

**2019 HOUSE POLITICAL SUBDIVISIONS**

**HB 1200**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

1/31/2019

HB 1200

Job # 31967

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

### Explanation or reason for introduction of bill/resolution:

Relating to prohibiting a political subdivision from regulating an auxiliary container; relating to the definition of auxiliary container, to provide an effective date; and to provide an expiration date.

### Minutes:

1 - 9

**Chairman J. Dockter:** Opened HB 1200.

**Rep. D. Ruby:** Introduced the bill. Concerned about the patchwork this bill would put on businesses. Especially chain stores and grocery stores that do business all over the country. If every city is doing something different, whether it is a tax or a ban on the items, they have to make adjustments for every area they are in. One of the common one people ban is plastic bags, they are low density polyethylene. They blow around but I question the single use as they are reused by a high percentage. I own a landfill and have picked up a lot of these bags, they do crumble over time and don't last forever as we hear. The liner of my landfill has high density polyethylene and that is generally a thick plastic. That liner protects the ground water. I had the bill drafted to be broad so whatever the next environmental reaction, this would include that as well. If a city has an arena or zoo they may want to prevent the use of a certain product. You can do that on your own property. Basically you can't put that kind of regulation and burden or tax on all businesses in their city. People in Minot are looking at putting a \$.05 tax on each bag. Would public assistance pay for the bag? These bags are recyclable; they are not in heavy demand. But recyclers can get rid of these items, it's the wrong direction.

**Rep K. Koppelman:** Being in the business you are in when you receive bags in your landfill is it a nuisance to you and do you charge cities more to handle this material?

**Rep. D. Ruby:** No, it is part of the waste stream. They are reused as garbage bags. Anything they are doing to bags or straws is counterproductive.

**Rep K. Koppelman:** Nothing in the bill prohibits a business from what they have on their premises or their practices are? This just prohibits political subdivisions from creating a patchwork of regulations and taxation, is that right?

**Rep. D. Ruby:** That is correct. This doesn't force anyone to use items they don't want to and they have the right to make that decision.

**Rep. Adams:** Why not let each city decide? Why have the state mandate to them what they have to do?

**Rep. D. Ruby:** We don't want this patchwork of each city doing something different. If one business puts a ban on an item and have stores in different regions, now they have to make adjustments from one to the other. I think that is problematic. If it is something that is a true hazard then it should be a statewide approach, that way it is consist for business.

**Rep. Guggisberg:** What do you think the motivation for the cities to tax or regulate plastic bags?

**Rep. D. Ruby:** I'm sure it is different for individual cities. Depending on the people pushing them they either view them as nuisance or environmental hazard, in some cases a way to generate revenue. They are targeting one thing because of the perception of it and it's not justified.

**Rep. Guggisberg:** Has there been any proposals by any cities to do something like this? I haven't heard of a tax being proposed. Has anything made it as far that I can find it in city commission minutes?

**Rep. D. Ruby:** Yes, I have seen this proposal and concept in other states. The city of Minot started talking about this so it is in their minutes. They have put it to a working committee that will make some recommendations. They are looking at doing something like this and I think it is the wrong approach and they wrong focus on what they consider to be an environmental issue.

**(14:35) Sen. Veda:** (Handout #1). Read his testimony.

**Rep. Hatlestad:** Why does your cost go up if you charge \$.05 a bag? Why don't you pass the cost on?

**Sen. Vedaa:** In the grocery business that's a tricky thing. If my little town put that on and it's not a statewide thing, the customer goes to a larger town to shop. There is no way you can charge that at the cash register.

**Rep. Adams:** When you ask paper or plastic, wouldn't it be consumer issue as to whether they wanted to purchase a bag?

**Sen. Vedaa:** In business you don't want to pass anything onto your customer that is not necessary, I wouldn't feel comfortable passing that down to them. If I was pushed in the direction to charge for one and not the other, I don't know what people would do.

**Rep K. Koppelman:** But it would come down to a consumer couldn't it if businesses choose to pass the cost on either charging for a bag or increasing prices across the board it would be bore by the consumer? It would come to a decision for you in your business to either struggling for profitability or pass on to cost your customer more.

**Sen. Vedaa:** On our receipt tape we don't want to say "by shopping here it cost you more".

**John Dyste:** President of ND Grocers Association. (Handout #2,3).

**Mike Rud:** North Dakota Petroleum Marketers in North Dakota Retail Association. We are in total support of this bill. The whole idea of patchwork across the state is not a good practice. We believe this would create some real chaos. And added cost to the retailer and the consumer.

**Rep. Simons:** How much does a bag cost?

**Mr. Rud:** Sen. Veeda broke it down for you in his testimony.

**Matt Seaholm:** Executive Director of American Progressive Bag Alliance: (Handout #4). Read his testimony.

**Rep. Johnson:** Seemingly the bill would bar the local political subdivision from taxing plastic garbage bags? We aren't just talking about the retail bags but it could include garbage bags as well?

**Mr. Seaholm:** They certainly could. Rep. Ruby stated the reuse of a retail bag is 80% to 90%. The vast majority are used for garbage bags. They replace a thicker garbage bag that you would have to purchase. We haven't seen anyone ban plastic garbage bags, it certainly could happen at some point but there isn't any alternative.

**Rep. Johnson:** The reference to single use is intended to carry your groceries from point A to point B. The purpose of taxing is to keep it out of the landfill. Whether it is reusable as something else it will still end up in the landfill. The tax is to discourage that from happening.

**Mr. Seaholm:** There is no doubt it's meant to change behavior; it's meant to punish people for using a product. With bans it's meant to force an alternative to be used. Most often that is paper. The cost differential between paper and plastic is, a typical plastic bag is about \$.01 apiece and a paper bag is between \$.07 and \$.12 apiece. If you apply a tax and move everyone to paper retailers are now going to see a cost increase.

**Rep. Johnson:** My husband say it takes more energy to make a paper bag than a plastic bag.

**Mr. Seaholm:** That is absolutely true the amount of energy and resources that go into to manufacture of a paper bag are much more than a plastic bag. It takes seven trucks to carry the same number of paper bags as it does for one truck to carry plastic bags. If you add it up from a carbon footprint there is no doubt what the best option at the checkout counter. The Environmental Protection Agency of Denmark has done a lifecycle assessment and concluded the same thing. They indicated it would take 2,500 and 3,000 reuses of a cotton carry out bag to equal one reuse of a plastic retail bag to offset the overall environmental impact.

