

TESTIMONY OF

**David Glatt, Director of the Department of Environmental Quality**

Good morning, Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Glatt, and I am director of the North Dakota Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation of the primary environmental protection programs in the state. I am here today to testify in opposition to HB 1089.

North Dakota has a long history of objecting to federal agendas, standards, or decisions that have been interpreted as regulatory overreach or impacting the sovereignty of the state. More recently our challenges have centered on Climate Initiatives or laws that do not reflect or acknowledge on-the-ground realities, technical advancements, or North Dakota's sovereignty. In cases where federal overreach is identified, the Attorney General along with the DEQ has aggressively pursued litigation to overturn the federal actions. Several court actions are being pursued by the DEQ in cooperation with like-minded states. Our aggressive objection to those federal regulations center on the fact that they either do not acknowledge state sovereignty, state expertise, do not improve environmental quality or public health; or do not follow applicable technology or federal law.

Our general concern with HB 1089 as written is that it could unintentionally provide the federal government an opportunity for more oversight of environmental protection initiatives in the state while at the same time reducing state participation and input. The following are some of the DEQ's concerns relating to HB 1089:

- HB 1089 could prohibit the DEQ from adopting or enforcing existing or proposed federal regulations that may directly or indirectly reference international standards or climate initiatives. These references are showing up more frequently, not only in the body of some federal rules, but also in the rule preamble. By not adopting these rules, the state may struggle to retain program Primacy agreements with the US EPA in areas like the Clean Air Act, Clean Water Act, Safe Drinking Water Act or the Resource Conservation and Recovery Act. Without these program Primacy agreements, the federal government would exclude the state and directly implement the programs.
- There are federal standards that are consistent with "... health related regulation of an international health organization." The DEQ adopts federal standards for state implementation solely to protect environmental and public health. HB 1089 poses a couple important questions: Could the DEQ be precluded from enforcing existing or future regulations? Who decides or evaluates what is directly or indirectly associated with the international health organization? It is important to note that the DEQ adopts standards without consideration of their relationship with international organizations and only after a public review and comment period. In addition, all state rules must be presented before the North Dakota Administrative Rules Committee.
- Understanding and interpreting what law or regulation is associated with an international organization that has been adopted in full or part or indirectly or directly by a branch of the federal

government may be difficult if not speculative. Prohibiting the adoption of rules or orders by the state could limit our ability to challenge such rules and erode our standing in a court of law.

We believe that passage of HB 1089 would have consequences that not only impact environmental and public health but would limit the voice of North Dakota to effect common sense change at the federal level.

This concludes my testimony as it relates to HB 1089, and I will stand for questions.