

2021 HOUSE HUMAN SERVICES

HB 1259

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1259
1/20/2021

Relating to participation in a state or national wastewater surveillance system

Chairman Weisz opened the hearing at 10:42 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Public hearing participation
- Governing body vote approval

Rep. Matthew Ruby, District 40 (10:42) introduced the bill and asked that it be left open/rescheduled until January 26, 2012 @ 2:15 p.m.

Chairman Weisz adjourned at 10:45 a.m.

Tamara Krause, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1259
1/26/2021

Relating to participation in a state or national wastewater surveillance system.
(Continued)

Chairman Weisz opened the hearing at 3:05 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Environmental Protection Programs
- Clean Water Act/Safe Drinking Water Act

Rep. Matthew Ruby, District 40 (3:06) reintroduced the bill and submitted testimony #3552.

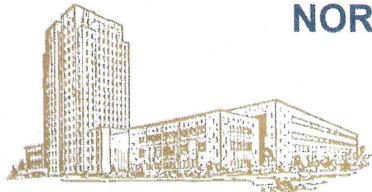
Stephanie Dassinger, Deputy Director League of Cities (3:08) testified in favor.

David Glatt, Director North Dakota Department of Environmental Quality (3:13) testified neutral and submitted testimony #1861.

Additional written testimony: #1702, #1863, #2342, #2353, #2506, #2648, #2735, #3452

Chairman Weisz adjourned at 3:23

Tamara Krause, Committee Clerk



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Matthew Ruby

District 40
315 Fourth Street NW
Minot, ND 58703-3129
C: 701-509-8149
mruby@nd.gov

COMMITTEES:
Human Services
Energy and Natural Resources

26JAN20

Good afternoon Chairman Weisz and Committee,

My name is Matt Ruby from District 40 in Minot. I brought HB1259 because of the lack of transparency in the process to participate in this program. Currently, the person in charge of the sewer system in each subdivision can elect to participate without any input from any board vote or even a hearing. This is a violation of the 4th Amendment right to privacy.

The collection was originally created to detect drug use in communities. It is now being used in ND to test for covid-19. Aside from the issues with that testing, there is a substantial risk with this data collection being used to direct policy not only in todays situation, but also for future insurance premiums among other situations.

I'm not saying there isn't data being collected with good intentions or that there aren't good uses for it, but to be doing this without so much as a public hearing is wrong. I ask for a do pass in favor of transparency. I am happy to stand for questions.

Rep. Matt Ruby
District 40
701-509-8149

**Testimony
House Bill 1259
House Human Services Committee
January 20, 2021; 10:00 a.m.
North Dakota Department of Environmental Quality**

Chairman Weisz and members of the House Human Services Committee, my name is David Glatt, Director of the Department of Environmental Quality (DEQ). The DEQ is responsible for implementing many of the environmental protection programs in the state. I am here today to provide neutral testimony on HB 1259.

As background, the DEQ, in cooperation with NDSU and 21 municipalities in the state, is conducting testing of wastewater for the sole purpose of identifying indicators of the COVID-19 virus. The DEQ acknowledges that the communities own and operate their respective wastewater collection and treatment systems. The research received prior approval from each wastewater system before implementation and is being performed in cooperation with each of the communities. The COVID study was initiated to determine if testing could provide advanced notice of increasing COVID cases in a community. Samples continue to be collected and analyzed in the short term.

We appreciate the effort this bill makes to differentiate this monitoring from other wastewater monitoring required under environmental law. We do not object to HB 1259 as long as it does not conflict with existing monitoring and operational requirements identified in existing state law and rule, such as the Clean Water Act or the Safe Drinking Water Act.

This concludes my testimony. I stand for any questions.



House Bill 1259
Human Services Committee
January 20, 2021, 10:00 a.m.

Good Morning Chairman Weisz and members of the Human Services Committee. My name is Tracy Miller, PhD and I am the State Epidemiologist with the North Dakota Department of Health. I do not have testimony for HB1259 but want to let you know I am available virtually to answer questions, if needed. Thank You.

I respectfully submit this testimony in opposition to HB 1259.