**Matt Gardner:** Greater North Dakota Chamber. The patchwork of regulation throughout the state is not good for business. We are in support of this bill.

**Don Larson:** Representing the National Federation of Independent Business. (Handout #5). We are asking for a do pass because this bill maintains a level playing field across the state and prevent the patchwork and inconsistent regulations.

**(36:51) Chuck Hyatt:** Director of Waste Management Division: (Handout #6). Read his testimony. (38:55).

**Vice Chairman Pyle:** What do you see as being prohibited from communities implementing cost effective technology? What do you define as cost effective technology?

**Mr. Hyatt:** Technology is changing fast, especially in response waste management and restriction on recycled material that have come from China. There is a big push to improve the amount of technology that helps sort, manage and handle solid waste. They are certain things that can cause issue with technology. They have to be aware of the shortcomings of the technology that they are investing in. If we have a broad base bill like HB 1200 that says communities can't choose which materials they are going to handle, you are putting them in a position where they either have to forego investing in new technology or invest in technology that is above their budgets. There is a number of different issues with mandating a political subdivision can't do one thing or another.

**Rep K. Koppelman:** You are here representing the Health Dept. is this something that the Chief Health Officer has asked you to do? Or is the Governor trying to influence public policy?

**Mr. Hyatt:** I'm here on behalf of the Health Dept. including the chief. This is our position.

**Rep K. Koppelman:** You believe this bill conflicts with that intent of that section of the code, have you looked at the legislative history to know what legislative intent was when that section of code was enacted?

**Mr. Hyatt:** This is based on 25 years of our understanding of the code and how we have approached enforcing that code.

**Rep K. Koppelman:** If that has been on the books for 25 years no legislature can ban the actions of a future legislature much less one 25 years dictating this year.

**Mr. Hyatt:** Our understanding of the broad based nature of this bill puts us in a position where our understanding what mandate us as an agency.

**Rep K. Koppelman:** You do recognize that the mission is dictated by public policy and the legislature is the policy making branch of government. You talk about the need to rework existing law, have you brought an amendment?

**Mr. Hyatt:** We have not created an amendment but we feel this bill does need an amendment.

**Rep K. Koppelman:** You talked about rules and they are required to be conforming to statutes and to legislative intent, so you would want them amended if that was the case, correct?

**Mr. Hyatt:** That is correct. If this bill is to pass as presented that would result in significant changes to administrative rules.

**Rep. Ertelt:** Would you say municipalities have restrictions on the types of materials that can go into recycling and into their landfills? Then this would be a prohibition of having those restrictions?

**Mr. Hyatt:** There are certain landfills that decide what type of materials they want to accept and we do not tell them what to accept. We do not say landfills are obligated to take certain materials but we provide options if they do decide.

**(46:26) Josh Wolsky:** Alderman, City of Minot. (Handout #7). Read his testimony.

**Vice Chairman Pyle:** Does the city of Minot offer free recycling for its residents? What type of items does it pick up? And what is the costs?

**Mr. Wolsky:** The city of Minot does not have a citywide recycling program.

**Vice Chairman Pyle:** Do you have volume based trash removal or a flat fee?

**Mr. Wolsky:** We have a flat fee for garbage removal and a city operated sanitation service and a city operated landfill.

**Rep. Longmuir:** The people that approached you do you rule by minority or majority?

**Mr. Wolsky:** The city council rules by majority.

**Rep. Longmuir:** The minority of the people rule; you take their input to put onto the majority of the people?

**Mr. Wolsky:** I take input from all citizens from Minot. I don't discount whether a person is in a minority I listen to arguments.

**Dave Glatt:** Dept of Health. I understand the need for consistency. I am concerned these bills have a tendency to squash innovation. It's put us in a position as an agency we say reduce, recycle, and reuse but we are now going to be the police. If a community decides they want to do something innovative we have to go in and tell them, it's a violation of the law. We have to look at using our resources the best and plastic bags might be the best but a law prohibiting looking at all alternatives is not the way to go. Recycling is tough in North Dakota. Instead of saying we aren't going to recycle maybe we have to take a closer look at how do we as a state incentivize recycling in a rural area. I am concern with some unintended consequences.

**Rep K. Koppelman:** Is there anything in the bill that prohibits recycling?

**Mr. Glatt:** I don't see that.

**Rep K. Koppelman:** I also don't see any prohibition for incentives.

**Mr. Glatt:** I see do nots and shall nots. Anytime I see that, I see reducing your scope of opportunity.

**Rep K. Koppelman:** If a city says we want to incentives there is nothing in the bill prohibits that is there?

**Mr. Glatt:** It may prohibit them is we are limited to what type of containers we use in place of those other ones.

**Rep K. Koppelman:** If you ban them you don't have an alternative and have a big problem?

**Mr. Glatt:** I don't disagree with that but I would say passing a law that tells local entities' they cannot and shall not do certain things. When those might be an opportunity for them to extend the life of their landfill. Today we are talking plastic bags, there could be a new bag that comes out on the market that really is the way to go. But if you are saying you cannot jump into those markets I am concerned this bill could do that.



**Rep K. Koppelman:** I don't see that in the bill and would hope if this bill passes you would take a look at it and encourage innovation. When you talk about local innovation and creativity if a local community said they were going to clean up oil spills and did not the Health Dept. involved, how would you feel about that?

**Mr. Glatt:** Then they would take on the liability and that is major and most communities aren't willing to do that. We need to look at innovative ways to extend the life of a landfill.

**Rep. Ertelt:** Could you respond on extending the life of the landfills? Do you know how much volume as a percentage that plastic bags constitute?

**Mr. Glatt:** I don't have that number but I know they are a maintenance issue, as flying debris.

**Rep. Ertelt:** How does that have anything to do with extending the life of a landfill. Also energy consumption, if we are concerned overall about the environmental impact?

**Mr. Glatt:** We will always encourage recycling. The carbon footprint, those are things we can take a look at. I don't want to limit that thought process.

**Rep K. Koppelman:** We hear the term local control and local government are not synonymous. A tax to the citizen either costs more money or regulates their behavior.

**Mr. Glatt:** Any decision that is made half of the people feel you have gone too far and the half thinks you have not gone far enough.

