



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

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## **Representative Kim Koppelman**

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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.