My lab at North Dakota State University has been testing wastewater for the COVID-19 virus since July 2020. We currently test wastewater from 22 cities in North Dakota at a frequency of 2-4 samples per week. The wastewater is collected from the wastewater stream at a wastewater treatment facility over a 24-hour period. We use about half a cup of wastewater in our analysis and from that we determine the amount of the virus per million gallons of wastewater at the facility. I would like to make the following points about testing municipal wastewater:

- The data produced is at the population level. When we test wastewater from the city of Bismarck, we can only say how much virus is being produced by the population of the city. We cannot say anything about individual-level infections
- Wastewater testing is a cost-effective approach to monitoring COVID-19 in cities. Testing a single wastewater sample is far cheaper than mass testing of individuals in a city.
- Wastewater data can help cities decide how and when to use limited resources. For example, in a city with a population of about 900, we were detecting relatively high levels of the virus back in November and early December, and there were also high numbers of clinical cases at that time. However, virus levels recently dropped to undetectable levels and there were no reported clinical cases. This city can use the absence of the COVID-19 virus in wastewater to inform a decision not to do enhanced testing in their community.

My lab has also been working with the Department of Corrections and Rehabilitation to test wastewater at the state penitentiary in Bismarck. We began daily testing of wastewater in early October. At the time we started testing, the state penitentiary had no cases of COVID-19. We detected the virus in wastewater days before they detected their first case. This ability to detect the virus in wastewater before it is clinically evident in a population is a useful feature of wastewater monitoring and it can be used to inform decisions about how to allocate resources. This has been used to great effect by the state penitentiary.

Chairmen and Committee Members

I would like to voice my support of HB 1259 .

Testing is good and useful and is not used to study the population and its behaviors. Surveillance signifies something quite different. The terminology of surveillance is being used to enter humans into a research

experiment without informed consent. This act of surveillance crosses over into the area of experimental research on humans rather than the water. This is not only illegal, it is unethical, as established by the Nuremberg Code, Belmont Report, and the legal requirements of ethical research outlined in the Research Act of 1974.

Testing: Studies the water.

And is not used to enter the human populations into research experiments.

Surveillance: Gathers information about the humans from the waste water. It is an ongoing and repeated testing which is then entered into an artificial intelligence software that then begins to research the humans being used as a research population. This

data is then used to market to and or scrutinize disease or genetic markers of the population being surveilled. Industry leaders are already gearing up to surveil humans through their waste for many other initiatives and purposes other than to monitor Covid-19.

Surveillance of humans, even in the context of a population is federally mandated that it

may not be done without informed consent by the participating humans.

During a pandemic we recognize that sometimes laws get broken and federal offenses happen. But this practice of surveillance clearly needs to be scrutinized and recognized for what it is. Information being used within the towns where it is gathered, causes

populations to be entered into studies for which they neither gave consent nor were they informed. Informing the city council should be the first step and then the next legally required step is to get informed consent of each individual being used for the experimental research study.

Sincerely, Margo Knorr

*Please vote in favor of HB 1348 or HB 1249

Dear Committee Members,

I would like to voice my concern regarding the use of wastewater surveillance of COVID-19 to inform public health guidelines and restrictions. There is a big difference between TESTING wastewater in order to protect citizens from contamination and SURVEILLING wastewater in order to protect citizens from each other. Until reliability and efficacy of this new public health tool are demonstrated, implementing wastewater screening for COVID-19 to target public health resources, to require testing, to impose restrictions on movement, or to remove restrictions based on an absence of virus in the wastewater is premature at best. Even if reliability and efficacy are established, the legal and moral ramifications must be strongly and thoroughly considered before implementation.

Please render a "DO PASS" out of committee for HB 1348 or HB 1249.

Thank you for your leadership and service to our state.

<https://academic.oup.com/jlb/article/7/1/lssa039/5861905>

*Please vote in favor of HB 1348 or HB 1249

Dear Committee Members,

I would like to voice my concern regarding the use of wastewater surveillance of COVID-19 to inform public health guidelines and restrictions. There is a big difference between TESTING wastewater in order to protect citizens from contamination and SURVEILLING wastewater in order to protect citizens from each other. Until reliability and efficacy of this new public health tool are demonstrated, implementing wastewater screening for COVID-19 to target public health resources, to require testing, to impose restrictions on movement, or to remove restrictions based on an absence of virus in the wastewater is premature at best. Even if reliability and efficacy are established, the legal and moral ramifications must be strongly and thoroughly considered before implementation.

Please render a "DO PASS" out of committee for HB 1348 or HB 1249.

Thank you for your leadership and service to our state.