**Bill Wocken:** North Dakota League of Cities: (Handout #8). Read his testimony.

**Vice Chairman Pyle:** How many cities offer recycling or free recycling?

**Mr. Wocken:** I do not have that information with me but can get that to you. Handout #9 was received from Mr. Wocken later.

**Chairman J. Dockter:** Closes the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

HB 1200  
2/14/2019  
Job # 32793

- Subcommittee  
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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### Explanation or reason for introduction of bill/resolution:

Relating to prohibiting a political subdivision from regulating an auxiliary container; relating to the definition of auxiliary container, to provide an effective date; and to provide an expiration date.

### Minutes:

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**Chairman J. Dockter:** Opened for committee work.

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

**Rep. Magrum:** Second the motion.

**Rep. Guggisberg:** Local control issue.

**Vice Chairman Pyle:** Target will credit your purchase \$.05 if you bring in a reusable bag.

**Rep. Guggisberg:** This bill is not about plastic bags or recycling it's about local control. Whether or not the private sector is doing things has nothing to do with this bill.

**Rep K. Koppelman:** I agree with local control but every local shopper should have a plastic bag if they want one.

**Vote yes 13, no 1, absent 0.**

**Rep K. Koppelman:** Will carry the bill.

Date: 2-14-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1200**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Ertelt Seconded By Rep. Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:	/				
Rep. Fegley:	/				
Rep. Hatlestad:	/				
Rep. Johnson:	/				
Rep K. Koppelman:	/				
Rep. Longmuir:	/				
Rep. Magrum:	/				
Rep. Simons:	/				
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg:		/			

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1200: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1200 was placed on the Eleventh order on the calendar.

**2019 SENATE POLITICAL SUBDIVISIONS**

**HB 1200**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB1200  
3/14/2019  
Job # 33694

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Jo Wocken

### Explanation or reason for introduction of bill/resolution:

Relating to the definition of auxiliary container; to provide an effective date and to provide an expiration date.

### Minutes:

Written attachment #1 Sen. Vedaa  
Written attachment #2 John Dystra  
Written attachment #3 Alison Ritter  
Written attachment #4 Matt Seaholm  
Written attachment # 5 Tom Barry  
Written attachment #6 Avis Tvedt  
Written attachment #7 Trygve Hammer  
Written attachment # 8 Kelli Hively  
Written attachment #9 Chuck Hyatt

**Chairman Burckhard** opening the hearing on HB 1200. All senators are present.

**Representative Dan Ruby:** District 38. (:54) introduced the bill and in support of the bill. This came to me as an idea that I heard some time ago about how some states are starting to put in bans on single use plastic bags, some on straws, some on styrofoam. Those things they determine that are not environmentally desirable or potentially harmful. There are some things that we do look at along those lines. But what my concern was is that when you have cities doing different things, it creates a lot of uncertainty for businesses that have either chain stores or franchise stores. Minnesota is a state that has this in place. We are not breaking new ground here. It isn't radical. It maintains more certainty for business and prevents a patchwork of regulations. The city of Minot was having a discussion about and it came from a citizen group who decided as a group to talk about it. They didn't implement the proposal, but the proposal was to tax every single use plastic bag at 5cents. So businesses would have to then add that to their grocery costs. I truly question the term single use. How many of you have some kind of receptacle that has a bunch of those in your house to reuse them. Usually for lining a bathroom garbage can, or different applications. It is just for avoiding this uncertainty of a patchwork that we would face. I don't think that that is always grounded necessarily on scientific measures. It is a knee jerk reaction.

**Chairman Burckhard:** Can you refer to that on your bill someplace?

**Representative Ruby:** It says on page 4, a political subdivision or public or private facility from using a relating and auxiliary container on property owned by the respective political subdivision or public or private entity.

**Chairman Burckhard:** So it would be line 7. **Representative Ruby:** Yes, starting on line 7. So that is subsection 2 there the way that may not be construed to prohibit or restrict. There are some safeguards put in there that gives them some flexibility.

**Senator Anderson:** This always comes down to referring between the cities and the state here. A few years ago we said that Minot could have parking meters if they wanted them and the people referred it and said nobody could have parking meters. Previously in this committee we were referring between the extraterritorial residence around Minot and the City of Minot. It seems like we have to establish some precedence some of us were in favor of local control in some things and not local control on other things. We just have to figure out a precedence and say you can have local control or you don't. I think that is our quandary here with this bill and some of the others that I have seen. So talk to me a little bit about local control and what is relative to that?

**Representative Dan Ruby:** I know that has been the discussion from the beginning of this. What about local control? I often struggle with that on bills that we do all the time in the legislature. There is always a balance of what is good for the whole state and what do we just allow cities to do and of course, years ago we gave them home rule charter ability and it's the vote of the people. Some of those things. But people also then have the initiated measure process that they can do, and change what we're not doing or what we have done. I just think that we do have to look out for some of the area where those could be detrimental and cause some uncertainty. Business necessarily don't mind attacks, as long as they know where it's at and what is going to be fair and consistent. It is not really fair and consistent if it's just in such a small area within the same county, but they are taxed differently. Obviously they pass it on and cities have their own sales tax and things like that. That one isn't as much of a heartburn for me as the fact that they could just ban an item that is not founded on environmental science and things. We have a Department of Environmental Health who watches and regulates my landfill and they are watching everything which is fine as we have certain laws that we have to follow. So in that case we don't allow the city to have different laws to do something different with landfills than we do across the whole state. The state mandates certain quality levels that are best as we know across the state. We are just looking out for something that is consistent, it certainty for business, it's not a patchwork, and it's not only for business but for the consumers.

**Chairman Burckhard:** A lot of the stuff if the issue of you being in the landfill business, when I visit the Minot landfill, I am just amazed at how many of these bags are locked into the trees. They look like they are flying geese. So, environmentally do they break down, or does it take 100 years for them to break down? Tell me more about it, please?

**Representative Ruby:** They definitely break down. I've been out picking blown paper at my landfill. It's not all plastic bags, it's a lot of items that the wind will pick up in North Dakota. It just happens that maybe those might be a little higher so you're seeing them. The actual percentage of plastic bags, is about 1% of the waste stream. It is a very small percent. It is just something that you're seeing.

**Chairman Burckhard:** You said 1%, what do you mean by 1%, compared to 100% of?

**Representative Ruby:** Well 1% of the waste load and I believe by weight, for the most part is the volume. The statistics are it is 1% of the waste stream.

