

**2021 HOUSE POLITICAL SUBDIVISIONS**

**HB 1398**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1398  
2/4/2021

<b>Relating to the authority of a cities and counties to levy an infrastructure fee in lieu of special assessments and special assessment fund balances</b>
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**Chairman Dockter: (10:00).** Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

### Discussion Topics:

- Paid Family Medical Leave

**Rep. O'Brien:** Introduced the bill. Testimony #5391.

**Matt Gardner, Greater ND.** In favor, no written testimony.

**Don Larson, NFIB:** In favor, no written testimony.

**Mike Rud, NDRA, NDPMA:** In favor, no written testimony.

**Chairman Dockter: (10:18).** Closed the hearing.

**Rep. Ertelt:** Made a do pass motion.

**Rep. Longmuir:** Second the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	A
Representative Marvin E. Nelson	N
Representative Luke Simons	Y
Representative Nathan Toman	Y

12-1-1 motion carried

**Rep. Cory:** Will carry the bill.

**Additional written testimony:** #5347 #5321 #5293

**Chairman Dockter: (10:22).** Closed committee work.

*Carmen Hickle, Committee Clerk by Anna Fiest*

**REPORT OF STANDING COMMITTEE**

**HB 1398: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1398 was placed on the Eleventh order on the calendar.



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Emily O'Brien

District 42

5021 West Elm Court  
Grand Forks, North Dakota 58203

[eobrien@nd.gov](mailto:eobrien@nd.gov)

## COMMITTEES:

Industry, Business and Labor  
Transportation

February 4, 2021

### House Bill 1398 House Political Subdivisions Committee Representative Dockter, Chairman February 4, 2021

Chairman Dockter and members of the Political Subdivisions Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1398 provides regulation consistency for businesses and limits a political subdivision from determining what businesses must provide to their employees.

This bill was brought forth from concerns from our business community. I have had multiple conversations about the impacts to businesses and workers and the mutual conclusion was that these decisions should come from the state or federal level to protect people as well as provide consistency to private business.

Going through the bill:

Section 1. Adds a new section to chapter 34-01 of the North Dakota Century Code.

Subsection 1. Definitions.

Subsection 2. States – A political subdivision may not adopt or enforce an ordinance that requires an employer to provide to an employee paid family leave that exceeds the requirements of federal or state laws and rules.

You may hear in opposition testimony verbiage along the lines of “this bill mandates that the state and other political subdivisions may not require an employer to provide paid family leave.” Or “this would ban political subdivisions from allowing paid leave.” I appreciate the perspective – but the interpretation of this proposed legislation is incorrect.

I would like to be clear that this bill is not picking winners or losers but ensures clarity across our state.

Federal and state laws exist to protect families who utilize FMLA. These conversations are not against FMLA, but focus the decision to be had at a higher level – again ensuring clarity across our state.

If businesses want to provide additional benefits, they have every right. Political subdivisions do not need to cloud the water. In fact, this bill does not ban a political subdivisions ability to provide paid leave to their employees. It does limit a political subdivision the ability to further regulate the businesses that reside there.

I have co-sponsored and examined bills that address FMLA in the past and will continue to seek solutions that work for the constituents in my district and across the state of North Dakota. This issue is not about partisan politics – this is about benefit offerings for North Dakotans and the employers who provide them.

For more information on Federal FMLA → <https://www.dol.gov/agencies/whd/fmla>

I'd be happy to answer any questions that the committee may have.

Representative Emily O'Brien  
District 42, Grand Forks



**North Dakota AFL-CIO**

1323 East Front Ave.

Bismarck ND 58504

llarson@ndaflcio.org

701-526-8787

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**Testimony of Landis Larson, ND AFL-CIO President  
In Opposition to HB 1398  
February 4, 2021**

Chairperson Lefor and members of the House Industry, Business and Labor Committee:

My name is Landis Larson, President of the North Dakota AFL-CIO. The North Dakota AFL-CIO is the federation of labor unions in North Dakota, representing the interests of all working people in our state.

