

**2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1495**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1495  
2/11/2021

Relating to the state health officer's authority and the governor's and legislative assembly's authority during a declared state of disaster or emergency; and to provide a penalty

**Chairman Kasper** opened the hearing at 3:43 p.m.

Representatives	Roll Call
Representative Jim Kasper	P
Representative Ben Koppelman	A
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- State health officer's authority
- Governor's authority
- Legislative assembly authority

**Rep. K. Koppelman** introduced and testified in favor, #6464.

**Emmery Mehlhoff, Public Policy Liaison, ND Farm Bureau**, testified in favor.

**Jace Beehler, Chief of Staff to Governor Burgum and Lt. Governor Sanford**, testified in opposition, #6466.

**Alan Dohrmann, Director of Emergency Services**, testified in a neutral position, #6468.

**Additional written testimony:** #6428, #6425

**Chairman Kasper** adjourned at 5:11 p.m.

*Carmen Hart, Committee Clerk*



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Kim Koppelman

District 13  
513 First Avenue NW  
West Fargo, ND 58078-1101  
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## Speaker of the House

2-11-2021

## Testimony in Support of HB 1495

### Before the House Government and Veterans Affairs Committee

Mr. Chairman and Members of the Committee;

Over the past year, our state, nation and world have faced a health emergency unlike any other which we've experienced in our lifetimes. Not since the flu epidemic of 1918 has so much attention been paid to such a health challenge. Much of the response to this challenge involved government, on the federal, state, and local levels.

Our laws are designed to respond to matters which we're used to facing, but we've never faced a challenge quite like this. Sometimes, laws respond to events or circumstances and, often, they are also crafted in order to anticipate the future, as best we can.

In North Dakota, we had not anticipated that our emergency statutes would be needed for this type of emergency. They were designed for the types of emergencies with which we are all familiar—things like floods, tornadoes, or droughts. Emergencies here are generally short-lived and we had enacted laws to respond to the emergencies we've known. 2019 brought new challenges—a new type of emergency—and we must meet those challenges by crafting laws which put practices in place which will serve us well, if, Heaven forbid, we must face such emergencies in the future.

House Bill 1495 is designed to do just that. It seeks to respect the roles of the three branches of government and the Separation of Powers, while putting practical measures in place for emergency response.

Section 1 of the bill clarifies the authority of the state health officer in health-related emergencies. It makes clear that the state health officer should act only with the advice and consent of the governor, to ensure accountability, and that the orders must be temporary. It further requires court approval, should the state health officer believe that a communicable disease is so serious that public events must be restricted or canceled or that businesses must be restricted. This authority would rest with the executive and judicial branches of government and would last for 30 days. Beyond that, only legislative action could extend or change it.

Section 2 of the bill expands the membership of the advisory committee to the department of emergency services, to include legislative input.

Section 3 removes the reference to “martial law”, as this is apparently the only such reference anywhere in North Dakota’s Constitution and laws and it is believed to be an antiquated term, for which there is no authority and, therefore, it is removed.

Section 4 defines what a “regulatory statute” is. This term was previously mentioned, but not defined, in law so a definition is clearly needed.

Section 5 clarifies the governor’s emergency authority and sets forth when legislative authority is required if emergencies continue for lengthy periods of time. It also incorporates what modern technology has now made possible, which is not only expeditious, but could save the taxpayers money. Subsection 6 of section 5 sets forth the procedure for suspension of a regulatory statute, utilizing processes operative under current law for other executive measures.

There is a drafting error in item a) 4 on line 26 of page 7 of the bill. The words “approval of” should be replaced with the words “review by”.

Section 6 allows for orders by local political subdivisions and sets forth their parameters.

Section 7 removes language which is replaced by and unnecessary because of the provisions of this bill.

As you can see, this bill involves all three branches of government, respects the Constitutional role of each, as well as the Constitutional principle of Separation of Powers.

Mr. Chairman and members of the Committee, I urge your favorable consideration of House Bill 1495 and recommend that you give it a “Do Pass” recommendation.



**House Government and Veterans Affairs | Chair Kasper****HB 1495**

Thursday, February 11, 2021 | 2:30pm

Testimony of Jace Beehler

Chairman Kasper, members of the committee, for the record, my name is Jace Beehler, and I serve as Chief of Staff to Governor Burgum and Lt. Governor Sanford. Today, I offer this testimony in opposition to HB 1495.

HB 1495 adds an enormous amount of complexity in responding to emergency situations throughout the state, whether that be flood, drought, protests, pandemics or any other natural or manmade emergency, known or unknown. The key to emergency response is nimbleness, flexibility and speed and the ability for the executive branch to act swiftly and decisively. HB 1495 does not provide these required tools.

Eleven months ago, today, marks the first confirmed case of COVID-19 in North Dakota. While we have made tremendous progress, we know that this virus continues to spread across the country and the globe. So, as we begin to discuss how North Dakota will move forward with emergencies such as this, let us not forget that the pandemic is not finished.

Today we are discussing the state's ability to respond to all declared emergencies. The ability for state agencies to quickly supply the citizens of North Dakota with the information they need to make decisions for their families and to rapidly develop programs to provide safety, support and resources, regardless of the specific emergency. Today, we are talking about the ability of those elected by all citizens of North Dakota to learn, adapt and make decisions with nimbleness and responsiveness.

As North Dakotans we are experienced in managing emergencies. Floods, droughts and blizzards come frequently. In those times of need, the people of North Dakota come together to support their families, friends and neighbors. State agencies respond quickly and efficiently and provide the necessary resources and support to help citizens withstand the crisis. This pandemic is no different.

The governing systems used throughout the pandemic have been in place for decades, and they have worked. Balancing lives and livelihoods, the Governor's Office, in consultation with the Unified Command and the Department of Health, utilized its authority judiciously where required. The executive branch collaborated continuously and extensively with legislative leadership, individual legislators, members of the Emergency Commission and Budget Section, tribal governments, county commissioners, mayors, local public health officials, hospital leaders, physicians, school superintendents, university system leaders and law enforcement. As federal dollars have come to the state, all federal emergency funds spent throughout the pandemic were approved by the Emergency Commission, which is two-thirds legislators, and the 24 member Budget Section.

The Governor's Office had weekly and bi-weekly calls with the White House COVID-19 Task Force and national governors associations, gaining insight on how other states were responding to the urgent needs of their citizens.

Thanks to the wisdom of North Dakota's founding fathers, the state's constitution and all elected leaders from decades past, our state and its systems were prepared for the greatest health challenge in a century.

With nearly 100,000 new COVID-19 cases still coming daily across the United States and new variants of the virus spreading across our nation, it is vital we keep our focus on the future. House Bill 1495 seeks to address how the length of a declared emergency is managed, extends and burdens the process by which executive orders are implemented, hampers the length of a state health officer's orders and adds additional, cumbersome steps for local leaders responding to health emergencies.

The current process and systems for declaring and managing an emergency in North Dakota are clear, effective and transparent. If the goal of this legislation is to ensure discussion on each individual executive order, health officer order and emergency management decision made during the emergency, that process is already in place. The legislative assembly has the ability to call itself back into session, which was possible throughout this past interim as the legislature had days remaining.

Additionally, while the legislature was not called in for a special session, the issue of increasing the involvement of the legislature during emergencies through a change in process has already been addressed in HB 1118. While we do not support HB 1118, it has already passed through the house, and is headed to the senate.

No governor, elected official or agency leader wishes for the kind of conditions that necessitate the use of emergency declarations. No leader wishes to extend emergencies beyond what is required to meet the needs of the citizens. However, emergency authority is vital in assuring that the executive branch has the ability to declare and respond to emergencies, quickly and efficiently, to optimize both federal aid and federal response, for the sole purpose of helping North Dakotans.

The governing processes used to respond to this pandemic have worked. We have been able to respond to the needs of all North Dakotans, work with the federal government to meet the needs of North Dakotans and collaborate with all levels of local government to balance the needs across the state. The fact that North Dakota stands today among the best shape of any state in the country – in terms of strength of our economy, our kids in school, and our COVID numbers among the lowest – is testimony to the fact that our current systems have met the test of the biggest emergency in 100 years. For these reasons, we ask that this committee proceed with a do not pass.

Thank you chairman and I would welcome any questions you may have.



TESTIMONY OF  
ALAN S. DOHRMANN  
DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES  
BEFORE THE 67<sup>TH</sup> LEGISLATIVE ASSEMBLY  
HOUSE GOVERNMENT AND VETERANS AFFAIRS  
HB 1495  
FEBRUARY 11, 2021

Chairman Kasper and members of the House Government and Veterans Affairs committee, my name is Al Dohrmann. I am the Director of the Department of Emergency Services for the state of North Dakota. As the officer charged with executing emergency responses under Chapter 37-17.1, I appear today to raise some concerns we have and to answer any questions you may have of the executing agency.

I will briefly go through the sections of the bill and lay out our concerns. I will also offer upfront, the assistance of my team to help draft any amendments that you may identify as you deliberate on this bill. In the past, we have crafted meaningful legislation that support emergency responses and improved the readiness of our National Guard. Typically, that is you helping us accomplish our goal. I hope that this is a two-way street and that we can also help the legislature craft a bill that meets its intent and provides clear guidance and authorities for those that carry out that intent.

I will not address section 1 of the Bill since it addresses the authorities of the State Health Officer.

Section 2 of HB 1495 would add the leaders, or their designee, of both chambers of this body to the Department of Emergency Services Advisory Committee (DESAC). While adding legislative members to Executive Agency boards, commissions, and committees, is not the norm, presumably on the separation of powers concept, the Department of Emergency Services believes it would be helpful in this instance and would support adding legislative leadership to the DESAC. This advisory group brings stakeholders together from all levels of government and functional areas. One of its mandates is to ensure we have the right law and policy in place to respond appropriately to save lives and property. Having legislators in this process, could streamline our current process. For example, this session there are numerous bills that make changes to Title 37-17.1. If these bills are worked through the DESAC, we gain efficiency in future legislative assemblies.

In section 3, the Governor's authority to declare martial law has been removed. I have not experienced a situation where martial law has been needed; however, I am concerned there may be a point in time that this may be needed, but not available.