<https://academic.oup.com/jlb/article/7/1/lssa039/5861905>

January 24, 2020

Attn: House Human Service Committee Members

Subject: HB 1348 & HB 1249

Dear Members of the Committee,

I would urge you to vote in favor of HB 1348 or HB 1249. As a result of the COVID-19 pandemic, citizens across the country have experienced gross governmental overreach and a further encroachment on our personal freedoms. A health crisis does NOT mean that the United States Constitution and our guaranteed right to privacy is suspended. I would urge you to vote in favor of these bills to protect North Dakota from a Federal Government implementing laws that target and restricted US Citizens based on their waste water. Such actions, I believe, are a direct threat to our Republic and a violation of the United States Bill of Rights, Right to Privacy. Thank you in advance and I look forward to the vote on these measures.

Best regards,



James M Schmidt
CEO Red Baron Enterprises
Watford City, ND
James@RedBaronCorp.com

*Please vote in favor of HB 1348 or HB 1249

Dear Committee Members,

I would like to voice my concern regarding the use of wastewater surveillance of COVID-19 to inform public health guidelines and restrictions. There is a big difference between TESTING wastewater in order to protect citizens from contamination and SURVEILLING wastewater in order to protect citizens from each other. Until reliability and efficacy of this new public health tool are demonstrated, implementing wastewater screening for COVID-19 to target public health resources, to require testing, to impose restrictions on movement, or to remove restrictions based on an absence of virus in the wastewater is premature at best. Even if reliability and efficacy are established, the legal and moral ramifications must be strongly and thoroughly considered before implementation.

Please render a "DO PASS" out of committee for HB 1348 or HB 1249.

Thank you for your leadership and service to our state.

<https://academic.oup.com/jlb/article/7/1/lssa039/5861905>

**Testimony
House Bill 1259
House Human Services Committee
January 26, 2021; 2:15 p.m.
North Dakota Department of Environmental Quality**

Good Afternoon Chairman Weisz and members of the House Human Services Committee, my name is David Glatt, Director of the Department of Environmental Quality (DEQ). The DEQ is responsible for implementing many of the environmental protection programs in the state. I am here today to provide neutral testimony on HB 1259.

As background, the DEQ, in cooperation with NDSU and 21 municipalities in the state, is conducting testing of wastewater for the sole purpose of identifying indicators of the COVID-19 virus. The DEQ acknowledges that the communities own and operate their respective wastewater collection and treatment systems. The research received prior approval from each wastewater system before implementation and is being performed in cooperation with each of the communities. The COVID study was initiated to determine if testing could provide information relating to increasing or decreasing COVID trends in a community. Samples continue to be collected and analyzed in the short term.

We appreciate the effort this bill makes to differentiate this monitoring from other wastewater monitoring required under environmental law. We do not object to HB 1259 as long as it does not conflict with existing monitoring and operational requirements identified in existing state law and rule, such as the Clean Water Act or the Safe Drinking Water Act.

This concludes my testimony. I stand for any questions.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1259
2/9/2021

Relating to participation in a state or national wastewater surveillance system

Chairman Weisz opened the committee meeting at 3:21 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Harvesting data
- Artificial intelligence program
- Local responsibility

Rep. Bill Devlin (3:22) moved Do Pass

Rep. Kathy Skroch (3:22) second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	N
Representative Clayton Fegley	N
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	N
Representative Kathy Skroch	Y

Representative Bill Tveit	Y
Representative Greg Westlind	Y

Motion Carried Do Pass 11-3-0

Bill Carrier: Rep. Mike Beltz

Chairman Weisz adjourned at 3:30 p.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1259: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1259 was placed on the Eleventh order on the calendar.

2021 SENATE POLITICAL SUBDIVISIONS

HB 1259

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

HB 1259
3/18/2021

A BILL for an Act to create and enact a new section to chapter 23.1-07 of the North Dakota Century Code, relating to participation in a state or national wastewater surveillance system.

Vice Chair Anderson opened the hearing on HB 1259 at 8:36 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Covid-19
- Testing materials
- Public health
- Main collection points
- Public notice
- Privacy

[8:37] **Representative Matt Ruby, District 40.** Introduced HB 1259.

[8:41] **Dave Glatt, Director, Department of Environmental.** Provided neutral testimony.

Senator Lee moves **DO NOT PASS**.