I am testifying on behalf of the North Dakota AFL-CIO in opposition to House Bill 1398.

Working people need paid family leave to maintain their quality of life for their families when unexpected caretaking needs arise. In 2021 in The United States of America, workers should not have to choose between caring for their loved ones and maintaining a basic quality of life. Employers should have access to offering this important benefit to retain a high quality workforce and decrease recruiting and training costs.

The North Dakota AFL-CIO supports any and all efforts to ensure all working people in North Dakota have access to some type of paid family leave. We also oppose efforts to take away local control from political subdivisions, like cities and counties, and hamstringing their ability to find solutions to problems identified by the very citizens they represent. We should not be tying their hands behind their back for ideological purposes.

I recommend a "Do Not Pass" recommendation on House Bill 1398.

Respectfully Submitted,  
Landis Larson  
North Dakota AFL-CIO President

## Written Testimony on House Bill 1398

Chairman Dockter and Political Subdivisions Committee Members

My name is Kevin Herrmann from Beulah, ND. I am a lifelong citizen of North Dakota and an hourly wage worker. I am representing myself.

I opposed House Bill 1398. House Bill 1398 will be a state mandate on political subdivisions again. In 67<sup>th</sup> Legislative session, I continue to hear from the Republican legislators about local control in committee hearings and floor sessions but here is a bill that you legislators want to take local control away by a mandate.

This was done in the 66<sup>th</sup> Legislative session with House Bill 1193 which was a living wage mandate prohibition for political subdivisions. In the 66<sup>th</sup> Legislative session it was Republican legislators talking about local control throughout the session but the legislators did not keep the promise of local control.

In all the legislative sessions, legislators have mention many times of displeasure of federal mandates to states feeling it is not right because the state should have local control.

With this House Bill 1398, the state will be mandating to political subdivisions. I called it hypocrisy.

As an hourly wage worker who is helping paying your legislative salary and free health insurance, House Bill 1398 needs a DO NOT PASS recommendation.

My home phone number is 701-873-4163

Kevin Herrmann  
300 Fair St. SW  
Beulah, ND 58523



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*Great Public Schools**Great Public Service*

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Testimony on HB 1398  
Political Subdivisions Committee  
February 4, 2021

Chairman Dockter and members of the Political Subdivisions Committee, for the record my name is Nick Archuleta, and I am the president of North Dakota United. I wish to urge the Committee to recommend a DO NOT PASS recommendation for HB 1398.

Mr. Chairman, North Dakota has a history of extolling the virtue of local control; of leaving the decision-making processes as close to the people as possible. There are many in both chambers that are quite proud of this history. Yet, in recent legislative sessions, the state legislature has passed legislation forbidding political subdivisions from outlawing plastic bags and establishing a minimum wage.

HB 1398 represents another piece of legislation that forbids political subdivisions from exercising their prerogative to establish rules within their domain. In this case, HB 1398 will prohibit political subdivisions from establishing paid family leave programs. I am sure that the proponents of HB 1398 are as empathetic as the next person when it comes to understanding the reasons one might have when they avail themselves of any provision of a paid family leave plan. If the issue is that should political subs be allowed to pass paid family leave programs, a patchwork of different leave policies would develop across the state, there is a solution: The Legislature could pass and the Governor could sign into law HB 1441, which would create a uniform paid family leave protocol for the state of North Dakota.

Chairman Dockter and members of the Committee, I appreciate the opportunity to offer testimony today. With that, I will close my testimony and ask for a do not pass recommendation for on HB 1398.