Section 4 defines "Regulatory Statute" as "...a statute prescribing, regulating, or limiting the procedures for the conduct of state business; or licensing, issuing permits, and prohibiting conduct or an activity by a person." We are concerned that this definition is so broad that when combined with the requirements for issuing executive orders under

section 5, we may lose some of the tools that served our state so well in our past responses to natural disasters.

Within our agency, we have debated the meaning of section 5 of the bill and have not come to a consensus on if there is a difference between “disasters or emergencies” generally and “epidemics or pandemics” specifically. Lines 12-15 on page 5 gives the Governor the authority to declare a disaster and the Governor or legislative assembly the ability to end a disaster. This authority is already the law today. However, lines 15-18 set a different process for epidemics or pandemics, limiting the Governor authority to 30 days, with an option to extend to 60 days by a legislative concurrent resolution. Lines 22-29, we believe provide a legislative process to extend emergencies beyond 60 days, but it is unclear to us if this extension authority applies to “disasters and emergencies” or just to “epidemics or pandemics”. This part of the Bill leads us to believe that all emergencies are capped at 60 days unless extended by a concurrent resolution. As you can see in attachment one to our testimony, we have experienced numerous disasters and emergencies that have extended past the 60-day point.

We also have concerns with the process for implementing executive orders found in page 7 of HB 1495. Requiring the consent of the legislature to “suspend the provisions of a regulatory statute”, as defined in section 4, may limit our ability to apply at the point of need and time executive orders required to save lives and property. Attachment 2 to my testimony provides a summary of the executive orders that were issued during the 2011 flood event. Many of these executive orders may have been late to need if we were required to bring a bill before this assembly or followed the alternate procedure provided for in the Bill of bringing the matter before the administrative rules committee. Decisions to evacuate property threatened by flood or fire, lift road restriction to ensure levy construction materials reaches the point of need in time, close roads that put the traveling public at risk do not lend themselves to a deliberative process. Policy is probably best produced by a committee with input from all stakeholders, emergency response is best executed by empowered leadership from the Governor down to the emergency manager and 1<sup>st</sup> responder on the ground.

I want to highlight the problem I believe you are trying to fix, the use of executive power during pandemics and epidemics. I understand and have felt some of the same pressure you have received from your constituents on the impact of executive orders on people’s lives and livelihoods during the pandemic. To be honest, I’ve never heard similar concerns during floods, fires, storms and drought, our typical emergencies in the state. Drawing your attention back to attachment 2, you will notice that many of the executive orders are designed to speed response and, as opposed to the pandemic, have the effect of stimulating the economy. I have been involved in a number of more typical emergencies for the state, I have never heard that we move too fast, did too much or stayed too long. If the problem we are trying to fix is how we respond to public health emergency, I’d suggest we need legislation that focuses on that, and not change the authorities that have saved lives and property in our 4 major cities and our rural communities over the last 30 years.

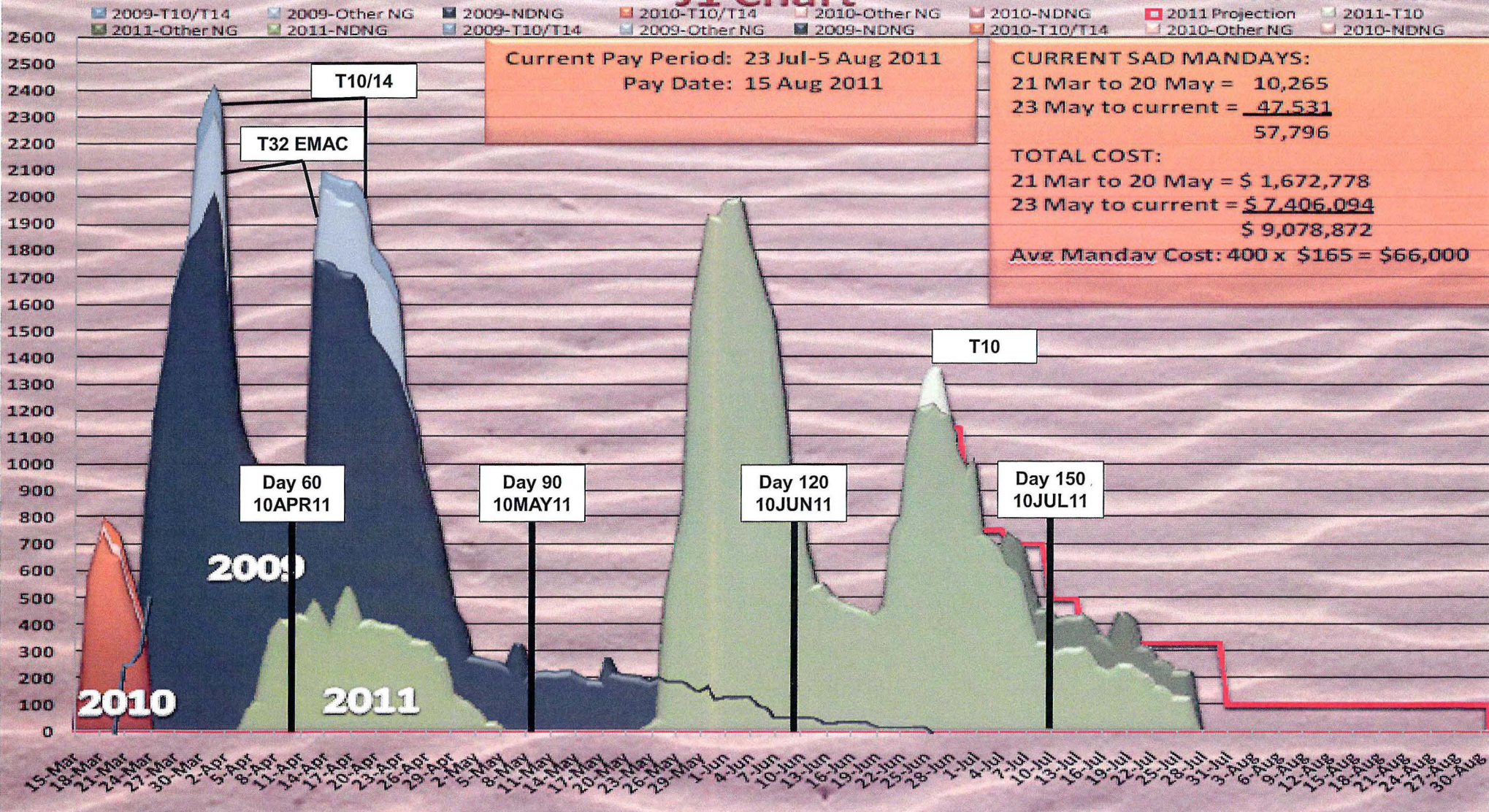
I understand the goal is oversight, but I am concerned that legislative oversight could give way to legislative management. We have a saying in emergency management that *all disasters are local*. That is how the response system was built. While you have been elected to represent your districts, only the local mayors, commissioners, the Governor and a minority of this body may have been elected by the individuals experiencing the actual disaster. I believe these are the elected leaders that should be making the decision that affect the people who elected them. I understand that you all have a stake in how we spend state resources, but legislative oversight is already provided through the Emergency Commission and Budget Section process.

I would be pleased to stand for your questions.

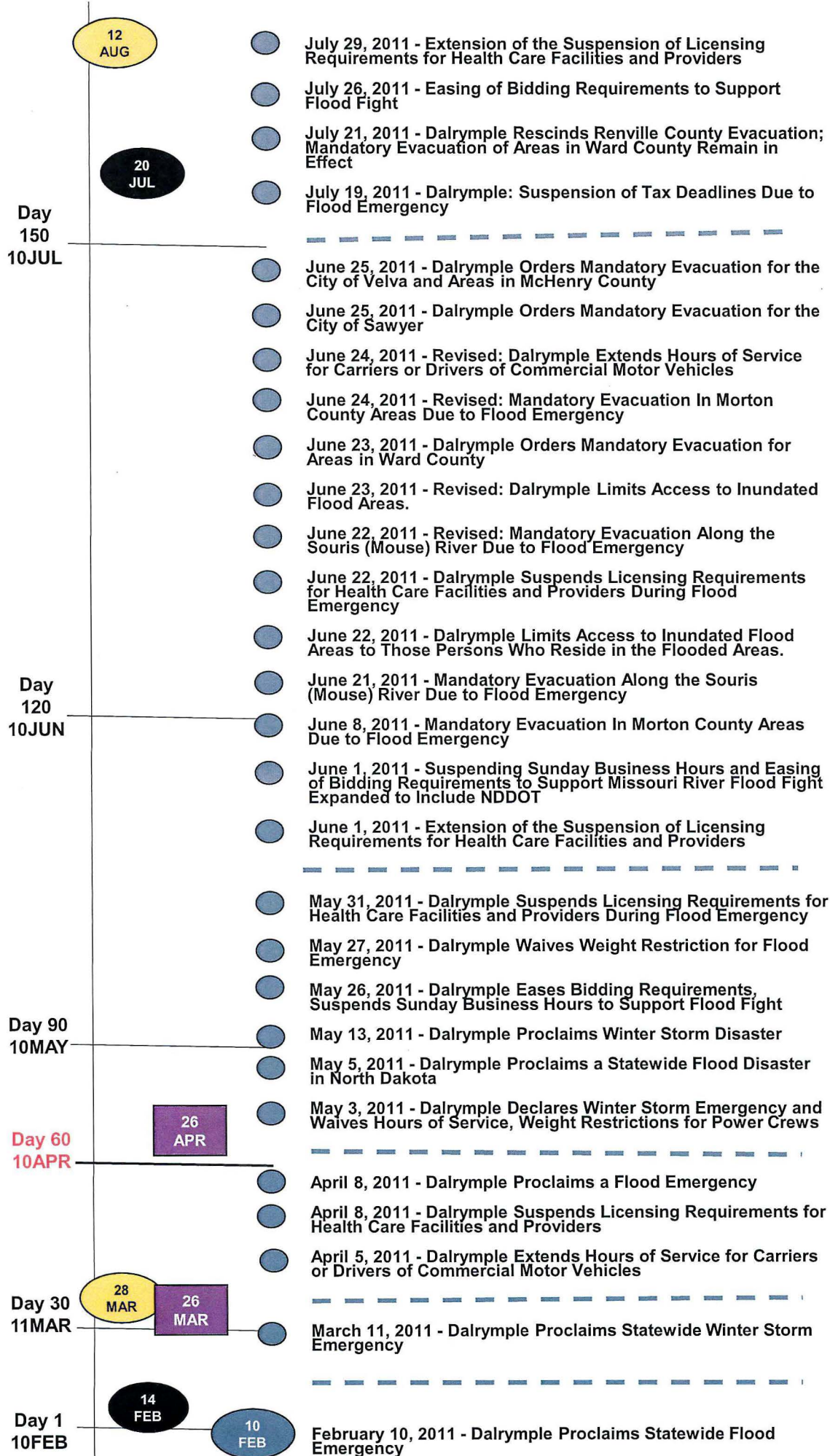


# J1 Chart

AS OF: 271600JUL11







February 11, 2021

House Government and Veterans Affairs Committee

**RE: HB 1495 TESTIMONY**

Dear Members of the House Government and Veterans Affairs Committee

**I am writing to you in support of HB 1495.**

We need to reign in the power of our Governor and the State Health Officer and put it back in the hands of you, our elected representatives.

