

Testimony – SB 1118  
House Human Services Committee  
January 11, 2021  
By Cody Schulz  
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Chairman Weisz and members of the House Human Services Committee, my name is Cody Schulz. I am the Deputy Director of the Department of Emergency Services (DES) and Director of the Homeland Security Division. I offer this testimony in opposition to HB 1118 as it is currently written.

DES's Division of Homeland Security has a number of statutory requirements regarding coordination and resourcing of State disasters, so issues of an administrative and fiscal nature may have a significant effect on operational decisions we are required to make in the heat of the moment.

My biggest concern is that this bill as written may create some uncertainty in the timing and process for legislative approval of an extension, and that the uncertainty could affect operational decisions at both the state and local level as well as potentially risk federal reimbursement associated with Presidential Emergency/Disaster Declarations as authorized under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-707, which authorizes the President to provide Federal assistance when the magnitude of an incident or threatened incident exceeds the affected State, Local, Territorial, and Indian Tribal government capabilities to respond or recover.

Specifically, the text of the bill does not proscribe by which day of the emergency the Governor must call the Special Legislative Session or a time limit by which the legislature must convene and act. Without clarity I could envision a hypothetical scenario in which the Governor calls a special session of the legislative assembly on the fifty-eighth (58) day of an emergency, but the legislature does not or cannot meet and act until the sixty-seventh (67) day of the emergency. Subsequently, if the legislature would terminate the emergency, it appears to me the termination would be retroactive to the sixtieth (60) day.

The concern and scenario I have noted would impact receiving funding from the federal government due to a Presidential Disaster Declaration which requires, "as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan," which in practice in North Dakota is done through the executive order declaring an emergency or disaster. Therefore, if a Governor's order is revoked, federal funding from that point forward would not be available and in the hypothetical situation I pointed out earlier there would be a nine (9) day window in which state and local leaders would be making resource and fiscal decisions in a cloud of uncertainty.

During disaster response uncertainty can negatively impact operational and fiscal decisions. Therefore, we ask that all effort be made to create stability and predictability

for state and local decision makers, especially in the difficult and uncertain time of emergencies and disasters.

I would gladly participate in committee meetings to answer questions or draft amendments to ensure that this or any other bill of this nature does not have unintended and negative consequences in regard to our ability to respond to disasters.

Thank you for your time; I will do my best to answer any questions you may have.