. Even more alarming, the cost of fatal TBIs and TBIs that require hospitalization account for approximately 90% of total TBI medical costs.

I could spend more time going over numbers, but I believe my personal story will provide a better picture.

Personal Testimony

I worked a 12-hour day shift on July 13th, 2020 at McKenzie County Healthcare System Urgent Care as a locum NP in Watford City, ND. I thankfully do not remember that day. I do not remember the day before the accident. Perhaps it's from the accident or it was God's way of protecting me from the ending of that day. I can tell you all that I am in Love with my job and felt So blessed to make it through 5 years of absolute blood, sweat, and tears to serve others.

On July 13th my car was t-boned on the passenger side by a police officer who was responding to an emergency call. Due to the injuries I sustained, I was taken to Watford City's ER to be assessed, treated, and intubated by staff I am beyond grateful were present and able to treat me. I had a grand-mal seizure for over 2 minutes which required use of Ativan. Because of the Ativan and seizure, I needed to be intubated to protect my airway. I was then air lifted to Trinity Hospital for ICU care. Four days of ventilator care and steroid treatments later, I was extubated.

I was transferred back to Fargo by ambulance to Sanford Health Rehab on July 24th, 2020. I started various therapies by the next day. It felt beyond weird to be a Patient. This experience has changed me in more ways than one, all for the better.

I was discharged back Home with scheduled outpatient therapies and appointments by August 4th, 2020. I continue with occupational and speech therapies, to name a few, with Sanford Health. I have also required 2 tracheal surgeries to maintain my airway. The last surgery cost \$21,000.

To save precious time, I will now fast forward. I have always tried my best to "fix" situations and get things solved. That's part of the reason I became a nurse practitioner. I wanted to be the voice for others in times that seemed impossible. I could now use some of my own warriors as my long-term disability insurance company denied my claim. After 3 bleeds on my brain—a traumatic brain injury that has changed my life.

Until my claim is approved, my family and I are at a huge loss. Medical bills are expensive. I Need occupational and speech therapies in order to improve. I have no vehicle. I've fought to get this far. The honest truth for me? I'm Exhausted.

No programs exist to help a nurse practitioner who is independently contracted get back on their feet. I get all "no's" for volunteering in medical facilities or job shadowing other NPs which is my next step in therapy. Some explanations I receive are due to COVID while others are "you aren't an employee here". Our family is Scared.

I spent 5 years of my life to become a nurse practitioner. A rug was pulled from underneath me only 2.5 months into my new career. I cannot yet work as a nurse. I cannot be cleared to Work.

Conclusion

In short conclusion, \$250,000 will not help me to recover from this accident. My medical costs last year following July 13th, 2020 were over \$150,000. I will need outpatient therapies for about the next 2 to 3 years. I may never be able to work as a nurse or nurse practitioner again. More needs to be done to improve the proposals.

Here are Some items I hope to be addressed:

- ☑ Individualized financial reimbursement based on income obtained at the time of the incident including lost wages, cost of hospitalization, cost of rehabilitation and therapies, cost of vision therapy and adaptive equipment, cost for counseling and mental health services, cost of health/dental/vision/LTD/Life insurances, and cost (potentially) for legal representation (attorney fees/legal fees). Cost of future cost inflation to also be included.
- ☑ Code changes to be retroactive to at minimum my case.
- ☑ Above recommended updates to be considered throughout the rehabilitative process (for example, Traumatic Brain Injury (TBI) patients often require 2-3 YEARS of rehabilitation—this includes Myself).
- ☑ Option for virtual therapies to be covered by healthcare facilities/health insurance when virtual therapies are deemed to be appropriate by therapy professionals directly caring for the patient.
- ☑ Reimbursement for or replacement of lost vehicle of equal cost/value at time of incident (if applicable, as it would be in my case).
- ☑ Free transportation services for patients to and from medical appointments who have not yet been released to drive or cannot afford vehicle maintenance and or cost of fuel including patients in rural settings.
- ☑ Reimbursement or payment of student loans (Federal and private) if patient is unable to return to former occupation due to sustained injuries (I have worked as a nurse for 12 years and have \$170,000 + in student loan debt to become a nurse practitioner [LPN, RN, BSN, MSN, FNP-BC]). Reimbursement or payment of student loan interest while loans are on temporary deferment (if applicable) and/or forbearance. Reimbursement and payments are to not be taxed.
- ☑ Legal assistance for self-employed/1099 independently contracted workers including filing of paperwork for assistance programs (in conjunction with an APPOINTED social worker).

☑ Implementation/creation of return-to-work programs for nurse practitioners/healthcare providers (including those who are independently contracted/1099) that are supported by healthcare networks for rehabilitative purposes.

Thank you for the opportunity to speak with you today.





References

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<https://ruralhealth.und.edu/projects/brain-injury-network>

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8/10/2020—Hospital Follow-up Visit PCP (Sanford—Fargo)**HPI:**

...Currently she has made significant improvements in her functionality. Husband who is accompanying agrees. **Big issue today is sleep- chronic but worse d/t her acute on chronic pain, elbow and back pain, and cough...** **Has had persistent cough since extubation- traumatic and vocal cord swelling. Causing some chest pain with the cough. COVID -.** Hx of seasonal allergies and does feel some drainage in back of throat.

ROS:

Constitutional: Positive for **activity change**. Negative for chills, fatigue and fever.
 HENT: Positive for **postnasal drip** and **sore throat**. Negative for congestion, ear pain, nosebleeds, tinnitus, trouble swallowing and voice change.
 Eyes: Positive for **visual disturbance**. Negative for photophobia and pain.
 Respiratory: Positive for **cough**. Negative for chest tightness, shortness of breath and wheezing.
 Cardiovascular: Positive for **chest pain (d/t cough)**. Negative for palpitations and leg swelling.
 Gastrointestinal: Negative for abdominal distention, abdominal pain, constipation, diarrhea and nausea.
 Genitourinary: Negative for difficulty urinating and dysuria.
 Musculoskeletal: Positive for **arthralgias, back pain, gait problem** and **joint swelling**.
 Skin: Negative.
 Neurological: Negative for dizziness, seizures, weakness and light-headedness.
 Hematological: Negative.
 Psychiatric/Behavioral: Positive for **dysphoric mood** and **sleep disturbance**. Negative for confusion and self-injury. The patient is not nervous/anxious.