**2021 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1398**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

HB 1398  
3/3/2021 AM

relating to prohibitions on political subdivisions regulating paid family leave
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**Chair Klein** opened the hearing at 9:00 a.m. All members present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Limitations on political subdivisions
- Paid family leave programs

**Representative O'Brien** introduced the bill, testified in support, and submitted testimony #7219 [9:00].

**Matt Gardner, Greater North Dakota Chamber** testified in support [9:07].

**Don Larson, small business owner** testified in support [9:09].

**Mike Rud, ND Retail Association** testified in support [9:13].

**Nick Archuleta, ND United** testified in opposition and submitted testimony #7140 [9:14].

**Landis Larson, President of ND AFL-CIO** testified in opposition and submitted testimony #7156 [9:23].

**Bill Wocken, ND League of Cities** testified in opposition and submitted testimony #7231 [9:25].

**Additional written testimony:** 7065, 7183, and 7185.

**Chair Klein** ended the hearing at 9:33 a.m.

*Isabella Grotberg, Committee Clerk*

# NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL  
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**COMMITTEES:**  
Industry, Business and Labor  
Transportation

**Representative Emily O'Brien**  
District 42

5021 West Elm Court  
Grand Forks, North Dakota 58203

*eobrien@nd.gov*

March 3, 2021

**House Bill 1398**  
**Senate Industry, Business and Labor Committee**  
**Senator Klein, Chairman**  
**March 3, 2021**

Chairman Klein and members of the Senate Industry, Business and Labor Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1398 provides regulation consistency for businesses and limits a political subdivision from determining what businesses must provide to their employees.

This bill was brought forth from concerns from our business community. I have had multiple conversations about the impacts to businesses and workers and the mutual conclusion was that these decisions should come from the state or federal level to protect people as well as provide consistency to private business.

Going through the bill:

Section 1. Adds a new section to chapter 34-01 of the North Dakota Century Code.

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Subsection 2. States – A political subdivision may not adopt or enforce an ordinance that requires an employer to provide to an employee paid family leave that exceeds the requirements of federal or state laws and rules.

You may hear in opposition testimony verbiage along the lines of "this bill mandates that the state and other political subdivisions may not require an employer to provide paid family leave." Or "this would ban political subdivisions from allowing paid leave." I appreciate the perspective – but the interpretation of this proposed legislation is incorrect.

I would like to be clear that this bill is not picking winners or losers but ensures clarity across our state.

Federal and state laws exist to protect families who utilize Family Medical Leave Act (FMLA). These conversations are not against FMLA but focus the decision to be had at a higher level – again ensuring clarity across our state.

If businesses want to provide additional benefits, they have every right. Political subdivisions do not need to cloud the water. In fact, this bill does not ban a political subdivisions ability to provide paid leave to their employees. It does limit a political subdivision the ability to further regulate the businesses that reside there.

I have co-sponsored and examined bills that address FMLA in the past and will continue to seek solutions that work for the constituents in my district and across the state of North Dakota. This issue is not about partisan politics – this is about benefit offerings for North Dakotans and the employers who provide them.

For more information on Federal FMLA → <https://www.dol.gov/agencies/whd/fmla>

I'd be happy to answer any questions that the committee may have.



Representative Emily O'Brien  
District 42, Grand Forks

*Great Public Schools**Great Public Service*

**Testimony on HB 1398**  
**Senate Business, Industry and Labor Committee**  
**March 3, 2021**

Chairman Klein and members of the Committee, for the record my name is Nick Archuleta, and I am the president of North Dakota United. I wish to urge the Committee to recommend a DO NOT PASS recommendation for HB 1398.

Mr. Chairman, North Dakota has a history of extolling the virtue of local control; of leaving the decision-making processes as close to the people as possible. There are many in both chambers that are quite proud of this history. Yet, in recent legislative sessions, the state legislature has passed legislation forbidding political subdivisions from taking actions to improve their communities like outlawing plastic bags and establishing a minimum wage.

HB 1398 is another piece of legislation that forbids political subdivisions from exercising their prerogative to establish rules within their domain. In this case, HB 1398 will prohibit political subdivisions from establishing paid family leave programs. I am sure that the proponents of HB 1398 are as empathetic as the next person when it comes to understanding the reasons one might have when they avail themselves of any provision of a paid family leave plan. If the issue is that should political subs be allowed to pass paid family leave programs, a patchwork of different leave policies would develop across the state, there is a solution: The Legislature could pass, and the Governor could sign into law, the unamended version of HB 1441, which would create a uniform paid family leave protocol for the entire state of North Dakota.