We have seen what can happen in other state's when a Governor chooses to abuse the privileges afforded to them in the name of an emergency. We have also seen this happen in our own state particularly with regards to restrictions on restaurants and public events. These "emergencies" and "state of disaster" can be used as an excuse to extend restrictions on businesses, public events, and other areas for periods of time much longer than are necessary. These privileges afforded to our Governor and State Health Officer can be abused, as we have witnessed in other states during this past year, as a result of the pandemic.

The provisions of HB 1495 are a reasonable limitation on the Governor and State Health Officer. They put you, our elected representatives, back in control of decisions which have a profound affect on our businesses and the residents of North Dakota.

**I support a DO PASS recommendation on HB 1495.**



Jeffrey L. Ebsch  
411 4<sup>th</sup> Street SE, PO Box 143  
Stanley, ND 58784  
(701) 721-2708  
ebschj@yahoo.com

To the North Dakota State Legislature:

I believe the North Dakota governor should not have the unilateral authority to order citizens under penalty of fine or prosecution to wear anything such as a mask, or 2 masks, or 3 masks, or whatever (including seat belts and motorcycle helmets), or to take away the constitutional right to assemble, such as attending church, eating at any food establishment, going to any business, etc. and should only be a recommendation, and that only for a limited time, 30 days. An extension of such an order should only be allowed by ND legislature, thus giving the citizens involved an opportunity to approve or disapprove any such action, remember, if it only affects my safety then it should be my decision and mine alone. I will not submit to the fears of anyone, including the ND governor when their safety is not affected by my actions. I am 58 years old and no longer need or want parental guidance coming from my government. Thank you for your attention.

Vote YES on 1495.

Thank you, Dwayne McDevitt

*Dwayne McDevitt 2.11.21*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1495  
2/18/2021

Relating to the state health officer's authority and the governor's and legislative assembly's authority during a declared state of disaster or emergency; and to provide a penalty

**Chairman Kasper** opened the committee work meeting at 11:20 a.m.

Representatives	Roll Call
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	A
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Emergency authorities
- Amendment

**Rep. B. Koppelman** explained amendment, #6956, and moved to **adopt #21.0588.02002**.

**Rep. Magrum** seconded the motion. **Voice vote. Motion carries.**

**Rep. B. Koppelman** moved **Do Pass as amended**.

**Rep. Magrum** seconded the motion.

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	N
Representative Jeff A. Hoverson	Y
Representative Karen Karls	N
Representative Scott Louser	A
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	N
Representative Karen M. Rohr	Y
Representative Austen Schauert	Y
Representative Mary Schneider	N
Representative Vicky Steiner	Y
Representative Greg Stemen	N
Representative Steve Vetter	Y

**Motion passes. 8-5-1. Rep. B. Koppelman** is the carrier.

**Chairman Kasper** adjourned at 12:00 p.m.

*Carmen Hart, Committee Clerk*

February 18, 2021

js  
2/18/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1495

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to virtual sessions of the legislative assembly; to"

Page 1, line 9, remove "for no"

Page 1, line 10, remove "longer than thirty days"

Page 1, line 11, after "disease" insert "during an emergency or disaster declared by the governor or as otherwise specifically authorized in this title"

Page 1, line 21, after the period insert "An order issued under this section during an emergency or disaster may not exceed in duration or scope the authority of the governor under chapter 37-17.1."

Page 5, line 9, remove the overstrike over "~~A disaster or emergency must be declared by executive order or proclamation of the~~"

Page 5, line 10, remove the overstrike over "governor"

Page 5, line 10, after "if" insert "

4."

Page 5, line 10, after the first "a" insert "statewide, natural"

Page 5, line 11, after "of" insert "statewide, natural"

Page 5, line 27, replace "may" with "shall"

Page 6, line 16, overstrike "4." and insert immediately thereafter "5."

Page 6, line 23, overstrike "5." and insert immediately thereafter "6."

Page 7, line 1, overstrike "6." and insert immediately thereafter "7."

Page 7, line 4, remove the overstrike over "Suspend"

Page 7, line 4, remove "With the consent of the legislative assembly, suspend"

Page 7, line 9, replace "(1) The" with "However, the"

Page 7, line 10, replace "(a)" with "(1)"

Page 7, line 11, replace "(b)" with "(2)"

Page 7, remove lines 12 through 31

Page 8, after line 24, insert:

"8. During a declared state of disaster or emergency, a public official or executive branch employee may not withhold, direct, or require the use or expenditure of any money in a manner or for a purpose other than the manner or purpose for which the money was appropriated by the legislative assembly, emergency commission, or budget section."



Page 8, line 25, overstrike "7." and insert immediately thereafter "9."

Page 8, line 27, overstrike "8." and insert immediately thereafter "10."

Page 11, after line 6, insert:

**"SECTION 8.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

**Virtual session of the legislative assembly during emergency or disaster.**

1. If the governor calls a special session of the legislative assembly to address a state of emergency or disaster or if the legislative assembly reconvenes to address a state of emergency or disaster, the legislative assembly may use any technology or electronic means available to conduct meetings and transact legislative business.
2. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of the legislative assembly which occurs under this section is deemed to have occurred at the seat of the government, and all actions taken during the meeting have the same legal effect as if the members of the legislative assembly were physically present at the seat of government."

Renumber accordingly

gs  
2/18/21

**REPORT OF STANDING COMMITTEE**

**HB 1495: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1495 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to virtual sessions of the legislative assembly; to"

Page 1, line 9, remove "for no"

Page 1, line 10, remove "longer than thirty days"

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2. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of the legislative assembly which occurs under this section is deemed to have occurred at the seat of the government, and all actions taken during the meeting have the same legal effect as if the members of the legislative assembly were physically present at the seat of government."

Renumber accordingly

21.0588.02001

Sixty-seventh  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1495**

Introduced by

Representatives K. Koppelman, Kasper, Klemin, Louser

Senators Dever, Myrdal

1 A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota  
 2 Century Code, relating to virtual sessions of the legislative assembly: to amend and reenact  
 3 subsection 12 of section 23-01-05 and sections 37-17.1-02.2, 37-17.1-03, 37-17.1-04,  
 4 37-17.1-05, 37-17.1-10, and 37-17.1-11 of the North Dakota Century Code, relating to the state  
 5 health officer's authority and the governor's and legislative assembly's authority during a  
 6 declared state of disaster or emergency; and to provide a penalty.

**7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century  
 9 Code is amended and reenacted as follows:

10 12. ~~Issue any~~With the advice and consent of the governor, issue temporary orders ~~for no~~  
 11 ~~longer than thirty days~~ relating to disease control measures deemedthe state health  
 12 officer deems necessary to prevent the spread of communicable disease during an  
 13 emergency or disaster declared by the governor or as otherwise specifically  
 14 authorized in this title. Disease control measures may include special immunization  
 15 activities and decontamination measures. Written orders issued under this section  
 16 shall have the same effect as a physician's standing medical order. ~~Thelf the state~~  
 17 ~~health officer believes an injunction to restrict or cancel public events or restrict the~~  
 18 ~~operation of places of business is necessary to control a communicable disease, the~~  
 19 ~~state health officer may~~shall apply to the district court in ~~at~~the judicial district where  
 20 ~~at~~the communicable disease is present for an injunction ~~canceled, not to exceed thirty~~  
 21 ~~days, to restrict or cancel~~ public events or ~~closingto restrict~~ places of business. On  
 22 application of the state health officer ~~showing~~clearly demonstrating the necessity of  
 23 ~~such~~the restriction or cancellation, the court may issue an ex parte preliminary  
 24 injunction, pending a full hearing. An order issued under this section during an

emergency or disaster may not exceed in duration or scope the authority of the  
governor under chapter 37-17.1.

**SECTION 2. AMENDMENT.** Section 37-17.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-02.2. Advisory committee to department of emergency services.**

The adjutant general shall create one or more advisory committees to the department of emergency services. An advisory committee may consist of not more than ~~twelve~~fourteen members ~~representing, including the house majority leader or the leader's designee and the senate majority leader or the leader's designee, to represent~~ local and state interests in the department. Members must be appointed to four-year staggered terms, except the members from the legislative assembly must be appointed to two-year terms. An advisory committee shall advise the department regarding collaboration with political subdivisions, and each member of an advisory committee shall report to the ~~local~~ interest each member represents concerning recommendations approved by the committee. Each member of the advisory committee, other than the members from the legislative assembly, is entitled to be paid sixty-two dollars and fifty cents per day for time spent in attendance at meetings and is entitled to be reimbursed for the member's actual and necessary expenses at the rates and in the manner provided by law for other state officers. The compensation and expenses must be paid out of department appropriations. The compensation and expenses of members from the legislative assembly must be paid by the legislative council at the rates set forth in section 54-35-10 for attendance at meetings.