Physical/Results:

Constitutional: She appears well-developed and well-nourished. No distress.
 Eyes: Conjunctivae are normal. No scleral icterus.
 Neck: Trachea normal and phonation normal. Neck supple. No tracheal tenderness, no spinous process tenderness and no muscular tenderness present. No neck rigidity. No edema present. **No thyromegaly present.**
 Cardiovascular: Normal rate, regular rhythm, normal heart sounds and intact distal pulses.
 Pulmonary/Chest: **Effort normal and breath sounds normal.**
 Abdominal: Soft. Bowel sounds are normal.
 Musculoskeletal: She exhibits **tenderness**. She exhibits no edema or deformity.
Left elbow tenderness to palpitation and slight swelling of the bursa.
Thoracic mid back tenderness and tightness
 Skin: Skin is warm and dry. Capillary refill takes less than 2 seconds. She is not diaphoretic.
 Psychiatric: She has a normal mood and affect. Her speech is normal and behavior is normal.
 Judgment and thought content normal. Cognition and memory are **impaired**.
 Nursing note and vitals reviewed.

Assessment/Plan:

- reviewed hospital stay from OHS as well as IP rehab, Labs stable, **improved inflammatory markers. No repeat needed.**

- Since d/c from IP rehab having issues with sleep related to pain in back and elbow. Messaged her primary PT and they will assess for pain modality at upcoming appointment. For elbow-? Bursitis- swollen bursae- will refer to ortho-? Injection will help. Will consider OMT with integrative health if no improvement on check up.
- reports more depressed mood with all that is going on, most likely contributing to her pain- will trial increase in Cymbalta to 90- may also help with her acute on chronic pain as well.
- She continues to work OP PT/OT/ST. This is going well, continue.
- She has follow up with Neurology in regards to her post traumatic seizures on 9/3/2020. She also is to follow up on 8/18/2020 with Neurosurgery as well in regards to her SDH and SAH. Will await their recommendations. Will touch base with neurology given keppra SE.
- Cough likely combo of traumatic intubation, allergies and atelectasis. IS given today. Will trial OTC allergy pills and Flonase. Cepacol lozenge. If no improvement will refer to ENT for vocal cord evaluation
- follow in 4 weeks with me for pain, cough, and sleep.

Return in about 4 weeks (around 9/7/2020) for if available please schedule with 9/3/2020 after neurology appointment-with Dr. Estepp.

8/19/2020—Speech Therapy Outpatient Cognitive/Language Evaluation (Sanford—Fargo)

Subjective:

Patient is alert, responsive and cooperative. Patient ambulates to the department without incident and is unaccompanied. She is an accurate historian, though is perseverative at times across conversation. She is otherwise socially appropriate in conversation, and appears to understand and use language without difficulty. Vocal hoarseness is perceptually noticeable with frequent throat clearing and coughing. Patient reports significant fatigue due to inability to sleep caused by frequent coughing.

8/21/2020—Speech Therapy Outpatient Cognitive/Language Evaluation, Sarah Ring, SLP (Sanford—Fargo)

Subjective:

Patient is seen in the department for treatment and is unaccompanied. She is alert and cooperative across the session, and verbalizes motivation towards treatment and return to driving and work. Vocal hoarseness is perceptually noticeable with frequent throat clearing and coughing.

Patient reports 0/10 pain level at this time.

Objective:

...Voice exercises provided (Ingo Titze and Tom Burke Straw Exercises) to address persistent hoarseness. Techniques modeled and practiced. Handouts provided for reference in the home. Frequency and intensity of home programming reviewed.

Regarding sleep hygiene, patient reports ongoing difficulty with sleep, primarily due to coughing. Importance of consistent sleep/wake cycle reviewed at length as it relates to cognitive performance. Education will be ongoing.

8/20/2020—Messaged PCP (Sanford—Fargo)

From: Amanda Mitchell

Sent: 8/20/2020 1:25 PM CDT

To:

Subject: Cough & disability paperwork

Hi Dr. ----,

I wanted to let you know that I am still coughing and feel more "wheezy" and "tight" to my upper airway/vocal cord area. Zyrtec and Flonase have not helped. I do not have a fever or chills. I don't smoke and I do not have asthma.

I also have disability paperwork my employer needs me to fill out with a physician statement, however it is a pdf and Sanford isn't letting me attach the form. What is your email address so I can send it to you? I hope you're having a good day.

Thank you!

Amanda

From: Office of ---

Received: 8/21/2020 11:57 AM CDT

Subject: RE: Cough & disability paperwork

Hi Amanda,

We will let Dr --- know your symptoms are not improving and get back to you. For your paperwork, you can take a picture of the paperwork, please make sure the pictures are clear and send it through My Sanford Chart that way or you can drop it off at the clinic. We are unable to give out our emails to patients. Thank you.

Internal Medicine Broadway Clinic

From: ---

Received: 8/21/2020 12:14 PM

Subject: RE: Cough & disability paperwork

Hi Amanda,

That is no good for the cough. Are you getting anything up? **Given that is persistent I would like to get a CXR and make sure there isn't any infiltrates or anything else that may be causing the issue. I will put the order in and you can go to any Sanford radiology department to have it done.**

If that does not show anything then I think we need to have ENT evaluate given your difficult intubation and trauma, there maybe an issue with the vocal cords causing the cough.

I can't remember but do you deal with heart burn at all?

Let me know if there are any issues.

If you would like you can also fax the disability paperwork to our office at 701-234-2080

Dr. ---

8/24/2020—I attempted to have chest X-ray completed at Sanford South University Urgent Care in AM prior to therapies, however no order was present in system.

8/24/2020—Speech Therapy Outpatient Cognitive/Language Evaluation (Sanford—Fargo)

Subjective:

Patient is seen in the department for treatment and is unaccompanied. She is alert and cooperative across the session, and verbalizes motivation towards treatment and return to driving and work.

