



TESTIMONY ON HOUSE BILL 1495

Senate Government and Veterans Affairs Committee

March 25, 2021

Daniel L. Gaustad, City Attorney, City of Grand Forks, ND

Chairman Veda and members of the Government and Veterans Affairs committee, my name is Daniel L. Gaustad and I am the City Attorney for the City of Grand Forks. I want to thank you for the opportunity to provide testimony and express the City of Grand Forks' opposition to HB 1495.

The City of Grand Forks, like many cities in North Dakota, relies on the ability of the Mayor, as the executive officer, to take action through executive orders in the time of local emergencies. This includes not only declaration of emergencies like those issued to aid in combating the current pandemic, but also executive orders to combat natural disasters like the 1997 flood in Grand Forks. As it is currently drafted, the proposed amendment to N.D.C.C. § 37-17.1-10 places additional hurdles in front of political subdivisions, like the City of Grand Forks, during the times of a local disaster or emergency and precludes the exercise of local control over local disasters and emergencies.

Rather than permitting political subdivisions to focus on the epidemic or pandemic at hand, the amendments to N.D.C.C. § 37-17.1-10 require an emergency order or declaration by a political subdivision to be approved by the state health office before it may take effect. Thus, as amended, N.D.C.C. § 37-17.1-10 could result in a delayed response to an epidemic or pandemic while the emergency order or declaration is being reviewed during a time in which these emergency orders or declarations are necessary to mitigate and address the emergency locally. There are 53 counties and over 350 municipalities. During a statewide epidemic or pandemic, the amendments to N.D.C.C. § 37-17.1-10 could require the review of a significant number emergency orders from counties and municipalities by the state health office before the local political subdivisions, like the City of Grand Forks, could take local action to protect its citizens from a then existing epidemic or pandemic. Furthermore, this legislation, at Section 6, also limits the ability of the City of Grand Forks to fashion appropriate orders to address the local situation due to the limitation contained in the legislation that the local order cannot be more restrictive than allowed by state law. An emergency situation can take on various degrees of impact and in localized responses and decisions are required. For example, a flood emergency in Grand Forks, due to its location to the Red River, may have vastly different impacts and in turn different responses and mitigation efforts than in other locations of the state. Yet, by this limitation, the legislation is one that effectively becomes the proverbial "one-size fits all" approach even though an emergency event can present unique set of circumstances that necessitate unique and localized mitigation measures. As such, the City of Grand Forks is opposed to this amendment as it needless adds an additional step in the process to combat an epidemic or pandemic and limits local authority and control at a time in which local authorities are best situated to address local issues and concern.

Accordingly, the City of Grand Forks respectfully asks for a DO NOT PASS for HB 1495.