**SECTION 3. AMENDMENT.** Section 37-17.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-03. Limitations.**

Nothing in this chapter may:

1. Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.
2. Interfere with dissemination of news or comment on public affairs. Any communications facility or organization, including radio and television stations, wire services, and newspapers may be required to transmit or print public service



1 messages furnishing information or instructions in connection with a disaster or  
2 emergency situation.

3 3. Affect the jurisdiction or responsibilities of units of the armed forces of the United  
4 States or of this state, or of any personnel thereof, when on active duty. State and  
5 local emergency operational plans must place reliance upon the forces available for  
6 performance of functions related to disasters or emergencies.

7 4. Limit, modify, or abridge the authority of the governor to ~~proclaim martial law~~, provide  
8 aid or assistance to civil authorities; or exercise any other powers vested in the  
9 governor under the Constitution of North Dakota, or statutes, common law, or  
10 sovereign powers of this state independent of, or in conjunction with, any provisions of  
11 this chapter.

12 5. Change or modify the responsibilities of the American National Red Cross as defined  
13 by the Congress of the United States in 36 U.S.C. 300101.

14 **SECTION 4. AMENDMENT.** Section 37-17.1-04 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **37-17.1-04. Definitions.**

17 As used in this chapter:

18 1. "Critical industry sectors" means any of the critical infrastructure sectors identified by  
19 the United States government whose assets, systems, and networks, whether physical  
20 or virtual, are considered so vital to the United States and the state that the sectors'  
21 incapacitation or destruction would have a debilitating effect on security, economic  
22 security, public health or safety, or any combination thereof.

23 2. "Disaster" means the occurrence of widespread or severe damage, injury, or loss of  
24 life or property resulting from any natural or manmade cause, including fire, flood,  
25 earthquake, severe high and low temperatures, tornado storm, wave action, chemical  
26 spill, or other water or air contamination, epidemic, blight, drought, infestation,  
27 explosion, riot, or hostile military or paramilitary action, or cyber attack which is  
28 determined by the governor to require state or state and federal assistance or actions  
29 to supplement the recovery efforts of local governments in alleviating the damage,  
30 loss, hardship, or suffering caused thereby.



- 1        3. "Disaster or emergency worker" means any person performing disaster or emergency  
2        responsibilities or duties at any place in this state subject to the order or control of, or  
3        pursuant to a request of, the state government or any political subdivision.
- 4        4. "Emergency" means any situation that is determined by the governor to require state  
5        or state and federal response or mitigation actions to protect lives and property, to  
6        provide for public health and safety, or to avert or lessen the threat of a disaster.  
7        Emergencies require an immediate supplement to local governments or aid to critical  
8        industry sectors that provide essential lifeline services.
- 9        5. "Emergency management" means a comprehensive integrated system at all levels of  
10       government and in the private sector which provides for the development and  
11       maintenance of an effective capability to prevent, mitigate, prepare for, respond to,  
12       and recover from known and unforeseen hazards or situations, caused by an act of  
13       nature or man, which may threaten, injure, damage, or destroy lives, property, or our  
14       environment.
- 15       6. "Homeland security" means a concerted national effort to prevent terrorist attacks  
16       within the United States, reduce America's vulnerability to terrorism, and minimize the  
17       damage and recover from attacks in the United States.
- 18       7. "Incident command system" means a standardized on-scene incident management  
19       concept designated specifically to allow responders to adopt an integrated  
20       organizational structure equal to the complexity and demands of any single incident or  
21       multiple incidents without being hindered by jurisdictional boundaries.
- 22       8. "Mass care" means food, clothing, shelter, and other necessary and essential  
23       assistance provided to a large number of affected people in response to, or recovery  
24       from, a disaster or emergency.
- 25       9. "National incident management system" means a system that provides a consistent  
26       nationwide approach for federal, state, and local governments to work effectively and  
27       efficiently together to prepare for, respond to, and recover from domestic incidents  
28       regardless of cause, size, or complexity.
- 29       10. "Regulatory statute" means a statute prescribing, regulating, or limiting the procedures  
30       for the conduct of state business; or licensing, issuing permits, or prohibiting conduct  
31       or an activity by a person.

- 1        11. "Wide area search and rescue" means the employment, coordination, and utilization of  
2                available resources and personnel in activities occurring within large geographical  
3                areas for the purpose of locating, relieving distress, and preserving the life of an  
4                individual reported or believed to be lost, stranded, or deemed a high-risk missing  
5                individual, and removing any survivor to a place of safety.

6        **SECTION 5. AMENDMENT.** Section 37-17.1-05 of the North Dakota Century Code is  
7        amended and reenacted as follows:

8        **37-17.1-05. The governor and disasters or emergencies - Penalty.**

- 9        1. The governor is responsible to minimize or avert the adverse effects of a disaster or  
10           emergency.  
11        2. Under this chapter, the governor may issue executive orders and proclamations, and  
12           amend or rescind them. Executive orders, proclamations, and regulations issued  
13           under this chapter have the force of law.  
14        3. A disaster or emergency must be declared by executive order or proclamation of the  
15           governor-if.  
16        4. If the governor determines a statewide, natural disaster has occurred or a state of  
17           emergency exists, the governor may declare a state of statewide, natural disaster or  
18           emergency by executive order.  
19           a. The state of disaster or emergency shall continue until the governor or  
20           the legislative assembly determines that the threat of an emergency has passed  
21           or the disaster has been dealt with to the extent that emergency conditions no  
22           longer exist, whichever comes first. The duration of an executive order relating to  
23           an epidemic or pandemic is limited to thirty days, but an executive order may be  
24           extended for good cause by the governor, with the consent of the legislative  
25           assembly, for an additional thirty-day period. If the legislative assembly is not in  
26           session, the governor may call a special session of the legislative assembly to  
27           request the legislative assembly approve a thirty-day extension by concurrent  
28           resolution. A special session to approve an extension may be conducted remotely  
29           if approved by the legislative management. If a state of disaster or emergency  
30           declaration continues for sixty days, the state of disaster or emergency may not  
31           be reissued, nor may a disaster or emergency declaration substantially similar to

1           the original declaration be declared. If the legislative assembly is not in session  
2           and the governor determines disaster or emergency circumstances remain or are  
3           likely to continue, the governor may call the legislative assembly into special  
4           session to request the legislative assembly take action to address the disaster or  
5           emergency.

6           b. The legislative assembly by concurrent resolution may terminate a state of  
7           disaster or emergency at any time. The legislative assembly may act by a remote  
8           session to approve a concurrent resolution terminating a state of disaster or  
9           emergency if the legislative management approves the session to be conducted  
10          remotely. If a state of disaster or emergency is terminated by the legislative  
11          assembly by concurrent resolution, the governor may not declare another state of  
12          disaster or emergency for the same disaster or emergency conditions.

13          c. All executive orders or proclamations issued under this subsection must indicate  
14          the nature of the disaster or emergency, the area ~~or areas~~ threatened, the  
15          conditions ~~which that~~ have brought ~~it~~ the disaster or emergency about or which  
16          make possible termination of the state of disaster or emergency. An executive  
17          order or proclamation must be disseminated promptly by means calculated to  
18          bring ~~it~~ the contents of the order to the attention of the general public, unless the  
19          circumstances attendant upon the disaster or emergency prevent or impede such  
20          dissemination, and ~~it~~ the order must be ~~promptly~~ promptly filed with the  
21          department of emergency services, the secretary of state, the legislative council,  
22          and the county or city auditor of the jurisdictions affected.

23          4-5. An executive order or proclamation of a state of disaster or emergency shall  
24          ~~activate~~ activates the state and local operational plans applicable to the political  
25          subdivision or area in question and ~~be~~ constitutes authority for the deployment and use  
26          of any forces to which the ~~plan or~~ plans apply and for use or distribution of any  
27          supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to  
28          be made available pursuant to this chapter or any other provision of law relating to a  
29          disaster or emergency.

30          5-6. During the continuance of any state of disaster or emergency declared by the  
31          governor, the governor is commander in chief of the emergency management



organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but ~~nothing herein restricts~~ this subsection does not restrict the governor's authority to do so by orders issued at the time of the disaster or emergency.

~~6.7. In~~ The governor may not amend, alter, or expand the provisions of a statute, but subject to prohibitions and limitations in law, and in addition to any other powers conferred upon the governor by law, the governor may:

- a. ~~Suspend~~ With the consent of the legislative assembly, suspend the provisions of ~~any~~ a regulatory statute prescribing the procedures for conduct of state business, or the orders, ~~or~~ rules, or regulations of any state agency, if strict compliance with the provisions of ~~any~~ the statute, order, ~~or~~ rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.

~~(1) The~~ However, the governor may not suspend a regulatory statute, order, or rule if:

~~(a) (1)~~ Doing so will impose greater restrictions; or

~~(b) (2)~~ The statute, order, or rule affords a citizen due process of law.

~~(2) If the legislative assembly is not in session at the time the governor wishes to suspend a regulatory statute, order, or rule under this subsection and the governor does not wish to call the legislative assembly into special session, a proposed suspension may be brought before the administrative rules committee. The administrative rules committee may void the proposed suspension if the committee determines the proposed suspension violates any of the following:~~

~~(a) There is an absence of statutory authority for the suspension;~~

~~(b) The suspension fails to comply with legislative intent;~~

~~(c) The suspension is arbitrary or capricious; or~~

~~(d) The suspension is unreasonable or unnecessary.~~

~~(3) If the governor disagrees with the decision of the administrative rules committee to void a proposed suspension, the governor may call a special session of the legislative assembly.~~

~~(4) If approval of the administrative rules committee is required under this subsection, the governor may authorize executive orders under the same authority and oversight by the administrative rules committee as provided in chapter 28-32 for emergency rules. An executive order may come before any regular or special meeting of the administrative rules committee at any time subsequent to the issuance of the order.~~

- b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
- c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
- d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
- e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
- f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
- g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
- i. Make provision for the availability and use of temporary emergency housing.
- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
- k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.



8. During a declared state of disaster or emergency, a public official or executive branch employee may not withhold, direct, or require the use or expenditure of any money in a manner or for a purpose other than the manner or purpose for which the money was appropriated by the legislative assembly, emergency commission, or budget section.