Due to concerns related to audible inspirations with stridor and wheezing, ST voice expert was consulted during today's session; please see chart update for separate note with findings.

Patient reports 0/10 pain level at this time.

Objective:

...Regarding sleep hygiene, patient reports ongoing difficulty with sleep, primarily due to coughing. Importance of consistent sleep/wake cycle reviewed at length as it relates to cognitive performance. Education will be ongoing...

From: Amanda Mitchell

Sent: 8/24/2020 2:40 PM CDT

To: Int Med Fm Broadway --- Nursing

Subject: RE: Cough & disability paperwork

Hi ---,

I don't necessarily get anything Up, but I sometimes do get what feels like phlegm? No fevers, body aches, etc. I do feel like it is harder to breathe at times. The more I walk, the more I tend to cough (I noticed). My voice is raspy and it sounds worse than it has in the past 4 days. I saw Speech this morning and was re-evaluated by another Speech therapist who said she thinks I likely have a paralyzed vocal cord and should see ENT. I haven't had the chest X-ray yet (I think the order expired too quickly). I would like a referral to ENT if you're ok with it? It's getting worse and it makes me a bit nervous. I can come into Fargo from Casselton anytime to do so.

Thank you!

Amanda

From: ---

Received: 8/25/2020 09:00 AM

Subject: RE: RE: Cough & disability paperwork

Yes I will place that order for ENT since that was speech therapies assesment! Hopefully we can get some relief for you. No rush on the Xray, whenever your in fargo next! Also did we get the paperwork figured out?

Dr. ---

8/26/2020—Occupational Therapy (Sanford)

- OT put in referral for social worker to call me

8/26/2020—Physical Therapy (Sanford—Fargo)

- Unable to tolerate physical activity due to shortness of breath. PT session cut short by 20 minutes due to shortness of breath.
- Sanford ENT called me after 3pm—unable to have me evaluated at Sanford until 9/17/2020 despite explaining the significance/change in my breathing/shortness of breath

- I decided to get a second opinion at Essentia Health as I did not want to have to be evaluated in the ED.

8/26/2020—Walk-in Clinic, ---, CNP (Essentia—Fargo)

SUBJECTIVE:

34 year old female here due to airway obstruction sensation. She was in a MVA, had a traumatic intubation due to seizures, hospitalized with bleeding in the brain, extubated 7/16 and discharged to Sanford Rehab and was discharged from there 8/4/20.

The last 4 days she has had increased sensation of tightness in the airway. Loose cough, wheezing and trouble breathing when she lays down at night with increased cough at night. She has no history of asthma or seasonal allergies, no history of smoking.

OBJECTIVE:

The patient appears healthy, alert, no distress. **She has obstructive sound quality to her breathing, this improves with a loose cough and is noted sporadically**

EARS: negative

NOSE/SINUS: negative

THROAT: normal

NECK:negative

CHEST: Clear to auscultation, no wheezing with forced expiration.

ASSESSMENT/PLAN:

1. Airway trauma, initial encounter

CANCELED: APPT WITH ENT WEST REGION

I was able to reach --- on call for ENT and she is able to see Amanda this afternoon for further evaluation.

8/26/2020—Dr. ---, ENT (Catalyst Medical Center—Fargo)

8/26/2020—I called United Healthcare to ask if CT of my head/neck would be covered. Was given a confirmation number 24967170 by UHC for phone call.

8/27/2020—I called United Healthcare to ask if a CT scan would be covered/approved. UHC worker claimed the order was changed today (8/27/2020) by Dr. --- and that the order no longer said “urgent”, but the UHC worker said she could get the order changed. UHC worker said I would hear back from UHC within 24 hours whether or not CT would be covered.

8/28/2020—I was coughing more, wheezing, and had increased shortness of breath with physical activity.

8/28/2020—Speech Therapy Outpatient Daily Treatment Note (Sanford—Fargo)

Subjective:

Patient is seen in the department for treatment and is unaccompanied. She is alert and cooperative across the session, and verbalizes motivation towards treatment and return to driving and work. Patient presents with audible inspirations with stridor and wheezing. She updated provider on ENT visit earlier this week (evidence of granuloma identified).

Objective:

Regarding cognitive-linguistic performance for current household demands, patient reports poor endurance for household tasks due to poor sleep and persistent difficulty with audible inspirations with stridor and wheezing. Patient reports SOB with exertion and talking. She is limiting activity at this time as plan for management of granuloma is being outlined.

Regarding sleep hygiene, patient reports ongoing difficulty with sleep, primarily due to coughing. Importance of consistent sleep/wake cycle reviewed at length as it relates to cognitive performance. Education will be ongoing...

8/29/2020—Dr. ---, ENT (Catalyst) called me to check up on my status and to inform me that UHC was refusing to cover outpatient CT despite all requested paperwork being filed by Catalyst. Dr. --- voiced she would follow up again on Monday with UHC, however if my symptoms of shortness of breath worsened, I should report to the ED.

8/31/2020—I still had not heard back from UHC, so I called them. UHC said that the CT was not covered due to not receiving “adequate” documentation that they requested.

9/1/2020—Dr. ---, ENT (Catalyst) called me in the afternoon and requested that I be evaluated at Essentia Health’s ED for CTs.

9/1/2020—Essentia Health Emergency Department, Dr. --- (Fargo)

History of Present Illness:

HPI

34-year-old female who recently was involved in a MVC with intracranial hemorrhage and seizures requiring intubation. She was intubated for approximately 5 days. When she was discharged from the hospital she was symptom-free but has developed progressive shortness of breath and difficulty breathing especially with activity. She has some mild stridor that has developed. He denies fever, malaise or other systemic symptoms. She feels something abnormal just to the left of the midline in the lower neck. She is been placed on several courses of steroids but has not improved.

Review of Systems:

Review of Systems

Constitutional: Negative for fever.

HENT: Positive for trouble swallowing and voice change.

Eyes: Negative for visual disturbance.
Respiratory: Positive for shortness of breath.
Cardiovascular: Negative for chest pain.
Gastrointestinal: Negative for vomiting.
Skin: Negative for rash and wound.
Neurological: Negative for headaches.
Psychiatric/Behavioral: Negative for confusion.