**Chairman Burckhard:** When you say 1%, is that 1% of what you haul to the landfill. Is that what you're saying?

**Representative Ruby:** I am talking about what people generate as far as total garbage. It is 1%.

**Senator D. Larson:** When you're saying that 1% are you also counting those big trash bags, the big black hefty bags?

**Representative Ruby:** I think it was referring to those what they consider the single use but again like I said I question the term single use. I think that was mainly it was referring to. If you through all plastic in, it's going to be a higher percent. But you're getting other containers also. There is high density polyethylene is one; low density polyethylene; all kinds of ethyl's.

**Senator Dotzenrod:** There are two spots in this bill, one in on page 1, and the other on page 4, where there is reference to a "see note" and I assume that is section 5, it doesn't really identify it as a note. Is the repeal there because of the environmental change in the health department going to the new environmental section?

**Representative Ruby:** No, you will see that on some bills this session because there is a conversion of the Department of Health, to the Department of Environmental Quality. So, basically there is you will see at the end of the bill there is a date when it will become effective and it's based on that transition of when those will be done. It is a drafting thing that they are doing this year because of that transition.

**Senator Vedaa,** District 6, co-sponsor of HB1200. He spoke in favor of the bill. **Written attachment #1.** (18:57-25:12)

**Senator D. Larson:** But this bill isn't about whether we should allow plastic or paper. It's only about whether we should allow political sub to have their own tax and regulation on it rather than a state wide one. So do you have anything to say about why this should not be up to local control?

**Senator Vedaa:** That is my point exactly. If we leave this up to your local control, I see something that could be detrimental to that political subs for that city. Because now you can't offer these products for carry-outs. That's what I see and I think the long range problem that it creates, or the short range of all of a sudden of people coming into that area. Imagine driving in from someplace going to the Class B basketball tournament. You'll do some shopping and you will end up there and bought a ton of stuff without any cloth bags available to put their things in it. The part that no one thinks about is the cloth bag versus the plastic bag to put their things in it to protect the environment.



**Chairman Burckhard:** You think this is more of a state statute issue, than a local control issue?

**Senator Vedaa:** I believe so. I don't think. I've heard from constituents in the district that this is a self-serving bill for me. No it is not, because I just explained that there's many areas are littered with plastic bags. People forget it's not just the grocery store, but also many other stores that use plastic bags.

**John Dyste: President of the North Dakota Grocers Association,** spoke in support of HB1200. **Written attachment #2** (29:19-32:14).

**Chairman Burckhard:** So, I think the dilemma here is when you say two cities close to each other. Do you think that those political subs are actually working together to have the same kind of enforcement rather than be?

**Mr. John Dyste:** That is hard to say. A few years ago when Fargo charged more for speeding in the rest of the state and all of a sudden everybody was up in arms and said that Fargo can't charge more because it is against the law. But West Fargo didn't raise there's as far as I know, towns around them like Kindred did, so. I am on the Fargo-Moorhead Plastic Bag Task Force, and Moorhead and Fargo, West Fargo is marginally represented and we are working on the education side to get the word out that you can recycle these products. They do have issues with them. I don't know if Fargo/ West Fargo both have the same ordinance. Senator Lee could probably answer that question.

**Chairman Burckhard:** We've got 2100 political subs in our state. Should we have state law that regulates those 2100, or should they regulate themselves for this kind of stuff? That is the question of the day.

**Mr. John Dyste:** I understand that question, but, but from a business side it is really difficult if I have to tell a customer that I have to charge you more because my little town decided to do this. I understand you wanting local control, but business doesn't work that way. We go over boundaries and as our industry changes that our service area gets larger or smaller depending on the issues.

**Chairman Burckhard:** We've had good presentations on the business aspect of this, but it is really where we have 357 cities, 53 counties, 180 school districts, 1400 townships, should one. Should this be a state statute and not of local control? That is the question of the day.

**Mr. John Dyste:** I understand that. If it is that big of an issue, let's do it statewide. Then you solve the problems that I have mentioned. We'll cope with a state-wide bill, and figure out a way to do it. City by city is very hard, very difficult because the customer then will decide what is best for them.

**Arik Spenser:** President and CEO of the Greater North Dakota Chamber. We are here in support of HB1200. One of the goals of the Greater North Dakota Chamber is to provide the best business climate we possibly can here in North Dakota. What this bill does is for businesses that are regional in nature or statewide in nature, provides regulatory consistency. There are over 300 cities in the state, and I think it would be hard for a business

to accommodate over 300 different laws and regulations related to what type of auxiliary products that could be used in various cities or different tax rates on those products. This prevents a patchwork of regulation that could be possible under current law and provide the business climate that many industries rely upon. I urge a so pass recommendation.

**Chairman Burckhard:** How do you educate 750,000 people in the state to stop using plastic bags and stop throwing them in the ditches? How do we do that?

**Arik Spenser:** That is a good question. I think a lot of it is the education efforts. I am not going to say to stop using plastic bags, but perhaps to recycle plastic bags.

**Alison Ritter:** National Federation of Independent Business (NFIB) who spoke in favor of HB 1200. **Written attachment #3.**

**Mr. Matt Seaholm,** submitted testimony in support of HB1200. He was not in attendance but requested his testimony be included in the hearing. **Written attachment #4.**

**Chairman Burckhard:** Asked for opposition testimony on HB1200.

**Mr. Tom Barry,** City Manager for the City of Minot submitted written testimony in opposition to HB1200. **Written attachment #5.**

**Ms. Avis Tvedt:** submitted opposition testimony in an email for HB 1200. **Written attachment #6.**

**Trygve Hammer:** submitted opposition testimony in an email for HB1200. **Written attachment #7.**

**Ms. Kelli Hively:** submitted opposition testimony in an email for HB1200. Written testimony #7.

### **Neutral testimony**

**Mr. Chuck Hyatt: Director of the Waste Management Division** of the North Dakota Department of Health's Environmental Health Section. (40:14-42:12) spoke in neutral testimony on HB1200. **Written attachment #8.**

**Senator Anderson:** Explain to me how this bill asks you to enforce what seems to be to me your saying that the cities can't have these local ordinances. So explain to me how you look at that?

**Mr. Chuck Hyatt:** This language is put within the Century Code 23.1-08 which is the solid waste management rules. And those rules are very specific currently toward enforcing environmental law. Environmental law has a very proscriptive enforcement protocol including those types of penalties that I identified in the \$12,500 per day and a Class C felony. So, because this is put into that law, it would essentially be subject to those types of enforcement.