Senator Anderson seconded.

Senator Lee moves to **WITHDRAW DO NOT PASS MOTION**, pending further discussion.
Senator Anderson withdraws second.

Additional written testimony: (8)

Mark Jorritsma, Executive Director, Family Policy Alliance of ND. Written testimony #9857 in favor.

Mark Holter, Resident. Written testimony #9548 in favor.

Jocelyn Backman, West Fargo Resident. Written testimony #9534 in favor.

Taya Sakala, Watford City Resident. Written testimony #9531 in favor.

Cionda Holter, Williston Resident. Written testimony #9502 in favor.

Jacob Holter, Williston Resident. Written testimony #9501 in favor.

Cecilia Hanson, Watford City Resident. Written testimony #9468 in favor.

Hanna Hauff, Bismarck Resident. Written testimony #9407 in favor.

Chairman Burckhard closed the hearing on HB 1259 at 8:55 a.m.

Patricia Lahr, Committee Clerk



March 18, 2021

Dear Senate Political Subdivisions Committee,

Chairman Burckhard and members of the Senate Political Subdivisions Committee, Family Policy Alliance of North Dakota would like to formally indicate its support of House Bill 1259.

HB 1259 is a relatively straightforward bill. It simply seeks to gather public input before any wastewater surveillance is undertaken in a jurisdiction.

We have frankly been concerned about the intrusion into the lives of North Dakota families during this COVID-19 pandemic and worry that it has set a precedent in how much authority government entities can exercise in the name of “emergencies”. The practice of using wastewater testing is not a reliable way to accurately predict the number of infected individuals in a community. Nevertheless, it is being used for this purpose.

The overall effect of this type of use of questionable science is chilling on constitutional rights and possibly illegal. We urge you to allow North Dakota citizens to have a direct say in this intrusive and likely ineffective monitoring that has the potential to trample rights and freedoms. We respectfully ask for a “DO PASS” committee recommendation on HB1259.

Thank you for your consideration,

A handwritten signature in black ink that reads "Mark Jorritsma".

Mark Jorritsma
Executive Director
Lobbyist #147

1515 Burnt Boat Drive., Ste. C148
Bismarck, ND 58503

P 866.655.4545

UNLEASHING CITIZENSHIP
FamilyPolicyAlliance.com/NorthDakota

ND

Dear Committee Members,

I would like to voice my concern regarding the use of wastewater surveillance of COVID-19 to inform public health guidelines and restrictions. Despite claims to the contrary, there is a big difference between testing wastewater in order to protect citizens from contamination and surveilling wastewater in order to protect citizens from each other. North Dakota is participating in wastewater surveillance across the state, including on the campus of NDSU, which led to coerced clinical testing and quarantining of asymptomatic students. According to the CDC, it is not currently possible to reliably and accurately predict the number of infected individuals in a community based on sewage testing, yet this form of surveillance is being used to inform public policy decisions and has the potential to greatly infringe on the rights of citizens beyond college campuses and in regards to other communicable diseases. Citizens are wise to be wary of unelected officials using data with the intended goal of assisting governors and mayors in their decisions to implement lockdowns and isolation policies - particularly because our government has become habitually tyrannical under the banner of COVID-19. Over the last year, we have seen a trend emerge. Emergency is declared. Next, extreme policies are implemented in the name of safety at all costs and with no regard for the infringement on civil liberties. We must return to an America where government serves, rather than subjugates, its citizens.

Until reliability and efficacy of this new public health tool are demonstrated, implementing wastewater screening for COVID-19 to target public health resources, to require testing, to impose restrictions on movement, or to remove restrictions based on an absence of virus in the wastewater is premature at best. Even if reliability and efficacy are established, the legal and moral ramifications must be strongly and thoroughly considered before implementation. At the very least, there should be a public hearing and vote of approval by citizens before the implementation of wastewater surveillance for COVID-19.

Please render a DO PASS on HB 1298.

Thank you for your leadership and service to the state of North Dakota

Mark Holter

Committee members, my name is Jocelyn Backman (citizen of District 13) and I am writing IN SUPPORT of HB 1259 relating to creating and enacting a new section to Chapter 23.1-07 of the North Dakota Century Code, relating to participation in a state or national wastewater surveillance system.