Physical Exam:

Pulmonary:

Effort: Pulmonary effort is normal. No respiratory distress.

Breath sounds: No decreased breath sounds, wheezing or rhonchi.

Comments: There is some mild stridor. This seems to worsen when she is breathing more heavily. Her voice quality is slightly hoarse. She does have mild accessory muscle use with inspiration.

Exam Accession# 13343781

CT CHEST W IV CONTRAST

CLINICAL INFORMATION: stridor, respiratory distress; Region of Interest and Additional Information->s/p MVC, intubated for several days

COMPARISON: Chest radiograph 09/09/2019.

FINDINGS: There is no pleural effusion or pneumothorax. There is focal moderate stenosis of the subglottic trachea at the level of the inferior thyroid (series 5 image 2). There is no acute airspace disease.

There is no cardiomegaly or pericardial effusion. No mediastinal, hilar, or axillary lymphadenopathy.

There is a round 1.1 cm hyperdense focus within the gastric lumen on series 3 image 54 along the greater curvature potentially representing a polypoid mass versus an ingested products.

There is no acute osseous abnormality.

IMPRESSION:

1. Focal moderate stenosis in the subglottic trachea at the level of the inferior thyroid.
2. 1.1 cm questionably enhancing polypoid lesion in the gastric lumen along the greater curvature. Alternatively, this may simply represent ingested contents/food products; nonurgent upper endoscopy should be considered for further evaluation.

Tracheal stenosis discussed with Dr. --- at 7:32 PM on 09/01/2020.

Dictated By: ---, MD 9/1/2020 7:30 PM

Edited By: -- 9/1/2020 7:40 PM

Electronically Signed: ---, MD 9/1/2020 8:08 PM

Exam Accession# 13343780

CT NECK SOFT TISSUE W IV CONTRAST

CLINICAL INFORMATION: stridor, respiratory distress, r/o subglottic stenosis/tracheal mass; Region of Interest and Additional Information->patient was intubated for several days following MVC

COMPARISON: None.

FINDINGS: There is a 1.4 cm craniocaudal length moderate stenosis of the subglottic trachea (series 6 image 28 and series 4 image 63 at the level of the inferior thyroid.

There is no pharyngeal mucosal space mass. No mass in the visualized trachea. The parapharyngeal, retropharyngeal, prevertebral, parotid, submandibular, sublingual, and masticator spaces are unremarkable. There is no cervical lymphadenopathy.

The visualized lung apices and superior mediastinum demonstrate no acute abnormality. No gross abnormality of the major cervical vasculature.

No evidence of acute sinusitis. The mastoid air cells are clear.

There is no acute osseous abnormality.

IMPRESSION: 1.4 cm in craniocaudal length moderate stenosis of the subglottic trachea at the level of the inferior thyroid. This was discussed with Dr. --- at 7:32 PM on 09/01/2020.

Dictated By: ---, MD 9/1/2020 7:38 PM

Edited By: -- 9/1/2020 7:45 PM

Emergency Department Course:

CT confirms subglottic stenosis likely secondary to her recent intubation. The degree of stenosis is moderate and I do not feel she is going to imminently lose her airway. There is no abscess or other cause that needs immediate attention. She has a ENT follow-up appointment scheduled for tomorrow morning at Sanford. We will have her bring her imaging with her to that appointment.

There is mention of a polypoid mass in the stomach. I would defer further work-up of this to her primary care provider.

Assessment:

Subglottic stenosis (primary encounter diagnosis)

Plan:

Discharge Instructions

**Follow up with your ENT provider. Bring your images with.
Return to the Emergency Department right away if worsening symptoms or new concerns.**

ExitCare Instructions

None

Discharge Prescriptions

None

9/2/2020—Sanford Broadway Clinic, Dr. ---, ENT Consult (Fargo)

Impression/Plan:

Tracheal stenosis (Primary)

- SURGICAL CASE REQUEST: MICRODIRECT LARYNGOSCOPY, BRONCHOSCOPY, AIRWAY DILATION
- LARYNGOSCOPY, FLEX FIBEROPT

Tracheal stenosis in the mid trachea.

This is confirmed by a flexible bronchoscopy today in clinic and also with evidence on previous CT scan. Appears to be fairly to fairly thin bands that are the cause of the stenosis I anticipate this would be able to be treated with endoscopic balloon dilation.

Would want to have her use a nebulized Ciprodex postop to try to minimize recurrence of the scar bands.

Would anticipate seeing her back in 2 to 3 weeks postop for repeat flexible bronchoscopy in clinic.

Risks and goals were reviewed with her and she is very eager to proceed she is going to get COVID testing today at since in order to complete preoperative requirements for airway surgery

The diagnosis and recommendations were discussed in plain language with the patient and communicated to the primary team, all questions were answered

Findings:

Trachea - ~60% stenosis mid-trachea , video documented

Carina - healthy appearing

L mainstem - healthy

R mainstem - healthy

Findings: The nasopharynx is clear, the epiglottis is crisp. Arytenoid, AE fold, and false vocal fold mucosa is generally healthy. Very small vocal process granuloma. The vocal folds are mobile and clear. The piriforms are clear. Visualized portion of subglottis clear.

Patient Instructions

Jennifer at 9/2/2020 8:23 AM

Education section:

Patient voiced readiness to receive written information regarding micro-direct laryngoscopy, bronchoscopy, airway dilation. Surgery is scheduled with Dr. --- on September 3, 2020.

My Personal Social Media Posts

8/13/2020:





Hello everyone. It's "me", Amanda. I was going to originally post a video of me talking, but I continue to (annoyingly, according to me) cough after not too many sentences. I'm posting this as a very personal update to those I love, respect, and admire.

I am beyond blessed and thankful for the outpouring of love, kind words, support, visits, etc. I have frequently stated that I don't feel that I could ever come close to being deserving or worthy of the love I have received. It's probably very good I could type that statement instead of saying it out loud as I would have cried (and probably would have had to stop to collect myself). Not everyone knows or understands what happened the evening of July 13th, one short month ago, so I felt it was perhaps needed for me to share more about it.