**Chairman Burckhard** closed the hearing on HB1200.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB1200  
3/15/2019  
Job # 33810

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Jo Wocken

### Explanation or reason for introduction of bill/resolution:

Relating to the definition of auxiliary container; to provide an effective date and to provide an expiration date.

### Minutes:

**Chairman Burckhard** called the committee to order for discussion on HB 1200. All senators are present. He reviewed his notes from the hearing the day before.

**Senator Kannianen:** Now, looking back at Chuck Hyatt's neutral testimony, he was concerned about having to be the one to enforce this. The bill currently reads that it puts in the Department of Environmental Quality, section as far as enforcements. If the bill were to pass, how big of concern that would be or if there would be and who would enforce it. That was his main concern. Not wanting to be the agency or the ones to have to enforce this, which would be a challenge I suppose.

**Chairman Burckhard:** What does Hyatt's testimony look like? **Senator Kannianen:** It is plain white page with no logo's.

**Senator Anderson:** Maybe if the Health Department has a problem with this we ought to leave it with the city to enforce it if we decide to pass it. Let the State's Attorney proceed against the garbage guy. It seems like that would be a more practical solution anyway if we're going to leave it in the hands of the city. If we are going to take it out of the hands of the city, why then.

**Chairman Burckhard:** Would this be a health district thing? Would this be for First District Health Unit in the case of Minot? Civil penalty, \$12,500 per day, now that is pretty good money. That is a lot of money. So I am confused as to what we should do with this bill. Any thoughts?

**Senator J. Lee:** Is there a solution in search of a problem?

**Chairman Burckhard:** Yes,

**Senator J. Lee:** Why would we anticipate that North Dakota was going to do this?

**Chairman Burckhard:** Is there a local issue?

**Senator J. Lee:** Yes.

**Chairman Burckhard:** Are we looking for a do not pass motion here on HB1200?

**Senator Diane Larson: I make a do pass recommendation**

**Senator Kannianen: 2<sup>nd</sup>**

**Senator Kannianen:** since the motion was there, I seconded it. I would acknowledge the concerns of Mr. Hyatt and exactly how that would work out. I support the concept in terms of the business community and having policy that is uniform for the business community. In the conversations we've had over the last couple of days, about when would start local control in different applications of that.

**Senator Dotzenrod:** Do we have any subdivisions in the state that are currently banning the bag? Do we have that going on or is this sort of.

**Chairman Burckhard:** I don't know if we do. Senator Lee would suggest we don't.

**Senator Kannianen:** I think it was in testimony it was that there was a petition in Minot to do so, nothing came of it, but there was just a couple of concern that the issue is on the table and they are worried that it might proceed forward and they want to cut it off at the pass it seems. I don't think any of the 357 cities has it.

**Senator D. Larson:** There is also a letter from Trygve Hammer.

**Mr. Bill Wocken:** ND League of Cities.

**Chairman Burckhard:** Are you aware of any city that has a law pertaining to plastics?

**Mr. Bill Wocken:** I am unaware of any other cities that are looking at it. I am familiar as Senator Kannianen pointed out with the petition in Minot. I understand that is probably not going anywhere, but it was proposed. Up until this session I've never heard of auxiliary containers or anything of that type. But I think that Senator Kannianen is correct, the industry is looking to get out and put a prohibition against the city having this kind of local requirement. But I am unaware of any cities that are even considering it.

**Senator Dotzenrod:** Has the League of Cities taken any view on this bill any position?

**Mr. Bill Wocken:** The League of Cities opposes mandates and because this is a mandate we opposed it on that basis. I am not discussing the benefit of the issue itself, but we are opposed to mandates. On that basis we would not be in favor of this issue.

**Chairman Burckhard:** We have a do pass motion by Senator Larson;

2<sup>nd</sup> by Senator Kannianen

Roll call vote: 2 Yes, 4 No, 0 absent

Motion fails

Senate Political Subdivisions Committee  
HB 1200  
March 15, 2019  
Page 3

**Senator Judy Lee: I move a do not pass**  
**Senator Dotzenrod: 2<sup>nd</sup> that motion**  
**Roll call vote: 4 Yea, 2 No, 0 Absent**  
**Motion passes 4-2 Do Not Pass**  
**Carrier: Senator Dotzenrod**

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1200**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. D. Larson Seconded By Sen. Kannianen

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard		X	Sen. Jim Dotzenrod		X
Vice chair Howard Anderson		X			
Sen. Diane Larson	X				
Sen. Judy Lee		X			
Sen. Jordan Kannianen	X				

Total (Yes) 2 No 4

Absent 0

Floor Assignment Motion fails

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1200: Political Subdivisions Committee (Sen. Burckhard, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1200 was placed on the Fourteenth order on the calendar.



**2019 TESTIMONY**

**HB 1200**

HB 1200 #1

1-31-19

**Mr. Chairman and members of the Political Subs committee for the record I am Senator Veda District 6. I am here as a co-sponsor of HB 1200. Since 2003 I've owned and operated the Velva Fresh Foods in Velva ND and worked in the grocery industry for 20 years prior to that. I've been asking paper or plastic since plastic entered the industry and 99.9% of the time the choice is plastic.**

**As a grocer why do I prefer plastic, its simple. The price is the number one reason and ease of the bagging process is second. A case of paper bags that are 500 count cost twice as much as a case of plastic bags that are 1200 count. A case of quality plastic bags bought a case at a time is around \$47.25, that includes ND state sales tax, if bought in pallet quantities a few bucks less. My small store has a weekly customer count of 2100. Average customer bag usage is around 2.5. That's 4.375 cases a week a cost of \$206.71 and \$10,748.92 annually. A larger city close to Velva had a movement to tax each bag 5 cent. That would increase my cost to an additional \$262.50 weekly and \$13,650 annually. That's 1883 hours at minimum wage. That expense on my small-town grocery store just made the difference for about 5 part time carry-out school age employees.**

**Customers prefer plastic because a customer can carry out all their bags if their physical ability allows. Paper bags 2 at a time often requiring carts to be taken out to the parking lot causing more labor collecting carts. With below 0 temps' customers only have one trip in the house. Also, wet paper bags are worthless and often plastic is used so frozen and dairy products don't condensate over the paper bag rendering it useless.**