Chairman Klein and members of the Committee, HB 1398 represents an impediment to political subdivisions which may wish to offer paid family leave in an effort to make their communities attractive and appealing places to live and work. For this reason, I urge DO NOT PASS recommendation for HB 1398.

Thank you for the opportunity to be here today. I am happy to stand for any questions you may have.



**North Dakota AFL-CIO**

1323 East Front Ave.

Bismarck ND 58504

llarson@ndaflcio.org

701-526-8787

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**Testimony of Landis Larson, ND AFL-CIO President  
In Opposition to HB 1398  
March 3, 2021**

Chairperson Klein and members of the Senate Industry, Business and Labor Committee:

My name is Landis Larson, President of the North Dakota AFL-CIO. The North Dakota AFL-CIO is the federation of labor unions in North Dakota, representing the interests of all working people in our state.

I am testifying on behalf of the North Dakota AFL-CIO in opposition to House Bill 1398.

Working people need paid family leave to maintain their quality of life for their families when unexpected caretaking needs arise. In 2021 in The United States of America, workers should not have to choose between caring for their loved ones and maintaining a basic quality of life. Employers should have access to offering this important benefit to retain a high quality workforce and decrease recruiting and training costs.

The North Dakota AFL-CIO supports any and all efforts to ensure all working people in North Dakota have access to some type of paid family leave. We also oppose efforts to take away local control from political subdivisions, like cities and counties, and hamstringing their ability to find solutions to problems identified by the very citizens they represent. We should not be tying their hands behind their back for ideological purposes.

I recommend a "Do Not Pass" recommendation on House Bill 1398.

Respectfully Submitted,  
Landis Larson  
North Dakota AFL-CIO President

Testimony in Opposition to House Bill 1398  
March 3, 2021  
Senate Industry, Business and Labor Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Industry, Business and Labor Committee. For the record, my name is Bill Wocken and I am testifying in opposition to House Bill 1398 on behalf of the North Dakota League of Cities.

House Bill 1398 prohibits local political subdivisions from enacting regulations that require a family leave policy that is more liberal than state or federal law. While we are not aware of any city considering this type of action, the North Dakota League of Cities is opposed to state preemption of local policies and programs.

We feel that there should be a significant public interest that needs to be protected for any preemption to be considered. We do not see a significant issue at stake here and would therefore urge the committee not to recommend this preemptive measure.

It is difficult to craft measures that will serve all the communities in this state equally well. Some measures may have consequences that are not apparent today. That is why the League of Cities favors letting local government decide its own needs and put appropriate legislation in place. This same dilemma faces Congress as it attempts to legislate policy for all states. We all know how awkward and downright unworkable a law written to fix a California problem can be when applied to North Dakota. It is inevitable that some laws will need to apply universally but those occasions should be chosen carefully. We do not believe family leave is one of them.

We respectfully request a DO NOT PASS recommendation for House Bill 1398.

## Written Testimony on House Bill 1398

Chairman Klein and Political Industry, Business and Labor Committee Members

My name is Kevin Herrmann from Beulah, ND. I am a lifelong citizen of North Dakota and an hourly wage worker. I am representing myself.

I opposed House Bill 1398. House Bill 1398 will be a state mandate on political subdivisions again. In 67<sup>th</sup> Legislative session, I continue to hear from the Republican legislators about local control in committee hearings and floor sessions but here is a bill that you legislators want to take local control away by a mandate.

This was done in the 66<sup>th</sup> Legislative session with House Bill 1193 which was a living wage mandate prohibition for political subdivisions. In the 66<sup>th</sup> Legislative session it was Republican legislators talking about local control throughout the session but the legislators did not keep the promise of local control.