I worked a 12 hour day shift on July 13th with my beautiful coworkers serving our patients. I'll be honest here and say that I don't remember that day. Perhaps it's from the accident or it was God's way of protecting me from the ending of that day. I can tell you all that I am in Love with my job and felt So blessed to make it through 5 years of absolute blood, sweat, and tears to serve others.

On July 13th my car was t-boned on the passenger side (thank God not my side) by a police officer who was responding to an emergency call. Anyone who has driven in Watford City knows how "hilly" and beautiful it is. Due to the injuries I sustained, I had to be taken to Watford City's ER to be assessed, treated, and intubated by staff I am beyond grateful were present and able to treat me. Thank You, Thank You!!! I was then transported to Trinity Hospital for ICU care. Four days of ventilator care and steroid treatments later, I was extubated.

From what I learned, I jokingly said I'm surprised my family and friends are still around as I was not a fun patient to be around. I had a Lot of pain and I was dealing with 3 brain bleeds. I'm So sorry.

I was transferred back to Fargo via non-emergent ambulance to Sanford Health Rehab a few short days later. I started various therapies by the next day and it felt So good to be so close to "home" (Casselton). It also felt beyond weird to be a Patient. Perhaps the "weirdest" part was the daily Progress I could feel and see. I can now see what my patients mean by progress. Again, typing that makes me want to break down and cry. I should mention that I am Not one to cry easily. This experience has changed me in more ways than one, all for the better.

I was discharged back Home with scheduled outpatient therapies and appointments by August 4th!! August 4th!!!!!! ♡

I did not mention specific names throughout this update. This is Not because I do not remember them. I did not mention names as I do not believe any specific person is more significant than the next. You Are All Significant To Me!! I am So So blessed. Thank you!!! I am so thankful for my family and friends who have updated others on my progress so far ♡!!

I resumed outpatient therapies this week with Sanford Health (yay!) and can tell that each day is better!! My goal throughout this process has been to absorb as much valuable information as I can as a Patient to help treat My future patients. I have no doubts that I Can and Will resume treating patients as a nurse practitioner. Therapy staff at Sanford have All been Amazing to work with.

I felt it was personally needed at this point in time to update on my progress (so far). I am still "here" (ha!) with every intention of returning back to work as a nurse practitioner. I heard many stories about how my original outlook was projected to look like. I am so Proud and Thankful to be blowing those initial projections out of the water!!! Again, I am glad I am typing this update instead of speaking as I would likely not be able to finish the next sentence. I miss my patients, my coworkers, my profession, and what "normal" can be. ♡

Don't Ever forget to count your blessings. Please keep my family and I in your thoughts and prayers along with a continued very speedy recovery. I am not allowed to work yet and I do Not receive a temporary paycheck. This accident has dramatically changed my family. Also, Please keep Officer Moran and his family in your thoughts and prayers. I am one text away if anyone has a burning question ♡ I'm beyond thankful to be alive and well. Thank you all.

12/12/2020:

 **Amanda Marie Mitchell**
Dec 12, 2019 · 🧑‍🤝‍🧑

Thank you [Katie Prothero](#) for your guidance the past 14 weeks!! Last day of clinical as a FNP student in the books!! One test left to take tomorrow and I'm D-O-N-E!! ❤️ 🧑‍🎓 🧑‍🎓 🥰 [Kenneth Mitchell](#) [Susan Upton](#)



👍❤️🥰 98 38 Comments 1 Share

👍 Like 💬 Comment ➦ Share

What I'd give to be back "here" today. ❤️🧑‍🎓 I worked 5 years straight to get to that point (2.5 years for my RN to BSN and 2.5 years for my FNP masters—half-time school "status"). The first 4.25 years I worked full-time as a nurse until I knew traveling up to 2 hours one way to clinical sites, plus being a mother, etc. was too much. I dropped my work hours to 24 hours per week for my last 2 semesters. I hardly saw my family or friends. I tried to be the best mom and wife I could be. I accepted the "lived in" look of my apt because my education and son's needs (and Some sleep) had to come first. I finished strong despite feeling like I knew so little. I was so exhausted yet felt so damn proud of myself. I was so happy to be able to transition to being an "all present" parent to Quincy who watched me work on homework or attend virtual classes. I prayed he would see my dedication and determination as a guide to never give up and to try hard at life.

I took "off" from studying for nurse practitioner boards for almost a full month before I put my foot down and forced myself to open that review book. I scheduled boards for January 30th which happens to be my little brother, Kody Herold's, birthday. I was so scared that I would either be celebrating passing my boards and my brother's birthday or feeling like a failure at his birthday celebration.

I took the entire testing time allotted on the first computer at the testing site. I answered the final question on the test, reviewed a few of my answers, and hit "submit". A message opened up on my screen stating that I PASSED!!! I wasn't sure if it was "real" or not!! I was shaking as I gathered my marker and my scratch paper. I opened the door to leave the testing room and asked the receptionist if the message was "real". She looked at me, smiled, and said, "If it said you passed, then you passed"! I shook and was so excited. I gathered my things from my locker at the testing site and bolted to my car.

The first person I called (sorry Kenny, lol) was my mother, Tina Herold. She said she was waiting for me to call for over an hour. Ha! I told her I passed by boards and was officially a nurse practitioner. I cried happy tears and called my husband.

I got to Celebrate my achievement and my brother's 25th birthday that evening. I had already returned to working full-time weekend status after my last clinical on December 12th, so I didn't stay out very long. I'll never forget that day. I'll never forget the path I took to get to that point.

Unfortunately at the same time, COVID-19 was making its way throughout the world. Due to the virus and changes that needed to take place for the safety and well-being of others, very few nurse practitioner positions were available. Already long story short (sorry), I accepted my first nurse practitioner position as an independently contracted locum nurse practitioner in Watford City, ND. I was offered reduced cost health, dental, vision, and long term disability insurances at \$1450 per month. I started my nurse practitioner journey on May 2nd. I chose the dates to work so I could be home the weeks I had Quincy. I was coordinating moving back to Casselton at the same time as starting as an NP. It was "messy", but my family was there to help (So So much).