**Thank you for your time and let's leave the choice to the customer at the store paper or plastic. I will stand for any questions.**

#2  
1-31-19

**Chairman Dockter**, members of the committee; good morning. I am John Dyste, President of the North Dakota Grocers Association and I am here to speak in support of **House Bill 1200**

The NDGA is a state trade association representing the retail food industry. We are celebrating over 60 years of representing consumers, careers and communities. We have over 120 retail members and over 80 associate members with locations in practically all cities within North Dakota. Our membership includes grocers, convenience stores, wholesalers, manufacturers, and allied partners. Our member companies employ thousands of North Dakotans in every county of the state

The NDGA and its membership are incredibly proud to be a part of the communities we serve. Social and environmental responsibility is a priority for our members. The North Dakota food industry is a leader in voluntary recycling, and is dedicated to aggressive waste reduction. We continually

review our products to ensure they are the most environmentally friendly products available. Today, most all bags are 100% recyclable and 100% reusable.

H2  
HB1200  
1-31-19

For over a decade we have voluntarily encouraged our shoppers to reduce, reuse and recycle by offering plastic recycling at our convenient drop locations. Thousands of pounds of plastic are recycled annually. These recycled products are not just the bags used at our stores, they are all the plastic bags used within a home. This is an excellent community service, as curbside is not an option for these products. NDGA and the Fargo/Moorhead grocery retailers have partnered with the FM Area Plastic Bag Task Force to bring additional opportunities to educate consumers while promoting choice at check-out for area residents.

Local bag restrictions have the potential to interfere with the many outstanding voluntary efforts already underway. They have shown a minuscule impact on litter and reducing waste, and create a multitude of unintended

# 2  
HB 1200  
1-31-19

consequences. Providing our customers with choices is our top priority. Operating in an environment of varying local laws will cause customer confusion, add costs to business for compliance, all of which will cause unproductive increased costs for all parties. City-by-city policy approaches create a direct market disadvantage to the businesses localities are striving to promote. There are obvious examples where retailers would be adversely affected- Fargo/West Fargo, Bismarck/Mandan. But rural retailers could also face an issue – Park River/Grafton, Beulah/Hazen, Parshall/New Town. These are examples of town separated by a few miles. As an incredibly mobile society, consumers will make the choice that fit their needs.

We want to be very clear that our number one concern as an industry is the effect the patchwork of ordinances will have on our customers. The food retail industry prides itself on its ability to ensure that our consumers have all the conveniences and choices they need and deserve during

#2  
HB 1200  
1-31-19

. their shopping experience. Execution at check-out has many complicated layers, such as additional costs for implementation and execution, a slower check-out experience, governmental program restrictions, and taxation complications, all of which will change our customers shopping experience. Proposals such as this have the tendency to move us in the opposite direction, in some cases with even regressive results.

Neighboring states of Minnesota and Wisconsin recognized the problem and have passed laws similar to HB 1200.

We thank **Representative Ruby** for his leadership on this issue, and ask that you support **HB 1200**. Thank you and I will stand for question

# SUPPORT HB 1200 Consumer Choice

#3  
1-31-19  
HB 1200

North Dakotans are accustomed to choose and, as service providers, we have strong concerns that trying to dictate behavior change through added fees, product bans, and penalties will create a multitude of unintended consequences. We know that consumers want and deserve choice and that North Dakotans embrace sustainability efforts by specifying paper, plastic, bringing their own re-usable bag or opting for no bag at checkout.

As an incredibly mobile society, consumers will make the choice that fits their needs and pocketbooks. In a world where brick and mortar are the foundation of main street success, giving customers a reason to consider alternative shopping methods is counter to our collective goals.

- ◆ This is a consumer choice issue, and we are committed to serving the needs of our customers.
- ◆ A city-by-city bag ban, tax, or fee would create competitive disadvantages along the border, limiting our competitive edge and stifling economic growth.
- ◆ We know that consumers will shop price. A recent survey by the National Association of Convenience Stores (NACS) showed that 64% of consumers would drive 5 miles out of their way to save 5 cents per gallon on gas.
- ◆ Our customers are used to having the complimentary option at check-out, and have an expectation to be given that option to make the best choice for their family.
- ◆ Ordinances that include a mandatory fee put the burden of execution on our cashiers, and manytimes can put them in an awkward customer service position.

Our members care a great deal about their customers and the environment; many are already engaged in numerous ways to support and encourage recycling and re-use efforts; many of which are responses to consumer desire and demand.

The grocery industry is a leader in promoting recycling and has voluntarily borne the cost of recycling programs for decades. We are committed members of our communities and believe a holistic and sustainable approach is achievable without bans, mandates and fees.

We believe that a comprehensive recycling solution will leverage investment in programs that are convenient, cost-effective, and sustainable, while offering opportunities for North Dakotans to make their best environmentally friendly choices.

**Legislators interested in promoting the ability of their constituents to make decisions that best meet their family's needs should support HB 1200, which allows for the freedom of choice at check out!**

January 31, 2019

The Hon. Jason Dockter, Chairman  
House Committee on Political Subdivisions Committee  
North Dakota Legislative Assembly  
600 East Boulevard  
Bismarck, ND 58505-0360  
RE: Support for HB 1200

Good morning, Chairman Dockter, and members of the House Political Subdivision Committee:

I appreciate the opportunity to be here today. My name is Matt Seaholm and I am the executive director of the American Progressive Bag Alliance or APBA.

The APBA represents American plastic bag manufacturers and recyclers, and we would like to commend the North Dakota Legislative Assembly for considering House Bill 1200, which would ensure regulatory uniformity for auxiliary containers in North Dakota. Additionally, we would like to specifically thank representatives Ruby, Becker, Johnston, Kasper, Laning, Lefor, and Marschall, as well as senators Hogue, Kreun, and Vedaa for their leadership on this issue.

The APBA believes in ensuring consistency and avoiding the punitive costs and red-tape complications of regulatory patchworks. HB1200 would ensure that future regulations regarding auxiliary containers are made at the state level, which will provide consistency across the state.

For certain industries and issues, it makes sense for there to be state-level regulatory consistency. Auxiliary containers fall under this category. States including Indiana, Florida, Michigan, Minnesota, Missouri, Iowa, Idaho, North Carolina, and Wisconsin have led the way on this issue and have already established legislation that clarifies the need for these types of policies to fall under the purview of states.