There is a big difference between “testing” wastewater to protect citizens from contamination, and “surveillance” that can be used to restrict and limit citizens movement based on what is found. I know this type of thing was used on at least a couple College campuses in ND during the Covid pandemic where students were forced to quarantine due to finding Covid in the wastewater, even though none of the students had symptom. This is very dangerous and not a good thing to be doing to ND citizens, or any citizens for that matter.

I know the city of West Fargo is allowing this surveillance to happen and the citizens were never notified of this occurring. My assumption is MOST of citizens would not approve of this occurring, especially since they were never notified of it happening.

If we allow this to happen, it could be a slippery slope that could lead to infringing on rights, please vote YES on HB 1259.

Thank you

#9468

#9501

#9502

#9531

Dear Committee Members,

I would like to voice my concern regarding the use of wastewater surveillance of COVID-19 to inform public health guidelines and restrictions. Despite claims to the contrary, there is a big difference between testing wastewater in order to protect citizens from contamination and surveilling wastewater in order to protect citizens from each other. North Dakota is participating in wastewater surveillance across the state, including on the campus of NDSU, which led to coerced clinical testing and quarantining of asymptomatic students. According to the CDC, it is not currently possible to reliably and accurately predict the number of infected individuals in a community based on sewage testing, yet this form of surveillance is being used to inform public policy decisions and has the potential to greatly infringe on the rights of citizens beyond college campuses and in regards to other communicable diseases. Citizens are wise to be wary of unelected officials using data with the intended goal of assisting governors and mayors in their decisions to implement lockdowns and isolation policies - particularly because our government has become habitually tyrannical under the banner of COVID-19. Over the last year, we have seen a trend emerge. Emergency is declared. Next, extreme policies are implemented in the name of safety at all costs and with no regard for the infringement on civil liberties. We must return to an America where government serves, rather than subjugates, its citizens.

Until reliability and efficacy of this new public health tool are demonstrated, implementing wastewater screening for COVID-19 to target public health resources, to require testing, to impose restrictions on movement, or to remove restrictions based on an absence of virus in the wastewater is premature at best. Even if reliability and efficacy are established, the legal and moral ramifications must be strongly and thoroughly considered before implementation. At the very least, there should be a public hearing and vote of approval by citizens before the implementation of wastewater surveillance for COVID-19. Please render a DO PASS on HB 1298.

Thank you for your leadership and service to the state of North Dakota.

National Wastewater Surveillance System (NWSS)
A new public health tool to understand COVID-19 spread in a community

<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/wastewater-surveillance.html>

Legal and Ethical Implications of COVID-19 Wastewater Surveillance
<https://academic.oup.com/jlb/article/7/1/lsaa039/5861905>

NDSU Testing Residence Hall Waste-Water for COVID-19

[https://www.valleynewslive.com/2020/09/26/ndsu-testing-residence-hall-waste water-for-covid-19/](https://www.valleynewslive.com/2020/09/26/ndsu-testing-residence-hall-waste-water-for-covid-19/)

287 Utah State University students quarantined after Covid-19 found in wastewater from four dorms

<https://www.cnn.com/2020/09/01/health/us-coronavirus-tuesday/index.html>

CSU quarantines 900 students after wastewater monitoring detects COVID-19 in two dorms

[https://www.denverpost.com/2020/09/25/csu-quarantine-covid-wastewater testing/](https://www.denverpost.com/2020/09/25/csu-quarantine-covid-wastewater-testing/)

Testimony in support of 1259

I am writing to encourage you to vote yes on 1259

The cities should be notified before wastewater sampling takes place and that, in addition, there should be a public hearing so that citizens can weigh in on the legal and moral ramifications of surveilling wastewater in order to potentially restrict the movement of citizens in the name of public safety.

Thank you,

Hannah

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

HB 1259
3/19/2021

A BILL for an Act to create and enact a new section to chapter 23.1-07 of the North Dakota Century Code, relating to participation in a state or national wastewater surveillance system.

Chairman Burckhard opened the discussion on HB 1259 at 9:54 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Covid-19 testing
- Testing of college dorms
- Required quarantine

Senator Lee moves **DO NOT PASS**.

Senator Oban seconded.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	N
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 6-1-0

Senator Lee will carry HB 1259.

Additional written testimony: N/A

Chairman Burckhard closed the discussion on HB 1259 at 10:07 a.m.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1259: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends
DO NOT PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1259 was
placed on the Fourteenth order on the calendar.