Fast forward to July 13th—I worked a 12 hour day shift. I was told I left the clinic/hospital to pick up supper and treats for staff (I do not remember that day or the day before). A police officer responding to a call ran through a red light at over 60mph and t-boned the passenger side of my car. At that moment, my life changed.

I can give more details about the journey I have experienced so far since that day, but I choose to leave it at this. Remember to take in all those moments. Give life your "all", especially when you are doing God's work and what is right. There will be hills and valleys. There will be blood, sweat, and tears. Above all, keep your Faith that God has a plan for us all, even in our darkest moments when it may feel impossible to see the light.

My life will never be the same, but that will not stop me from working hard and hopefully working as a nurse practitioner again in the future to care for others. I've learned so much from this accident about what is important in life along with what disparities exist in the healthcare world. I hope to make a difference  . Thank you for taking the time to read this. Share it if you'd like. Keep going!!!

12/30/2020:

I try to not post too many "negative" things because I have always tried my best to "fix" situations and get things solved. That's part of the reason I became a nurse practitioner. I wanted to be the voice for others in times that seemed impossible. I could now use some of my own warriors as my long term disability insurance company denied my claim. After 3 bleeds on my brain—a traumatic brain injury that has changed my life.

Acute Care Inc, my attorney, and friends are fighting this as the reason for denying my claim was Wording. Wording that was Corrected. Until my claim is approved, my family and I are at a huge loss. Medical bills are expensive. I Need occupational and speech therapies in order to improve. I have no vehicle. I've fought to get this far. The honest truth for me? I'm Exhausted.

No programs exist to help a nurse practitioner who is independently contracted get back on their feet. I get all "no's" for volunteering in medical facilities or job shadowing other NPs which is my next step in therapy. Some explanations I receive are due to COVID while others are "you aren't an employee here".

My husband's birthday is today. I want this day to be about celebrating, however I don't think that will be very "easy" for our family. We are Scared. Kenneth Mitchell and our Arkansas boys go back to Arkansas on January 1st. I have no car or income.

What I need is Your help. I need your help by being my voice. Call the news stations, call the radio stations, call our local/state/house legislative members, REPOST THIS THREAD. I spent 5 years of my life to become a nurse practitioner. A rug was pulled from underneath me only 2.5 months into my new career. I cannot yet work as a nurse. I cannot be cleared to Work. Please, be my Voice. THANK YOU!!! ♡♡♡♡🙏

***Edit: I have been asked if I have Venmo or PayPal—I do have both: mommamarier25@gmail.com;
@Amanda-Mitchell-179

My post:

Good morning! Brandy Pyle, our District 22 ND House Representative, MY HERO ♡, has gone above and beyond to help bring attention to the inadequacies of ND Century Code Section 32-12.1-03(2)—Governmental Liability.

..."the liability of political subdivisions under this chapter is limited to a total of two hundred fifty thousand dollars per person and one million dollars for any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence."

Although House Bill No. 1332 (1987) amended Subsection 2 of Section 32.1-12.1-03 to limit liability to a total of two hundred and fifty thousand dollars, the \$250,000 limitation per person has been in place since the section of law was created in 1977. Senate Bill No. 2315 (2015) increased the total liability amount for a single occurrence from \$500,000 to \$1,000,000.

I am finishing up on My personal testimony for submission by 7:15AM on 1/7/2021. Personal written testimonies can be submitted by Anyone online by the same time/date.

There may or may not be enough time for oral testimonies due to constraints, however the proceedings can be viewed online (I will attach a link). I WILL BE PRESENT at the public hearing and my family will be watching (Kenneth Mitchell will also provide testimony from Arkansas).

If you, a loved one, or friend have been affected by the unfortunate limitations of this law, or you want to be My hero and Voice, please submit a testimony!!!

https://www.legis.nd.gov/legend/committee_hearings/testimony/public-testimony/29/?bill_number=1057

Here are Some items I hope to be included/added:

- ☑ Individualized financial reimbursement based on income obtained at the time of the incident including lost wages, cost of hospitalization, cost of rehabilitation and therapies, cost of vision therapy and adaptive equipment, cost for counseling and mental health services, cost of health/dental/vision/LTD/Life insurances, and cost (potentially) for legal representation (attorney fees/legal fees). Cost of future cost inflation to also be included.
- ☑ Code changes to be retroactive to at minimum my case.
- ☑ Above recommended updates to be considered throughout the rehabilitative process (for example, Traumatic Brain Injury (TBI) patients often require 2-3 YEARS of rehabilitation—this includes Myself).
- ☑ Option for virtual therapies to be covered by healthcare facilities/health insurance when virtual therapies are deemed to be appropriate by therapy professionals directly caring for the patient.
- ☑ Reimbursement for or replacement of lost vehicle of equal cost/value at time of incident (if applicable, as it would be in my case).
- ☑ Free transportation services for patients to and from medical appointments who have not yet been released to drive or cannot afford vehicle maintenance and or cost of fuel including patients in rural settings.
- ☑ Reimbursement or payment of student loans (Federal and private) if patient is unable to return to former occupation due to sustained injuries (I have worked as a nurse for 12 years and have \$170,000 + in student loan debt to become a nurse practitioner [LPN, RN, BSN, MSN, FNP-BC]). Reimbursement or payment of student loan interest while loans are on temporary deferment (if applicable) and/or forbearance. Reimbursement and payments are to not be taxed.

☑ Legal assistance for self-employed/1099 independently contracted workers including filing of paperwork for assistance programs (in conjunction with an APPOINTED social worker).

☑ Implementation/creation of return to work programs for nurse practitioners/healthcare providers (including those who are independently contracted/1099) that are supported by healthcare networks for rehabilitative purposes.

Please join me in this “fight” to improve this code, the rehabilitation of patients, and to help be my Voice!! Share!!

