

TESIMONY OF
MAJOR GENERAL ALAN S. DOHRMANN
DIRECTOR, DEPARTMENT OF EMGERENCY SERVICES
BEFORE THE 67TH LEGISLATIVE ASSEMBLY
SENATE GOVERNMENT AND VETERANS AFFAIRS
JANUARY 11, 2021

Chairman Larson and members of the Senate Judiciary Committee, my name is Al Dohrmann. I am the Director of the Department of Emergency Services (DES) and Adjutant General of the North Dakota National Guard. I offer this testimony in opposition to SB 2124 as it is currently written.

In addition to the concerns raised by Mr. Schulz in his testimony, I am also concerned that this bill, as written, could limit the state's ability to take decisive action, at the time and place of need. While crisis response is a team sport, to get ahead of your competition, whether it is mother nature, an invisible virus, or a thinking competitor promoting civil unrest, you need empowered leadership from the front-line responder up to the leader of the Unified Command and the executive of the state, the Governor. Additionally, you need the authority and resources required, at the time and place of need, to take the action required to save lives and protect property. Chapter 37-17.1 of the Century Code, as currently written, provides the Governor the tools needed to take decisive action at the time and place of need. Whether it is rapidly procuring flood mitigation resources, quickly calling out the National Guard, or dramatically increasing testing and bending the curve during a spike in transmission of a virus, the powers provided to the Governor under Chapter 37-17.1 have served our state well over the last several decades.

There are other ways to provide valuable Legislative input to disaster or crisis response. For one, the legislature could bank some days for contingencies and come back into session on their own initiative. If this approach would negatively impact its ability to conduct the people's business, it could explore giving the legislative branch the power to come back into session, on its own authority, to review and amend any Executive Orders issued by the Governor. Either approach, would avoid the possibility that there would be a lapse in authority or "grey area" periods during a crisis that would put at risk our ability to receive federal aid, or put into questions the status and protections of our first responders, including National Guard members called on to State Active Duty.

I provide these options not because I personally believe we need to change our current law, rather to ensure that if we do limit the Governor's emergency powers that we understand the second and third order effects of any change. As I stated earlier, crisis response is a team sport, but it requires decisive leadership at all level of the response team. While good leaders want input from all subject matter experts and must consider the political and economic implications of their decisions, when time is of the essence, there is not time to form a committee, research the prefect solution or execute a deliberate bureaucratic process.

Further, we need to fully consider the relatively short period of time that a Governor's Emergency Declaration or Executive Orders would be effective under SB 2124. Recent history has shown that many emergencies extend well past 30 days to insure we have continuous access to federal programs designed to mitigate both property damage and human suffering. Are we going to call the legislature back into session for every flood, major storm, draught or, unfortunately, period of civil unrest? If evacuations need to be ordered on day 31 of a disaster because of approaching fire or flood are we going to wait for the legislature to convene to issue that order? Is this the best use of resources and consistent with the tradition of our legislature and our Constitution? These are not questions for me to answer, but, I would submit, appropriate for this body to consider.

With that said, I understand the need and value of having co-equal branches of government in a democracy; in fact, I swore an oath to protect and defend our form of government. I would offer any assistance from my agency to ensure that any changes to Chapter 37-17.1 of the Century Code provide a more responsive government to the citizens of North Dakota during times of emergency and crisis and ensure these changes do not produce unintended consequences.

I would be pleased to stand for your questions.