~~7.9.~~ Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.

~~8.10.~~ ~~Authorize~~ The governor may authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.

**SECTION 6. AMENDMENT.** Section 37-17.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-10. Local disasters, mandatory evacuations, or emergencies.**

1. Unless so declared in accordance with the provisions of subsection 4 of section 37-17.1-05, a local disaster, emergency, or mandatory evacuation order may be declared only by the principal executive officer of the county or city. ~~It~~ The order may not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the county or city. Any order ~~or proclamation~~ declaring a local disaster, emergency, or mandatory evacuation must be given prompt and general publicity and must be filed promptly with the county or city auditor.
2. The effect of a declaration of a local disaster or emergency is to activate the response and recovery aspects of any and all applicable local disaster or emergency operational plans and to authorize the furnishing of aid and assistance ~~thereunder~~ under the plans.
3. The terms of an order or declaration by a county or city pursuant to this section relating to an epidemic or pandemic must be approved by the state health officer and may be terminated by the legislative assembly.



- 1       4. Notwithstanding sections 11-9.1-05, 11-11-14, 40-05-01, and 40-05.1-06, the terms of  
2       an order, declaration, or ordinance by a county or city may not be more restrictive than  
3       those expressly permitted in state law.

4       **SECTION 7. AMENDMENT.** Section 37-17.1-11 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6       **37-17.1-11. Disaster or emergency mitigation.**

- 7       1. In addition to disaster or emergency mitigation measures as included in the state and  
8       local disaster or emergency operational plans, the governor shall consider, on a  
9       continuing basis, steps that could be taken to mitigate or reduce the harmful  
10      consequences of disasters or emergencies. At the governor's direction, and pursuant  
11      to any other authority and capability they have, state agencies charged with  
12      responsibilities in connection with floodplain management, stream encroachment and  
13      flow regulation, weather modification, fire prevention and control, air quality, public  
14      works, land use and land use planning, and construction standards, shall make  
15      studies of disaster or emergency mitigation-related matters. The governor, from time to  
16      time, shall make recommendations to the legislative assembly, local governments, and  
17      other appropriate public and private entities as may facilitate measures for mitigation  
18      or reduction of the harmful consequences of disasters or emergencies.
- 19      2. The North Dakota state engineer and the water commission, in conjunction with the  
20      division of homeland security, shall keep land uses and construction of structures and  
21      other facilities under continuing study and identify areas ~~which are~~ particularly  
22      susceptible to severe land shifting, subsidence, flood, or other catastrophic  
23      occurrence. The studies under this subsection must concentrate on means of reducing  
24      or avoiding the dangers caused by this occurrence or the consequences ~~thereof~~ of the  
25      occurrence.
- 26      3. If the division of homeland security determines, in coordination with lead and support  
27      agencies, on the basis of the studies or other competent evidence, that an area is  
28      susceptible to a disaster of catastrophic proportions without adequate warning;  
29      existing building standards and land use controls in that area are inadequate and  
30      could add substantially to the magnitude of the disaster or emergency; and changes in  
31      zoning regulations, other land use regulations, or building requirements are needed in

1 order to further the purposes of this section, ~~it~~the department shall specify the  
2 essential changes to the governor. If the governor, upon review of the determination,  
3 finds after public hearing, that the changes are essential, the governor shall ~~so~~  
4 recommend the changes to the agencies or local governments with jurisdiction over  
5 that area and subject matter. If no action or insufficient action pursuant to the  
6 governor's recommendations is taken within the time specified by the governor, the  
7 governor shall ~~so~~ inform the legislative assembly and request legislative action  
8 appropriate to mitigate the impact of the disaster or emergency.

- 9 4. ~~The governor, at the same time that the governor makes recommendations pursuant~~  
10 ~~to subsection 3, may suspend the standard or control which the governor finds to be~~  
11 ~~inadequate to protect the public safety and by regulation place a new standard or~~  
12 ~~control in effect. The new standard or control remains in effect until rejected by~~  
13 ~~concurrent resolution of both houses of the legislative assembly or amended by the~~  
14 ~~governor. During the time it is in effect, the standard or control contained in the~~  
15 ~~governor's regulation must be administered and given full effect by all relevant~~  
16 ~~regulatory agencies of the state and local governments to which it applies. The~~  
17 ~~governor's action is subject to judicial review in accordance with chapter 28-32 but is~~  
18 ~~not subject to temporary stay pending litigation.~~

19 **SECTION 8.** A new section to chapter 54-03 of the North Dakota Century Code is created  
20 and enacted as follows:

21 **Virtual session of the legislative assembly during emergency or disaster.**

- 22 1. If the governor calls a special session of the legislative assembly to address a state of  
23 emergency or disaster or if the legislative assembly reconvenes to address a state of  
24 emergency or disaster, the legislative assembly may use any technology or electronic  
25 means available to conduct meetings and transact legislative business.  
26 2. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of  
27 the legislative assembly which occurs under this section is deemed to have occurred  
28 at the seat of the government, and all actions taken during the meeting have the same  
29 legal effect as if the members of the legislative assembly were physically present at  
30 the seat of government.

**2021 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1495**

# 2021 SENATE STANDING COMMITTEE MINUTES

**Government and Veterans Affairs Committee**  
Room JW216, State Capitol

HB 1495  
3/25/2021

<b>Relating to the State Health Officer's authority and the governor's and legislative assembly's authority during a declared state of disaster or emergency' provide a penalty.</b>
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**Chair Vedaa** opened the hearing at 9:00 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

## **Discussion Topics:**

- Covid
- Governor's emergency authority
- Federal funds

**Rep Kim Koppelman – Dist 13** – introduced the bill #10731

**Emmery Mehlhoff – ND Farm Bureau** – testified in favor

**Cody Schulz – Deputy Director of Dept of Emergency Services** – testified opposed - #10689

**Jace Beehler – Chief of Staff – ND Governor's office** – testified opposed - #10718

**Al Dohrmann – ND Dir of Emergency Services** testified opposed - #10703

**Stephanie Dassinger – ND League of Cities** – testified opposed #10747

## **Additional written testimony:**

**Daniel Gaustad – opposed - #10702**

**Mitchel Sanderson – opposed - #10435**

Adjourned at 9:52 AM

*Pam Dever, Committee Clerk*



# NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Kim Koppelman

District 13  
513 First Avenue NW  
West Fargo, ND 58078-1101  
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kkoppelman@nd.gov

Speaker of the House

2-11-2021

## Testimony in Support of HB 1495

### Before the Senate Government and Veterans Affairs Committee

Mr. Chairman and Members of the Committee;

Over the past year, our state, nation and world have faced a health emergency unlike any other which we've experienced in our lifetimes. Not since the flu epidemic of 1918 has so much attention been paid to such a health challenge. Much of the response to this challenge involved government, on the federal, state and local levels.

Our laws are designed to respond to matters which we're used to facing, but we've never faced a challenge quite like this. Sometimes, laws respond to events or circumstances and, often, they are also crafted in order to anticipate the future, as best we can.

In North Dakota, we had not anticipated that our emergency statutes would be needed for this type of emergency. They were designed for the types of emergencies with which we are all familiar—things like floods, tornadoes, or droughts. Emergencies here are generally short-lived and we had enacted laws to respond to the emergencies we've known—things like floods, snow storms, droughts, and tornadoes, for example. 2019 brought new challenges—a new type of emergency—and we must meet those challenges by crafting laws which put practices in place which will serve us well, if, Heaven forbid, we must face such emergencies in the future.

House Bill 1495 is designed to do just that. It seeks to respect the roles of the three branches of government and Separation of Powers, while putting practical measures in place for emergency response.

Section 1 of the bill clarifies the authority of the state health officer in health-related emergencies. It makes clear that the state health officer should act only with the advice and consent of the governor, to ensure accountability, and that the orders must be temporary. It further requires court approval, should the state health officer believe that a communicable disease is so serious that public events must be restricted or canceled or that businesses must be restricted. This authority would rest with the executive and judicial branches of government and would last for 30 days. Beyond that, only legislative action could extend or change it.

Section 2 of the bill expands the membership of the advisory committee to the department of emergency services, to include legislative input.



Section 3 removes the reference to "martial law", as this is apparently the only such reference anywhere in North Dakota's Constitution or laws and it is believed to be an antiquated term, for which there is no authority and, therefore, it is removed.

Section 4 defines what a "regulatory statute" is. This term was previously mentioned, but not defined, in law so a definition is clearly needed.

Section 5 clarifies the governor's emergency authority and sets forth when legislative authority is required if emergencies continue for lengthy periods of time. It also incorporates what modern technology has now made possible, which is not only expeditious, but could save the taxpayers money. Subsection 6 of section 5 sets forth the procedure for suspension of a regulatory statute, utilizing processes operative under current law for other executive measures.

Section 6 allows for orders by local political subdivisions and sets forth their parameters.

Section 7 removes language which is replaced by and unnecessary because of the provisions of this bill.

As you can see, this bill involves all three branches of government and respects the Constitutional role of each, as well as the Constitutional principle of Separation of Powers.

Mr. Chairman and members of the Committee, I urge your favorable consideration of House Bill 1495 and recommend that you give it a "Do Pass" recommendation.

Testimony – HB 1495  
Senate Government and Veterans Affairs Committee  
March 25, 2021  
By Cody Schulz  
Director, Division of Homeland Security  
Deputy Director, Department of Emergency Services

Chairman Vedaa and members of the Senate Government and Veterans Affairs Committee, my name is Cody Schulz. I am the Director of the Homeland Security and Deputy Director of the Department of Emergency Services (DES). I offer this testimony in opposition to SB 2124 as it is currently written.

I have a few concerns as well as a couple of considerations I respectfully ask that you contemplate. I would like to lead off with the fact that we would welcome the addition of a Senate Member and a House Member on the Department of Emergency Services Advisory Committee (DESAC) as detailed in Section 2 of the bill. We have seen first-hand the benefits of this set up on the State Interoperability Executive Committee (SIEC). It benefits the agency by gaining another perspective on our strategic mission and it benefits the Legislature by ensuring there is a trusted subject matter expert in your own membership.

