

Testimony – SB 2124  
Senate Judiciary Committee  
January 11, 2021  
By Cody Schulz  
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Chairman Larson and members of the Senate Judiciary Committee, my name is Cody Schulz. I am the Deputy Director of the Department of Emergency Services (DES) and Director of the Homeland Security Division. I offer this testimony in opposition to SB 2124 as it is currently written.

This bill may result in unintended consequences as it relates to operational and fiscal decisions made at the state and local level. Specifically, my concerns relate to potential uncertainty that may be created between the thirtieth (30) day of an emergency or disaster declaration and when the legislature makes a determination on whether to extend or terminate the declaration, which could happen up to thirty (30) days later.

First, it is not clear to me what the effective termination date of an emergency or disaster order would be in a hypothetical scenario in which the Governor calls a special session of the legislative assembly on the thirtieth (30) day of an emergency, but the legislature does not or cannot meet and act until the forty-fifth (45) day of the emergency. If the legislature would terminate the emergency, would the termination be effective on the day of the action or would it be retroactively terminated on the thirtieth (30) day.

Secondly, it does not appear that there is a mechanism to extend a disaster beyond a total of sixty days. As I will discuss in a moment, North Dakota has seen a number of disasters from which the impacts occurred over a time period longer than sixty days.

The two concerns and scenarios noted above could cause a significant and negative impact on receiving federal funding through Presidential Emergency/Disaster Declarations as authorized under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-707, which authorizes the President to provide Federal assistance when the magnitude of an incident or threatened incident exceeds the affected State, Local, Territorial, and Indian Tribal government capabilities to respond or recover. The act 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.

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.

During disaster response and the early stages of recovery, uncertainty can negatively impact operational and fiscal decisions. 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.

On behalf of the Department of Emergency Services, I recommend SB 2124, as written, receive a Do Not Pass. I would gladly participate in committee meetings to draft amendments to ensure that this or any other bill of this nature does not have unintended and negative consequences in regards to our ability to respond to disasters.

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