Hello,

My name is Kenneth W. Mitchell. I am Amanda Mitchell's husband. I know she is there with you today and I hope that our message to you about this bill will ring loudly with you. My wife's life and our family's life has been devastated by a tragic accident on July 13, 2020. My wife was hit by a police officer who blatantly disregarded all standard procedures while responding to another call. The officer traveling at over 60mph ran a red light and impacted my wife's vehicle. The details of this could be provided to you if need be.

I understand that writing you today is not about my wife's accident, but it is what has led us to this point. My wife has dedicated the greater part of her life to her medical career. She had just finished her Nurse Practitioner degree and all that goes along with this to be able to practice medicine as a Practitioner. 10 years of her life dedicated to schooling and working the entire time. Our family had sacrificed so much to help her accomplish her life's goal. After only working for 2.5 months in her dream job this was ripped away from her due to the negligence of an officer of the law who is sworn to protect and serve.

The limitations of the North Dakota Code 32-12.2-02 that was written in the 1970's is going to crush our family financially. On top of the student loan debt that my wife has there are now thousands of dollars in medical bills that we cannot pay nor should we have to. Just doing a simple inflation calculator and you will find that 250 thousand dollars in 1970 is no where close to what it would be today! As a matter of fact, 250 thousand dollars in 1970 would be equal to \$1,676,733.25 in 2020. The bill that is being proposed to you today would only change the total liability amount to \$375,000 and not go into effect until 2022. This would not help my wife or my family! Granted this is a start but in today's world and the cost of insurance/medical I do not feel it goes far enough.

Every person I talk to cannot believe the turmoil's that our family has had to go through. My wife I believe is going to cover just a portion of the insanity our family/herself has been through to get to here. There needs to be changes made now and I plead with you to please make this retroactive to help my family. Because of this accident and this law of limited liability our family stands to lose everything. I am told that we need to be reasonable in our request. What is Reasonable? My wife is working so hard to try to get back to where she was and ultimately get back to her career! The financial burden and stress make this even more difficult. She and I are not looking for a fraudulent/ extravagant lawsuit. We simply want what is right.

I ask you this. What if this was your daughter, wife, husband, son, granddaughter, or grandson? You watched them work hard their entire lives to reach a goal provide for their family and then tragedy strikes! You find out they have no hope of recovering what they have lost because of a law that was from the 1970's!

In closing I as a husband and father beg of you to please change this please make this retroactive to help not only my family but those in the future that tragedy may hit as well! By the time the lawyers and insurance companies are done with the 250 thousand dollars there is nothing left for my wife and family. This is not right, and you know this. Only you can make this right!

I understand that this law is meant to keep lawsuits from getting out of hand, but the 250 thousand limits should be adjusted and made to be retroactive. My wife is still facing at minimum of one

year of therapy possibly two due to her injuries and we as of now must pay for this somehow. Let alone we are now fighting with long term disability which my wife purchased and now is denied because of certain wording in the policy!!

The injuries that my wife has suffered are referred to as invisible injury's. She suffered three brain bleeds and a TBI (Traumatic Brain Injury). Because of these injury's and the affect on her executive functions the standard procedure is one to two years of therapy before she will be allowed to even start back to work. There is no guarantee either that she will be physically able to do so! My wife is a fighter and has every intention of doing all she can to pursue her career but physical restrictions from her injury may prevent her from doing so. I ask you what my family is supposed to do! Please help us and make this right!

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB1057
1/14/2021
House Political Subdivisions

Relating to the statutory caps for liability of political subdivisions and the state

Chairman Dockter:(10:15) Reopened HB1057 for committee work.

Representative Jason Dockter
Representative Brandy Pyle
Representative Mary Adams
Representative Claire Cory
Representative Sebastian Ertelt
Representative Clayton Fegley
Representative Patrick Hatlestad
Representative Mary Johnson
Representative Lawrence R. Klemin
Representative Donald Longmuir
Representative Dave Nehring
Representative Marvin E. Nelson
Representative Luke Simons
Representative Nathan Toman

All present.

Discussion Topics:

- Liability limits
Annual adjustments for liability

Rep. Hatlestad: (10:19) Presented a proposed amendment. 21.8033.01003. Testimony #3086

Vice Chairman Pyle: (10:36) Presented proposed amendment. 21.8033.01002. Testimony #3085.

Brennan Quintus, ND Insurance Reserve Fund:(10:39) Provided additional information.

Rep. Adams: (10:50) Made a motion to move forward with Vice Chairman Pyle's amendment as amended to include page 1 line 13 a. one million six hundred twenty-five thousand dollars for any single occurrence. B. add - one million seven hundred fifty thousand dollars for any single occurrence. C. add - one million eight hundred seventy-five thousand dollars per occurrence.

Rep. Longmuir: Second the motion.

Voice vote carried

Rep. Johnson: Made a motion for do pass as amended.

Rep. Longmuir: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	N
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Luke Simons	Y
Representative Nathan Toman	Y

Motion carried 13-1-0

Vice Chairman Pyle: Will carry the bill.

Chairman Dockter: (11:39). Adjourned

January 14, 2021

DB 1/15/21
1 of 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1057

Page 1, line 3, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 8, remove "five hundred"

Page 1, line 9, remove "thousand"

Page 1, line 13, after the period insert "The liability limits under this subsection must be adjusted annually as follows:

- a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.
- b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.
- c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.
- d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence."

Page 1, line 17, remove "five hundred thousand"

Page 1, line 21, remove "five hundred thousand"

Page 2, line 3, after the period insert "The liability limits under this subsection must be adjusted annually as follows:

- a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.
- b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.
- c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.
- d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence."

Page 2, after line 4, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2027, and after that date is ineffective."

Renumber accordingly

DA 1/13/21

2 of 2

REPORT OF STANDING COMMITTEE

HB 1057: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1057 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

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- d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence."

Page 2, after line 4, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2027, and after that date is ineffective."

Renumber accordingly

21.8033.01003
Title.

Prepared by the Legislative Council staff for
Representative Hatlestad
January 13, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1057

Page 1, line 3, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 13, after the period insert "On July first of each year, the director of risk management of the office of management and budget shall adjust the liability limitations under this subsection by the consumer price index. The adjustment may not exceed three percent for any year, rounded to the nearest one hundred dollars. For purposes of this subsection, "consumer price index" means the percentage change in the consumer price index for all urban consumers in the midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first."