My first concern with the remainder of the bill is; in issues related to public safety, and specifically emergency management, decisive and timely action is critical for successful response. I understand the intentions behind this bill and completely agree that the legislative branch provides a necessary and important oversight role in government. I do ask you to consider the potential unintended consequences of changing how we responds to disasters, which could impede our ability to respond swiftly and recover effectively from disasters and emergencies. Overall, I would argue that our current laws and processes have served us very well as we have responded to disasters ranging from 500-year floods to historic civil unrest to a once in a century pandemic in the past three decades. Anything that has the potential to bring uncertainty into processes that have worked during our recent history should be studied and contemplated very carefully.

Secondly, I am concerned how this change in process, and the potential uncertainty it could cause, would impact local government response decisions and the interaction and relationships between local and state emergency management professionals. At NDDES we pride ourselves in how well we collaborate and communicate with our local partners, and because of our efforts I believe our credibility and trust have never been higher. So, I am sensitive to changes that could disrupt how we work with our partners.

I personally had the honor of serving as a County Commission for eight (8) years in Morton County and served as Chairman in 2016 and 2017 during the Dakota Access Pipeline (DAPL) protests. I have asked myself, if this bill had been law in 2016 how would it have impacted Morton County, the response and our interaction with State agencies. My answer is, I don't know. But that uncertainty alone does cause me some pause. I do know that the County's communication and collaboration with State agencies, the Governor's Office and Legislators in Morton County worked very well under our current processes and laws.

Three other considerations I ask you to think about are:

1. The potential impacts to FEMA funding. The Stafford Act, which authorizes the President to provide Federal assistance when the magnitude of an incident or threatened incident exceeds the State's capabilities to respond or recover, requires, "as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan," which in practice in North Dakota is done through the executive order declaring an emergency or disaster. Therefore, if a Governor's order is revoked, federal funding from that point forward would not be available.
2. HB 1118, which has already passed in the House, already deals with most of the issues addressed in this bill but does so in a more focused manner.
3. This bill **requires** a special legislative session to extend the length of a disaster declaration rather than making it option, as in current law and HB 1118. While North Dakota is the best place to live and work in this country, we must admit we live in a land of extremes. Since 1997, North Dakota has received thirty-seven (37) Presidential Major Disaster Declarations resulting in nearly \$2 billion in federal aid. For each of these declarations, FEMA defines an official "incident period" in which disaster impacts were recorded and eligible for reimbursement. Of those thirty-seven (37) Disasters, thirteen (13) had incident periods longer than thirty (30) days and eleven (11) had incident periods longer than sixty (60) days. Therefore, at least thirteen (13) Special Legislative sessions would have been required, and while all disasters are unique and traumatic, most of those instances were relatively commonplace.

During disaster response and the early stages of recovery, uncertainty can negatively impact operational and fiscal decisions. The National Emergency Management Association (NEMA), of which I am a member, has drafted a memo on this topic for State Legislatures to consider, and I have attached that memo to my testimony. I would like to quote just one of NEMA's points to consider: "disaster response must be swift and thorough to save lives and deal with the rapidly changing dynamics and complexity increasingly prevalent in the types of disasters being experienced today. Any legislative action that impedes a state's ability to respond quickly and comprehensively is of great concern to the emergency management community." Therefore, we ask that all effort be made to create stability and predictability for state and local decision makers, especially in the difficult and uncertain time of emergencies and disasters.

I will just finish by saying this bill feels like a reaction to a very traumatic and difficult year of response to a once in a century pandemic and I ask that you please consider that making permanent process changes to deal with an outlier event could have the unintended consequence of making the more common, routine events more difficult to respond to.

On behalf of the Department of Emergency Services, I recommend HB 1495, as written, receive a Do Not Pass.

Thank you for your time; I will do my best to answer any questions you may have.





## Considerations for State Legislation Addressing Emergency and Disaster Authorities

[The National Emergency Management Association \(NEMA\)](#) represents the voice and consensus policy positions of the directors of the emergency management agencies of the 50 states, the U.S. territories, and the District of Columbia who are responsible for all hazards emergency and disaster preparedness, mitigation, response, and recovery across the nation.

In these times of increasing complexity and the proliferation of risks and hazards faced by the American public, including pandemics, the combined and integrated efforts of all of government are essential for success. Laws, authorities, policies, and funding decisions must be inclusive and foster unity of effort to ensure truly resilient states and communities.

*As state legislatures consider a variety of disaster and public health emergency related bills, NEMA would like to offer points of consideration to help ensure the continued effectiveness of disaster response and recovery, including public health emergencies such as pandemics.*

### State Emergency Declarations for COVID-19 – Impacts of Terminating During Ongoing Response

There is discussion within some states, at the executive and legislative levels, about terminating the state emergency declaration for COVID-19. Decision-makers should keep in mind that ending an emergency declaration before the response has concluded may cause the Federal Emergency Management Agency (FEMA) to close the incident period for a presidentially declared disaster under the Stafford Act.

If FEMA were to close the disaster incident period, access to a range of federal programs could immediately end. In that case, the state could be responsible for covering the costs for all ongoing COVID-19 response actions after the state emergency declaration has ended. These costs may include, but are not limited to:

- Personal Protective Equipment: procurement of supplies, equipment, warehousing, transportation, and distribution;
- Vaccine logistics, distribution, and support;
- National Guard support under Title 32 for COVID-19 operations;
- COVID-19 testing support and contact tracing;
- Reopening and operation of eligible schools, child-care facilities, healthcare facilities, domestic violence shelters, transit systems, and other eligible facilities; and disinfecting services and supplies for those facilities;
- Emergency feeding and distribution associated with COVID positive, COVID exposed or COVID vulnerable populations;
- Emergency non-congregate housing for COVID positive, COVID exposed or COVID vulnerable populations, as well as displaced disaster survivors during the pandemic; and
- Funeral assistance.

### Legislation and Governors' Emergency Authorities: Disaster Response and Recovery Implications

This year, more than 30 states and territories have had bills introduced in the state legislature that would seek to limit the governor's emergency powers. Many of these bills focus on limiting the length of time an emergency declaration remains in place; requiring the approval of the General Assembly to extend an emergency declaration; limiting the governor's ability to suspend statutes and regulations during disasters; giving the legislature the authority to direct

federal funding coming to states for disaster recovery programs; and changing the definition of the terms “disaster” and “emergency”.

A governor’s emergency declaration is most often the first step in disaster response as it activates the state emergency operations plan and a range of emergency protective measures for the public. Some of these actions are a pre-requisite to requesting federal disaster assistance.

### **State Emergency Declaration**

*One of the first actions a governor takes to initiate disaster response is to issue an emergency declaration which provides a number of authorities to enhance public safety, including some or all of the following:*

- Triggers the state emergency operations plan and activation of the state emergency operations center.
- Allows access to state resources to aid in both the state and local government response. May include pre-positioning supplies and response teams in anticipation of the disaster, evacuations, warming/cooling centers and sheltering operations, distributing water, food and other commodities. Local governments may have ordinances in place that trigger their ability to respond based on a state emergency declaration.
- Activates the National Guard.
- Provides tort liability and immunity protections for jurisdictions and emergency responders performing disaster response activities (e.g., initiating a state’s crisis standards of care or granting Good Samaritan protections to volunteer healthcare providers).
- Activates the Emergency Management Assistance Compact (EMAC) to legally request mutual aid assistance from other states.
- Allows the Governor to waive statutes and regulations to expedite disaster response actions to save lives and protect property. These types of actions can allow:
  - Waiver weight restrictions for vehicles transporting equipment and supplies into the state for disaster response.
  - Suspension of tolls for emergency vehicles traveling through the state.
  - Waiver of the normal procurement process for resources needed to be obtained under exigent circumstances to aid response.
  - Expansion of healthcare provider scope of practice to allow greater access to care and treatment.
  - Elimination of licensing and reciprocity requirements for out-of-state or retired healthcare workforce.
  - Expansion of the allowable use of telehealth by healthcare providers.
  - Expanded laboratory capacity for new testing.
  - Expansion of building and capacity limits on healthcare systems.
  - Increased prescription authority of pharmacists.
- In some states, an emergency declaration is required to access state funded disaster assistance programs that provide loans, grants and other assistance to individuals and businesses.
- Serves as an indicator of the severity of the event. Actions taken by the state under an emergency declaration could be a determining factor in a request for a federal emergency declaration.

### **Federal Regulation: Federal Disaster Assistance**

By regulation (44CFR 206.35 and 206.36), only the Governor of the State or Acting Governor in his/her absence, may request an emergency or major disaster declaration from the President through the appropriate Regional Administrator.

44CFR 206.35 and 206.36 also require the Governor to take specific actions in their state prior to submitting their declaration request. The Governor must certify on behalf of the state, and if approved, it is the Governor that must sign the federal documents.

The legislative branch provides a necessary and important oversight role in government. NEMA encourages legislators to deliberate on the potential unintended consequences of legislating how a state responds to a disaster, which could impede the state's ability to respond swiftly and recover effectively from all-hazards disasters and emergencies.

Points to consider:

- The legislative process is often slow and deliberate to provide policy makers an opportunity to engage with a wide variety of stakeholders and fully assess short-term and long-term considerations. Conversely, disaster response must be swift and thorough to save lives and deal with the rapidly changing dynamics and complexity increasingly prevalent in the types of disasters being experienced today. Any legislative action that impedes a state's ability to respond quickly and comprehensively is of great concern to the emergency management community.
- The length of time that an initial state emergency declaration can remain in place should be a minimum of 30 days. Anything less does not allow sufficient time for state and local governments to take necessary response and recovery actions. Disasters such as floods and wildfires, for example, require a longer response and recovery timeframe.
- Gaps in time between an initial emergency declaration and extension by the state legislature can result in a lag in response or coordination of resources, increased loss of property, loss of life, or significant impacts on public infrastructure. Additionally, if the state were to request a presidential disaster declaration, gaps in time between emergency declarations may raise the question as to whether the request for federal disaster assistance is for the same event or multiple events. A series of smaller events would not likely meet the criteria for a federal declaration. A gap in the timing between an executive branch declaration and the ensuing legislative branch declaration may also be taken by FEMA as an indication that the situation is not in fact an emergency or disaster.
- Similarly, the absence of a state emergency declaration may send a signal to the federal government that the event has been handled and does not warrant a federal declaration.
- Disaster recovery programs are complex in nature and require emergency management's collaboration and coordination with many diverse interests within the community. Legislative oversight of disaster recovery is exceedingly helpful when solutions can be crafted that address red tape and other obstacles to expeditious community and economic recovery.

