

TESTIMONY OF

David Glatt, Director of the North Dakota Department of Environmental Quality

Good morning Chairman Beltz and members of the House Agriculture Committee. My name is David Glatt, and I am the Director of the North Dakota Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I am here to testify in opposition to House Bill 1514.

HB 1514 seeks to provide an additional layer of oversight on atmospheric emissions. However, in its current form, this bill is very broad and would require significant changes to allow for enforcement. The bill attempts to address many activities that are normally not regulated by federal or state environmental agencies and North Dakota does not typically enforce additional environmental regulations beyond federal law. For instance, no limits exist in the Clean Air Act for compounds identified in this bill.

Some concerns we have include:

Page 1, Line 20: *"A person may not engage in a polluting atmospheric activity ... that is harmful to a human or the environment, including the production of excessive electromagnetic radiation".*

Electromagnetic radiation includes radio waves, microwaves, infrared light, visible light, ultraviolet light, x-rays and gamma rays. Each of these has different frequencies and wavelengths and there is often no consensus on what would constitute a harmful level. Also, electromagnetic radiation can only be measured while it is being emitted. These measurements would need to be taken by specially trained individuals with specific instrumentation for each frequency and wavelength. The DEQ has no equipment or expertise to measure the majority of these activities.

Page 1, Line 17: Because "Xenobiotic" is defined as a *"foreign substance to the human body or ecological system"* and "atmospheric experimentation" is not defined, does the language in this chapter, including: *"If the director or sheriff receives information alleging ... other atmospheric experimentation involving the release of a xenobiotic agent..."* limit the use of airspace for any activity since the combustion of aviation fuel releases fine particulates that could potentially be inhaled? Would normal exhaust and contrails violate these requirements? Would agricultural spraying and mosquito control violate these requirements? Would fireworks?

Page 2, Line 23: A twenty-four-hour in-writing documented evidence collection and report would be unrealistic. Similar timeframes for multiple reports are identified throughout this bill. We do not have enough staffing, and travel distance would also hinder response times.

Page 3, Line 3: *"The director or sheriff shall take the following emergency measurements at the reported location where a suspected violation of this chapter occurred within two hours of receiving the report: ... b. Excessive mechanical vibration, noise, or other physical agent."*

Because the bill refers to reports on an aircraft or facility, would this require the DEQ to quickly investigate noise complaints surrounding airports? There are currently no state laws addressing noise pollution. And if there were, what would be an appropriate penalty? Also, what "biology guidelines" are referenced here?

Page 3, Line 7 and Page 4, Line 20: These areas refer to ionizing radiation and North Dakota already has established ionizing radiation regulations in effect (see N.D.C.C. 23.1-02, 23.01-03, and 33.1-10).

Page 3, Lines 9-12: These lines refer to the possibility of partnering with an institution of higher education to investigate. This partnering process could be time-consuming and costly.

Page 3, Line 18: This language prohibits a "facility" involved in "atmospheric activity that is harmful to a human or other environment". This could implicate power plants, refineries, and other facilities that produce air emissions, which are already regulated by the DEQ. HB 1514 could be interpreted as prohibiting any emissions from these facilities.

Page 3, Line 26: A study of this nature would be costly and take state resources the DEQ does not have at this time.

Page 4, Lines 15-23: Where did these thresholds come from? Where is the scientific data backing up these numbers?

The use of the terms "excessive" and "harmful" in the bill are subjective. Who decides what amounts or levels are excessive or harmful?

These are only a few of the many important questions raised by the language of this bill. Again, without significant review and revision, the DEQ asks for a "do not pass" on HB 1514.