Page 2, line 3, after the period insert "On July first of each year, the director of risk management of the office of management and budget shall adjust the liability limitations under this subsection by the consumer price index. The adjustment may not exceed three percent for any year, rounded to the nearest one hundred dollars. For purposes of this subsection, "consumer price index" means the percentage change in the consumer price index for all urban consumers in the midwest region as determined by the United States department of labor, bureau of labor statistics, for the most recent year ending December thirty-first."

Page 2, after line 4, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through July 1, 2023, and after that date is ineffective."

Renumber accordingly

21.8033.01002
Title.

Prepared by the Legislative Council staff for
Representative Pyle
January 12, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1057

Page 1, line 3, remove the second "and"

Page 1, line 3, after "date" insert "; and to provide an expiration date"

Page 1, line 8, remove "five hundred"

Page 1, line 9, remove "thousand"

Page 1, line 13, after the period insert "The liability limits under this subsection must be adjusted annually as follows:

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- a. On July 1, 2023, a total of four hundred six thousand two hundred and fifty thousand dollars per person and one million two hundred fifty thousand dollars for any single occurrence.
- b. On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million five hundred thousand dollars for any single occurrence.
- c. On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million seven hundred fifty dollars per occurrence.
- d. On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence."

Page 2, after line 4, insert:

"SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2027, and after that date is ineffective."

2021 SENATE POLITICAL SUBDIVISIONS

HB 1057

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

HB 1057
2/18/2021

A BILL for an Act to amend and reenact subsection 2 of section 32-12.1-03 and subsection 2 of section 32-12.2-02 of the North Dakota Century Code, relating to the statutory caps for liability of political subdivisions and the state; and to provide an effective date.

Chairman Burckhard opened the hearing on HB 1057 at 9:31 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Expiration date
- Vehicles owned by political subdivisions

[9:33] Tag Anderson, Director, Risk Management Division, Office of Management and Budget. Provided testimony #6828 in favor.

[9:38] Terry Traynor, Executive Director, North Dakota Association of Counties. Provided testimony #6933 in favor.

[9:41] R. Blake Crosby, Executive Director, North Dakota League of Cities. Provided oral testimony in favor.

[9:47] Brennan Quintus, CEO, North Dakota Insurance Reserve Fund. Provided the committee with clarification on language of vehicles owned by political subdivisions.

Senator Heitkamp moves **DO PASS**.
Senator Kannianen seconded.

Chairman Burckhard Delayed the vote of DO PASS to gain additional information.

[9:53:08] Recess

[10:24:54] Chairman Burckhard took up the earlier DO PASS motion on HB 1057

Senator Oban provided the committee with clarification

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

Roll Call Vote 7-0-0

Senator Anderson will carry

Additional written testimony: N/A

Chairman Burckhard closed the hearing on HB 10:26 a.m.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1057, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1057 was placed on the Fourteenth order on the calendar.

TESTIMONY OF

Tag Anderson, Director of Risk Management Division

Chairman Burckhard, and members of the Senate Political Subdivisions Committee, my name is Tag Anderson. I am the Director of the Risk Management Division of the Office of Management and Budget (OMB). I appear today in support of HB 1057.

Following the loss of sovereign immunity, the legislative assembly established the Risk Management Fund as the State's self-retention fund to address most third-party liability exposures. The Fund is administered by the Risk Management Division of OMB pursuant to N.D.C.C. Chapter 32-12.2. Political subdivision liability is largely governed by N.D.C.C. Chapter 32-12.1. Both chapters include statutory caps on recovery that are currently consistent with limits of \$250,000 per person and \$1,000,000 per occurrence for four or more persons. This legislation would raise those limits to \$375,000 per person and \$1,000,000 per occurrence as of July 1, 2022, with subsequent upward annual adjustments culminating in \$500,000 per person and \$2,000,000 per occurrence limits as of July 1, 2026. The legislation also contains an expiration provision which will require subsequent legislation to further adjust the statutory caps not later than the 2027 legislative session. This legislation is the result of discussions between The Risk Management Division and representatives from the North Dakota Insurance Reserve Fund following attempts to raise the statutory caps for political subdivisions last legislative session. OMB supports the House amendments to the original legislation.

This concludes my prepared remarks. I would be happy to answer any questions you may have.

Thank you.

Testimony Prepared for the
Senate Political Subdivisions Committee
Thursday, February 18, 2021
By: Terry Traynor, NDACo Executive Director



RE: Engrossed House Bill 1057 – Government Liability

Mr. Chairman and members of the Political Subdivisions Committee, thank you for the opportunity to address Engrossed House Bill 1057, on behalf of North Dakota's counties.

You have likely heard the history of government liability; the elimination of sovereign immunity in the 1970's, the lack of insurance carriers willing to underwrite public risk, the creation of the North Dakota Insurance Reserve Fund and the subsequent creation of the State Risk Pool. It has been a long and challenging road to provide adequate protection for our taxpayers and just compensation for those harmed by governmental actions.

We believe that the Legislature, local officials, the state risk pool, and our insurance fund have worked well in periodically considering these chapters of Century Code, adjusting limits when appropriate, as was done to the "per occurrence" limit in 2015. And we have not been alone in this review, as may have been mentioned, the current liability limits for local government were also reviewed and upheld by the Supreme Court in 2018.

This Committee understands better that most that increasing these limits will have the effect of increasing state and county government costs. And raising costs, for local government at least, prompts one of two outcomes – higher property taxes or reduced services in other areas. For this reason, when the Legislature considered a similar bill last Session, with much more significant changes, NDACo, along with other groups, urged a thorough review of liability limits across the board, so that the state risk pool and the NDIRF could better determine the effects of such a change.

We believe that the conservative changes proposed in HB1057, while very likely increasing governmental costs, are reasonable and continue the balance of taxpayer protection and just compensation. Mr. Chairman and Committee Members, on behalf of our state's counties we agree with this measured approach to adjusting government liability limits and support a Do Pass recommendation at the levels proposed.