*NEMA fully understands and appreciates the authority and autonomy of legislatures to conduct oversight of executives and do that which is in the best interest of their constituents and the state. Given the depth and breadth of the potential impacts of some legislation currently being considered, the emergency management community hopes elected officials will consider some of these points as they proceed with deliberations.*



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**Senate Government and Veterans Affairs | Chairman Vedaa**

HB 1495

Thursday, March 25, 2021 | 9:00am

Testimony by Jace Beehler

Chairman Vedaa, members of the committee, for the record, my name is Jace Beehler, and I serve as Chief of Staff to Governor Burgum and Lt. Governor Sanford. I offer this testimony in opposition to HB 1495.

As we discuss this bill, we know more about the pandemic, more about preventing the spread of a virus, and more about managing a public health emergency than we knew yesterday, a week prior, a month ago and certainly more than we knew on March 11, 2020.

I have had the opportunity to speak with many of you and your colleagues during the session and over the past year. We have discussed the merits of specific events and mitigation measures and watched as science unfolded to bring us a vaccine to help protect against the virus. I hope that we can come to this discussion today with a shared understanding that over the last twelve months the members of team North Dakota worked to provide the citizens of this great state with the resources, information, and tools to protect themselves and their families during this pandemic.

There have been more than 55 bills this session directly related to the pandemic, this being one of them. Some turn previous executive orders into law and others seek to limit certain aspects of the state's response. There are three bills directly related to the process for emergency declarations and authority, include HB 1495.

As you are aware, the Governor's Office does not support these pieces of legislation, however, we understand the desire for discussion around emergency authority. What we ask is that we think about this piece of legislation and all COVID related legislation with a forward-looking lens, rather than litigating the past twelve months.

HB 1495 adds a tremendous amount of burden to the executive branch and local elected leader's ability to respond to emergencies.

Specifically, Section 5 of HB 1495 requires that every 30 days for a maximum of 60 days, the governor must request approval to maintain an emergency.

Additionally, at the end of the 60 days, the emergency may not be reissued and if the emergency continues, the legislative assembly would be required to come back into session to take action to address the disaster. While the legislative

branch is the budgetary and policy making branch of government, it is the executive branch that is to execute in day-to-day operations. This includes emergencies.

Section 6 of this bill adds additional bureaucracy by requiring county and city officials to have orders and declarations relating to an epidemics or pandemics approved by the state health officer. This hinders the ability for true local control that is needed in almost all instances related to emergencies. In addition, during a time of epidemics and pandemics, the state health officer and all the department of health have countless duties that are far more deserving of their time than to regulate local leader decisions.

While the legislature moves through their 52<sup>nd</sup> day of the legislative session, many of the issues and concerns related to specific pieces of the pandemic have been and are being discussed. This bill seeks to dramatically change a process for emergency response that has worked in floods, fires, droughts, protests, and all emergencies.

I ask this committee to please review this legislation and all emergency related legislation as leaders that were elected to do what is best for the state and not implement policy simply to respond to a once in 100-year event. I respectfully ask that this committee move a Do Not Pass to HB 1495.

Thank you, Mr. Chairman. I would welcome any of your questions.

TESTIMONY OF  
ALAN S. DOHRMANN  
DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES  
BEFORE THE 67<sup>TH</sup> LEGISLATIVE ASSEMBLY  
SENATE GOVERNMENT AND VETERANS AFFAIRS  
HB 1495  
MARCH 25, 2021

Chairman Vedaa and members of the Senate Government and Veterans Affairs committee, my name is Al Dohrmann. I am the Director of the Department of Emergency Services for the state of North Dakota. As the officer charged with executing emergency responses under Chapter 37-17.1, I appear today in opposition to HB 1495.

I am 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 this team 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 authorities in Chapter 37-17.1 have served our state well over the last several decades.

Section 2 of HB 1495 would add the leaders, or their designee, of both chambers of this body to the Department of Emergency Services Advisory Committee (DESAC). While adding legislative members to Executive Agency boards, commissions, and committees, is not the norm, the Department of Emergency Services believes it would be helpful in this instance and would support adding legislative leadership to the DESAC. We have come to this conclusion, based on our experience of adding legislators to the Statewide Interoperability Executive Committee, that there is benefit to the state – executive and legislative branches alike – in creating policy that is based on the data, informed by the subject matter experts charged with responding and introduced by members of this chamber.

Adding legislative leadership to the DESAC could have preempted the situation we are now working through, where we have three bills addressing the emergency authorities of the State Health Officer and Governor (HB 1118, HB 1495, SB2124), that were initiated by lawmakers that may or may not have experience in responding to disasters and emergencies, drafted by members of the legislative council, who may or may not have experience in responding to disasters and emergencies, reviewed, as far as I know, by none of the subject matter experts employed by the state and local governments, and debated within this deliberative body at a time when emotions are



running high and subject to the influence of a once in a hundred year pandemic event (more on that below). Clearly, there is no requirement for the legislative branch to work with the executive branch to bring forward new policy. With that said, there is a strong argument that the best policy would be developed jointly between the branches of Government. Section 2 of HB 1495 would facilitate this level of cooperation and should result in well informed policy decisions.

We are also concerned that HB 1495 introduces ambiguity into what should be clearly defined authority. Within our agency, we have debated the meaning of section 5 of the Bill and have not come to a consensus on if there is a difference between “disasters or emergencies” generally and “epidemics or pandemics” specifically. Lines 19-22 on page 5 gives the Governor the authority to declare a disaster and the Governor or legislative assembly the ability to end a disaster. This authority is already the law today. However, lines 22-25 set a different process for epidemics or pandemics, limiting the Governor authority to 30 days, with an option to extend to 60 days by a legislative concurrent resolution. The language beginning on line 29 of page 5 and ending on line 5 on page 6, we believe provide a legislative process to extend emergencies beyond 60 days, but it is unclear to us if this extension authority applies to “disasters and emergencies” or just to “epidemics or pandemics”.

Since the phrase “disasters and emergencies” is used, I would have to assume that this arbitrary 30/60-day construct would apply to all events, not just pandemics and epidemics. As you can see at attachment one, we do experience emergency, other than pandemics, that exceed 60 days. Putting arbitrary dates on a calendar would be a mistake and potentially put our response and our citizens at risk.

We are also concerned that the language found on lines 13-16 of page 7 may have unintended negative consequences. The definition of regulatory statute, found in section 4, is ambiguous, overly broad, and, combined with the language of lines 13-16 of page 7, may limit our ability to apply at the point of need and time executive orders required to save lives and property. Attachment 2 to my testimony provides a summary of the executive orders that were issued during the 2011 flood event. Executive orders like these are designed to speed response and, as opposed to the pandemic, have the effect of stimulating the economy. I do not believe these are the type of executive orders that were contemplated when drafting HB 1495, and my fear is we are debating language that was drafted at a time when emotions are running high because of frustrations surrounding COVID.

So why address Chapter 37.17.1 now? We have had other long-term emergencies, the DAPL event in 2016-2017, the drought of 2017 and the floods of 1997, 2009 and 2011 with very little policy change thereafter. To be honest, I have never heard concerns about the Governor’s authority or Executive Orders during floods, fires, storms and drought, our typical emergencies in the state. So again, why change the law now?

It is about the pandemic. I have attended all the hearings on HB 1495 and SB 2124 and have heard repeatedly that these bills are not about the pandemic. Yet, those that

speaking in favor of these bills only talk about the pandemic. The questions asked by the committee members, almost exclusively, are about the pandemic. Citizen submitted testimony in support of these Bills is exclusively about the pandemic. So, if pandemic response is the concern, why are we changing our law for all “emergencies and disasters?”

A disaster declaration provides my authority, as the Director of Emergency Services, to activate the State Emergency Operations Plan. It is the authority to bring all agencies, government, and non-government, together to protect lives and property. It also provides the authority I need, as the Adjutant General, to call out the North Dakota National Guard. Without this authority, we will put lives and property at risk. We may also delay state response in fear that we will trigger one of these key dates, requiring the convening of the legislature at the wrong time to manage the disaster or emergency.