In all the legislative sessions, legislators have mention many times of displeasure of federal mandates to states feeling it is not right because the state should have local control.

With this House Bill 1398, the state will be mandating to political subdivisions. I called it hypocrisy.

As an hourly wage worker who is helping paying your legislative salary and free health insurance, I challenge the legislators to prove that hourly wage workers lives do matter with a DO NOT PASS recommendation on House Bill 1398.

I will include my home phone number listed below if any legislator would be interested to call me later in the evening.

Kevin Herrmann  
300 Fair St. SW  
Beulah, ND 58523  
701-873-4163

HB 1398  
Prohibiting Local Subdivisions from Requiring Paid Family Leave

Testimony  
of  
Dr. Stephan Podrygula  
Before Senate IBL Committee  
on  
Wednesday, March 3, 2021

Chairman Klein and Members of the Committee,

I speak in opposition to HB 1398.

As a clinical and health psychologist, I frequently work with individuals who have a family member with significant physical and/or mental health issues and need time from work to take care of them. Illness is a major stressor for individuals and families, and paid family leave helps ease the burden.

As a small businessman, I have always made it a priority to provide fully paid family leave for my employees, despite the financial impact on my “bottom line”. Besides being the right thing to do, it engenders employee loyalty and lets my staff strike a reasonable balance between family obligations and work.

As a Minot City Councilman – although I speak for myself and not for the Council or the City – I want us to have the tools we need to develop our work force and help assure a decent standard of living for all of our residents. Requiring paid family leave is an option we need to have available to us.

As a citizen, I am not keen on Bismarck taking away local authority. We rightfully complain about Washington enforcing its will on the states; to be consistent, we also need to support the autonomy of our cities and counties.

Passage of this bill would undermine HB 1441, which has already passed the House, and calls for a legislative management study of the feasibility of a state-facilitated paid family leave program. Local subdivisions should not have to wait, until the next legislative session, for the outcome of that study and any resulting legislation.

Families are the bedrock of our society, and I feel we need to do everything we can to strengthen and support them. Please don't take away this tool from local governments, should they choose to use it.

Thank you for considering my views.

SP/d



**Kristie Wolff – Executive Director, North Dakota Women’s Network**  
**Opposition HB 1398**  
**ND Senate Industry, Business and Labor Committee**

**March 4, 2021**

Chairman Klein and members of the Senate Industry, Business and Labor Committee. My name is Kristie Wolff and I am the Executive Director of the North Dakota Women’s Network.

North Dakota Women’s Network is a statewide organization with members and advocates from across the state. I am submitting testimony today in opposition to HB 1398.

At some point, nearly every working person will need to take time away from work to address a personal illness, bond with a new child or care for a family member with a serious health condition. However, the U.S. is the only developed nation in the world without a national paid family leave policy. Working families should not be forced to choose between caring for their loved ones and risking their economic security. HB 1398 creates an unnecessary barrier to implementation of important policies that protect working families and help employers reduce turnover and the high costs of training new employees.

North Dakota prides itself on our strong communities and the belief that local leaders are best suited to serve the needs of those communities. Our local elected officials are closest to the people, understand the unique needs and challenges of their community, and are well equipped to create policies on many important issues, including paid family leave. We oppose attempts such as HB 1398 to erode local control.

For those reasons, I am asking the Committee for a Do Not Pass recommendation on HB 1398.

Thank you,

Kristie Wolff

[kristie@ndwomen.org](mailto:kristie@ndwomen.org)

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

HB 1398  
3/3/2021 PM

relating to prohibitions on political subdivisions regulating paid family leave
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**Chair Klein** opened committee work at 3:04 pm. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Family leave policy

**Senator Kreun** moved a DO PASS [15:06]

**Senator Larson** seconded the motion [15:06]  
[15:06]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Kreun** will carry the bill [15:07].

**Chair Klein** closed the meeting at 3:09 pm.

*Isabella Grotberg, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1398: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1398 was placed on the Fourteenth order on the calendar.