Unfortunately, we are seeing regulatory patchworks pop up in states where there are no uniformity laws. This shortsighted approach is leading to regulatory chaos and confusion not just for the industry, but also for the hardworking business owners and consumers who live and work where they are enacted. When auxiliary containers are regulated, banned, or taxed at the local level, it is common to see rules that vary from city to city and from county to county. These local ordinances may not only include a ban or fee on certain items, but they also commonly establish varying manufacturing standards for products.



#4  
HB 1200  
1-31-19

These inconsistent laws and regulations have serious drawbacks. Without statewide uniformity, APBA member companies could be faced with having to develop city-specific product lines, threatening their ability to achieve economies of scale in production. The grocery stores, shops, and restaurants that purchase their products – many of which have locations throughout a state – could be forced to change out the entire stock of products at some locations and not others, charge fees at some locations and not others, and simultaneously master and keep up with a different sets of compliance requirements for each city ordinance. Inevitably, these costs get passed down to customers, making the cost of groceries and other items higher.

For all of these reasons – economic health and competitiveness, job protection, and consumer savings – we believe auxiliary container policy is best determined at the state level. We would respectfully request a do pass recommendation on HB 1200. Thank you for your consideration of this legislation. I am happy to address any questions that you may have.

Matt Seaholm  
Executive Director, American Progressive Bag Alliance

- CC: Hon. Brandy Pyle, Vice Chair  
Hon. Mary Adams  
Hon. Sebastian Ertelt  
Hon. Clayton Fegley  
Hon. Ron Guggisberg  
Hon. Patrick Hatlestad  
Hon. Mary Johnson  
Hon. Kim Koppelman  
Hon. Donald W. Longmuir  
Hon. Jeffery J. Magrum  
Hon. Luke Simons  
Hon. Michelle Strinden  
Hon. Nathan Toman

#5



House Political Subdivisions Committee

01/31/19

HB 1200

Chairman Dockter and committee members, my name is Don Larson and I am speaking today on behalf of the National Federation of Independent Business (NFIB). NFIB is a non-profit, non-partisan organization and is the nation's largest small business advocacy group.

In North Dakota we represent nearly 2,500 small businesses. Our average member has 10 employees and gross sales of approximately \$500,000 per year.

On behalf of our membership in North Dakota, we ask that you give a Do-Pass recommendation to House Bill 1200. This bill will maintain a level playing field across the state and prevent a potential patchwork of inconsistent regulations. These regulations will increase the costs and the regulatory burden on small businesses without proven benefits.

We appreciate the efforts of the sponsors of this legislation to stop additional mandates that could be placed on our members.

#6

Testimony  
House Bill 1200  
House Political Subdivisions Committee  
January 31, 2019, 8:30 a.m.  
North Dakota Department of Health/North Dakota Department  
of Environmental Quality

Good morning Chairman Dockter and members of the Political Subdivisions Committee. My name is Chuck Hyatt, and I am director of the Waste Management Division of the North Dakota Department of Health's Environmental Health Section, soon to be the North Dakota Department of Environmental Quality. I am here today to testify in opposition to HB 1200.

HB 1200 proposes to use the solid waste management rules (NDCC 23.1-08) to preemptively stop communities from creating a ban on "auxiliary containers," including bags, cups, bottles, straws or other packaging.

The department works hard to protect and improve human and environmental health. Our efforts include providing public education, monitoring, promoting the use of best management practices, and enforcing applicable laws and rules. We have historically encouraged communities to consider waste reduction, recycling and reuse as ways to save valuable resources and money, and to increase the usable life of landfills. As it relates to recycling and material use, however, we do not dictate to communities what they must accept or reject, as these decisions are best made at the local level with a knowledge of site-specific issues and needs.

If implemented, this bill could have the effect of prohibiting communities from taking advantage of cost-effective technology improvements. In addition, the bill would mandate the department take enforcement action against communities for implementing bans to reduce certain types of waste.

We believe this bill conflicts with the intent of NDCC 23.1-08, which tasks the department to work cooperatively with communities to reduce waste. Incorporating the proposed language of HB 1200 into NDCC 23.1-08 will result in mixed messages. On the one hand, the department would be encouraging communities to reuse, reduce and recycle, but on the other hand be prohibiting some of those same practices. The bill may also result in the need to rework the existing law, as well as develop a detailed set of new administrative rules.

This concludes my testimony and I am happy to answer any questions you may have regarding HB 1200.

#7

**Political Subdivisions Committee**  
**Chairman Jason Dockter**  
**January 31, 2019**

**By: Josh Wolsky**  
**Alderman, City Council, City of Minot**  
**josh.wolsky@minotnd.org**  
**701-340-1763**

**HB 1200**

Chairman Dockter and Members of the Political Subdivisions Committee, my name is Josh Wolsky. The governing body of the City of Minot is a city council consisting of the mayor and six aldermen. I am one of those six aldermen. Thank you for the opportunity to speak today; I'm going to share two perspectives on this issue -- first, as a representative of the City of Minot and our City Council, and second as a citizen of Minot. From each of those perspectives, I stand in opposition to HB 1200.

First and from the City Leadership's perspective, let me say that we do not have a position on the use of plastic bags or auxiliary containers. Furthermore, the issue of plastic bags and policy to regulate them through taxes or fees has not been considered or acted upon by Minot's City Council. It has been in the local news; we have made a commitment to take the question up more formally in conjunction with consideration of a citywide recycling program later this year. That said, the genesis of Minot's conversation on this issue was brought to us by a group of concerned Minot citizens who would like to see their community take a stronger

#7  
1-31-19

HB 1200

position on environmental stewardship. This last point, that this conversation came from our citizens, is an important one and I'm going to revisit it at the end.

With that information in hand, the City of Minot's position on this bill has nothing to do with plastic bags. It has everything to do with local control and home rule charter authority. We believe this issue is in our domain and we want it to stay there. That's it.

That said, I'd like to switch perspectives and speak as both an individual Alderman and a citizen. Let me state explicitly that I have no interest in regulating plastic bags or auxiliary containers along partisan or ideological lines. I also have no interest in policy that creates new costs, bureaucracy, or red tape for business and industry. I will say this though: I am, at very least, open to considering policy that encourages a full accounting of costs -- both tangible and hidden. Any system that fails in that full and true accounting costs creates hidden subsidies, and in my short time in city government, I've observed that these hidden subsidies add costs to both citizens and taxpayers.

