

**TESTIMONY OF  
JUSTIN MESSNER  
HOMELAND SECURITY DISASTER RECOVERY CHIEF  
NORTH DAKOTA DEPARTMENT OF EMERGENCY SERVICES  
BEFORE THE 68<sup>th</sup> LEGISLATIVE SESSION  
SENATE STATE AND LOCAL GOVERNMENT COMMITTEE  
MARCH 2, 2023  
IN SUPPORT OF HOUSE BILL 1098**

Chairman Roers, members of the State and Local Government Committee, my name is Justin Messner and I'm the Disaster Recovery Chief at the Department of Emergency Services (DES) for the State of North Dakota. I am here today to testify in support of House Bill 1098. This is a bill that amends Subsection 2 of NDCC 61-16.2-09 relating to floodplain management ordinances. The intent of this bill is to ensure that the state does not unintentionally limit the ability of a city, county, or organized township to receive flood disaster assistance that they would otherwise be eligible for under federal disaster recovery programs.

As presently written, if a community fails to adopt or enforce floodplain management ordinances required under the National Flood Insurance Program (NFIP), then it is not eligible to receive any flood disaster assistance from the state, financial or otherwise. On its face, this sounds like a good thing because we want communities to participate in the NFIP. However, disaster relief funding from the Federal Emergency Management Agency (FEMA) is required to be passed through the ND Department of Emergency Services before it can be disbursed to local communities. This means that a community that failed to adopt or enforce floodplain management ordinances would not be eligible to receive any FEMA funding for flood relief which could cost local jurisdictions significantly after a flood disaster. As its currently written, Century Code language is far more restrictive than federal policy which, in this scenario, would only prevent a community from receiving federal funding for insurable structures that are located in a FEMA identified Special Flood Hazard Area.

An example of why this is important is that a bridge, road, culvert, riverbank, or utility system are considered uninsurable infrastructure and would still be eligible for FEMA disaster relief, even if a community failed to adopt or enforce floodplain management ordinances. Existing Century Code, however, would not allow that community to receive any funding from these recovery programs.

House Bill 1098 still encourages communities to participate in the NFIP but will only restrict flood disaster assistance to insurable structures located within FEMA-identified special flood hazard zones. This mirrors FEMA policy and prevents the state from potentially denying a local community disaster relief funding. While DES does not hold primary responsibility for floodplain management in North Dakota, the impacts of the Century Code as written greatly inhibit our ability to meet our obligations under NDCC 37-17.1.

In conclusion, Ms. Chairman, I'd ask that you consider this amendment to ensure that in future disasters the state does not unintentionally prohibit a local jurisdiction from receiving federal flood assistance when they need it most.