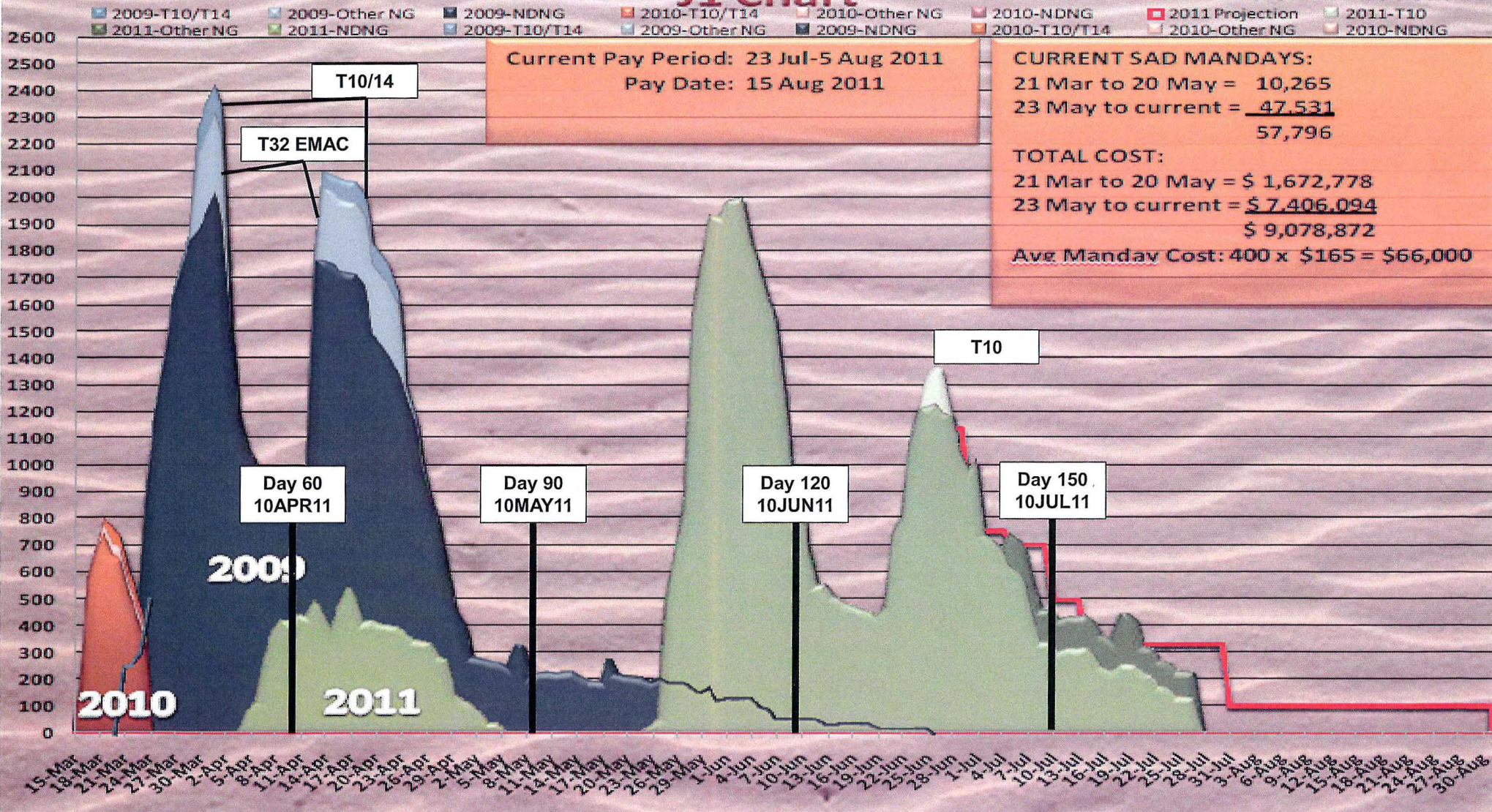
I have been involved in all state “disasters and emergencies” dating back to 1997 and I never heard that we moved too fast, did too much or stayed too long. If the problem we are trying to fix is how we respond to public health emergency, I would suggest we need legislation that focuses on that, and not change the authorities that have served our state so well over the years. I therefore urge a Do Not Pass recommendation on HB 1495.

I would be pleased to stand for your questions.

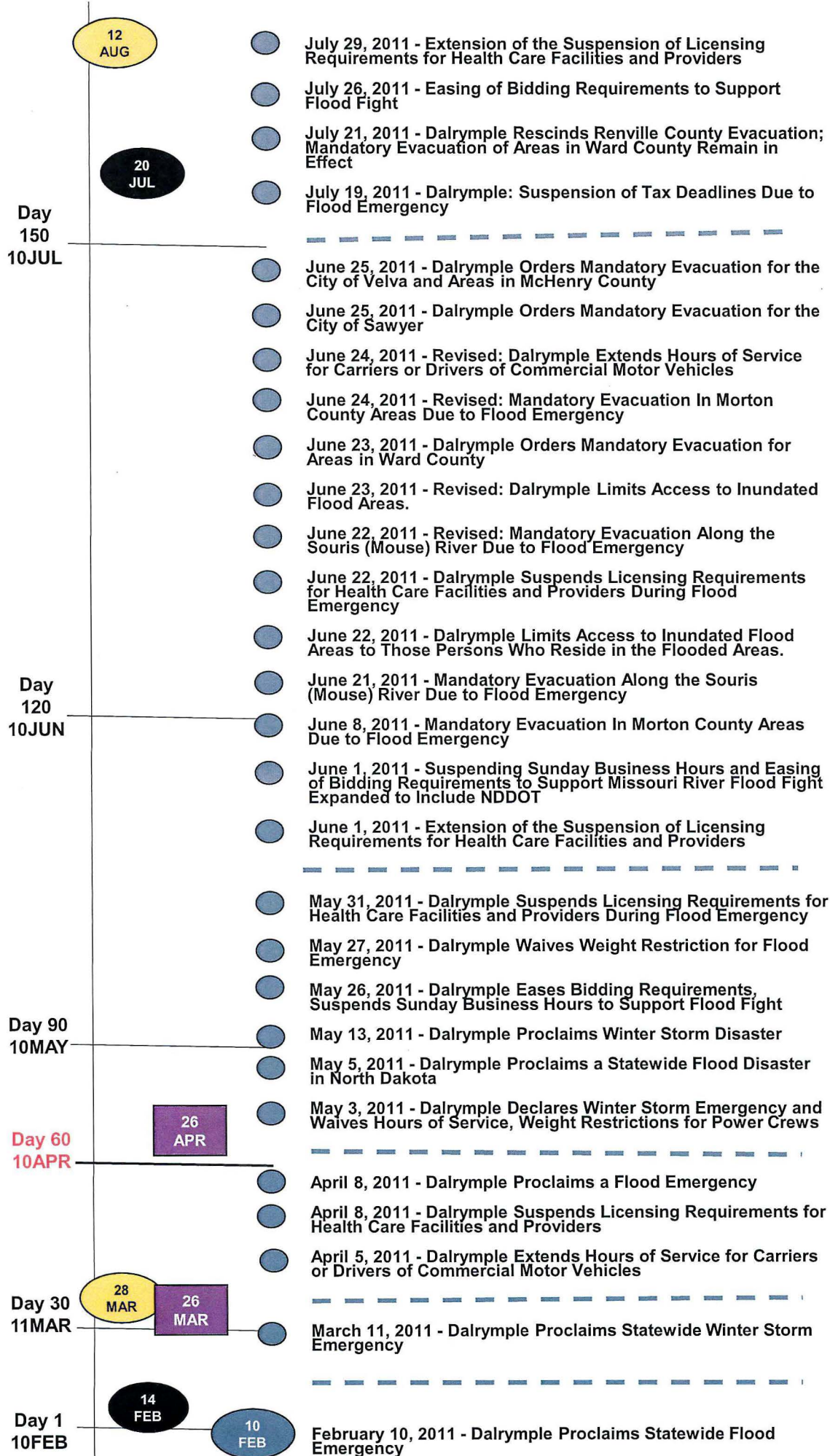


# J1 Chart

AS OF: 271600JUL11







March 25, 2021  
Senate Government and Veterans Affairs Committee  
HB 1495  
Senator Shawn Vedaa

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities. I am the deputy director and attorney for the League. The North Dakota League of Cities appears in opposition to HB 1495 because the bill would hinder a city's ability to respond to emergency situations.

The League's opposition to HB 1495 centers around section 6 of the bill. Section 6 requires that any city emergency order related to an epidemic or pandemic be reviewed by the state health officer. There are 357 cities in North Dakota. The League is concerned that the time it would take for the state health officer to review every emergency order would significantly impact the time it would take for a city to respond to an epidemic or pandemic.

Section 6 also provides that provisions of a city ordinance or emergency order may not be more restrictive than those expressly permitted in state law. It also specifically excludes North Dakota Century Code sections 40 - 05 - 01 and 40 - 05.1 - 06 which provide cities general authority to make regulations regarding public safety.

The way emergency powers in cities works is that home rule cities have ordinances providing the powers that either the mayor or the city governing body has under an emergency declaration. North Dakota Century Code section 37-17.1-10 provides the process for a city declaring an emergency and specifically calls out the authority for the city's executive officer to order an evacuation. If the Legislature passes HB 1495, with the language in Section 6, it is unclear what authority, besides ordering an evacuation and having an emergency plan, that a city has to respond to an emergency.

Due to the detrimental impact the bill would have on a city's ability to respond to an emergency, the League respectfully requests a Do Not Pass recommendation on HB 1495.

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Grand Forks, ND 58206-5200



City of Grand Forks  
(701) 746-4636

## **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 Vedaa 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.

Senator,

**Under NO circumstances should an unelected official make public policy!**

**Under NO circumstances should a health official violate our Constitutional Rights!**

There are already court cases clearly stating that what the governor did here in ND violated our first and 14th amendment rights with his EO's.

Thank you,

--

Mitchell S. Sanderson



# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1495  
4/8/2021  
11:12 AM

<b>Relating to the state health officer's authority and the governor's and legislative assembly's authority during a declared state of disaster or emergency; provide a penalty.</b>
--

**Chair Vedaa** called to order at 11:12 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

### **Discussion Topics:**

- Committee Work
- HB 1181

### **Wait for amendment**

Adjourned at 11:18 AM

*Pam Dever, Committee Clerk*

# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1495  
4/8/2021  
3:17 PM

**A BILL relating to virtual sessions of the legislative assembly; relating to the state health officer's authority and the governor's and legislative assembly's authority during a declared state of disaster or emergency; and to provide a penalty.**

**Chair Vedaa** called to order at 3:17 PM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

### Discussion Topics:

- Committee Work – 21.0588.03001

**Sen Roers moves amendment 21.0588.03001**  
**Sen Marccellais seconds**

**Voice Vote Was Taken: Motion carries**

**Sen Roers moves Do Not Pass as Amended**  
**Sen Meyers seconds**

**Roll Call Vote: 7 -- YES 0 -- NO -0-ab Motion Passed**

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

**Sen Roers will carry the bill**

Adjourned at 3:34 PM

*Pam Dever, Committee Cler*

21.0588.03001  
Title.04000

Prepared by the Legislative Council staff for  
Representative K. Koppelman  
April 8, 2021

ch  
rsb  
4/8

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1495

Page 1, line 4, remove "37-17.1-10,"

Page 8, remove lines 24 through 31

Page 9, remove lines 1 through 11

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1495, as engrossed: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1495 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "37-17.1-10,"

Page 8, remove lines 24 through 31

Page 9, remove lines 1 through 11

Renumber accordingly