Chairman Dockter and members of the committee, let me also say that I'm acutely aware that the unintended consequences of bad policy are often more pervasive than the initial problem. And it's on the idea of unintended consequences that I'm going to wrap up. What are the unintended consequences of government communicating to citizens that their voices and opinions do not matter and do not deserve consideration? In Minot, this issue has come before us because this is what a group of citizens want their City Council to consider. What message do we send if we preemptively remove that authority and make the decision of their City Council

#7  
HB1200  
1-31-19

meaningless? I don't believe that message is a good one, and I don't want to be the one that delivers it.

If we're allowed to do the work, municipal governments can be the place where legislative policy starts and evolves and is ultimately proven effective or otherwise. North Dakota's cities are exactly the right places to take up this type of work, but we cannot do it if the authority to do so is removed through the passing of this bill. Thank you for your time. I respectfully encourage a "Do Not Pass" on HB 1200, and I would be happy to stand for any questions.

Testimony in Opposition to House Bill 1200  
January 31, 2019  
House Political Subdivisions Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1200.

House Bill 1200 seeks to prohibit a political subdivision from regulating or taxing the use or disposition of auxiliary containers (bags, cups, straws, etc). The League of Cities is expressing no opinion on whether or not these auxiliary containers should be regulated or banned. The League is opposed to the preemption of local authority by the state that is part and parcel of this bill.

This preemption or mandate on cities is not unlike the mandates the federal government loads on the state. In recent interim sessions the state has studied federal mandates on our state and has concluded that most are unnecessary, unwelcome and troublesome. I can recall House Concurrent Resolutions asking the federal government to rescind mandates. Cities feel the same way about state mandates where there is no compelling issue. We do not think auxiliary containers is a compelling issue. It can and should be dealt with on the local level.

For these reasons the North Dakota League of Cities urges a Do Not Pass recommendation on House Bill 1200.

#9

Bill Wocken  
North Dakota League of Cities  
410 East Front Avenue  
Bismarck, ND 58504

1-31-19  
P.1

Representative Brandy Pyle  
North Dakota House of Representatives  
Vice-Chair, House Political Subdivisions Committee  
State Capitol Building  
Bismarck, ND 58505

February 4, 2019

Dear Representative Pyle:

Last week, during discussion of House Bill 1200, you asked if the League of Cities had information on the number of cities who operate a recycling program. I was unable to respond to your question but I promised to provide any information the League had.

The League of Cities has limited information on recycling programs. I have enclosed our 2017 recycling survey results. This data was volunteered by cities but it is not comprehensive to all cities in the state. Many cities maintain municipal waste landfills. Those who do not, normally contract for services with a private company. Whether public or private, landfill operators are acutely aware of the difficulty and expense involved in locating new municipal waste landfill sites. Therefore, most operators offer some kind of recycling program to save disposal capacity.

Recycling programs vary from the rather expensive, but well utilized, curb side pickup to multiple collection sites to the simple recycle container at the landfill. Increasingly more common is the single sort collection system wherein all wastes are collected in one container and sorted later. Some communities have only a grass and leaf compost collection site. The needs and resources of each city dictate the approach they employ.

I hope this will answer your question. I am sorry I cannot provide you more comprehensive statistics but I hope the explanation I have offered is helpful.

Sincerely,  
*Bill Wocken*  
Bill Wocken  
North Dakota League of Cities



#9.

HB 1200

1-31-19  
P.2

### Recycling Survey Results 2017

	Pop. (2010 Census):	Curbside collection or recycling drop off point:	Residential fee:	Commercial fee:	Residential collection frequency:	Commercial collection frequency:	Residential properties served:	Commercial properties served:
Beulah	3,121	Once in the spring						
Bismarck	61,272	Both	\$4.70	City doesn't pick up commercial	Biweekly	N/A	15,474	N/A
Bottineau	2,211	Drop off point	N/A	N/A	N/A	N/A	N/A	N/A
Bowbells	336	Drop off point	\$0.20	\$0.75	monthly	monthly	200	30
Casselton	2,500	Drop off point	none	None	N/A	As needed	821	97
Devils Lake	7,141	Both	Included in base fee	Just cardboard \$4.50/cubic yard; may use drop off	Every other week	Twice/week	1,956	385
Ellendale	1,392	Recycle drop off	None	None	N/A	N/A	546	167
Fargo	105,549	Curbside	\$3.00	Varies	Bi-weekly	Negotiated	22,000	3,000
Gwinner	753	Curbside	\$4.45	\$4.45	Monthly	Monthly	279	23
Harwood	807	Curbside	Included in Garbage Fee	N/A	Monthly	N/A	321	N/A
Hatton	777	Curbside	Included in Garbage Fee	Included in Garbage Fee	Monthly	Weekly	320	40
Hillsboro	1,603	Curbside	\$5.10	N/A	Monthly	Monthly	200	N/A

#9

HB1200

1-31-19  
P.3

	Pop. (2010 Census):	Curbside collection or recycling drop off point:	Residential fee:	Commercial fee:	Residential collection frequency:	Commercial collection frequency:	Residential properties served:	Commercial properties served:
Larimore	1,310	Curbside	Included in garbage fee	\$4.50 per tote per month, dumpsters \$45.00 & up	Monthly	Weekly or Monthly	415	100
Lisbon	2,154	Curbside	\$2.00	\$10.00	Monthly	Monthly	823	4
Mayville	1,858	Curbside	\$5.00	\$11.50	Bi-weekly	bi-weekly	591	35
Napolean	792	Drop off point	No	No	No	City does not pickup business's cardboard	None	30
Oakes	1,868	Curbside	Built into garbage fee	Not allowed	Monthly	N/A	900	0
Pembina	592	Both - cardboard and paper drop off point	\$3.25	\$20.00	Bi-weekly	Bi-weekly	267	31
Portland	604	Curbside	\$0	\$0	Monthly	Monthly	270	3
Rutland	163	Curbside	Included in garbage fee	N/A	Monthly	N/A	80	N/A
Valley City	6,618	Drop off point	N/A	N/A	N/A	N/A	N/A	N/A
West Fargo	25,938	Curbside	No fee	No fee	Bi-weekly	Bi-weekly	10,500	300
Wyndmere	429	Drop off point	Included with the garbage fee	Included with the garbage fee	N/A	N/A	228	12

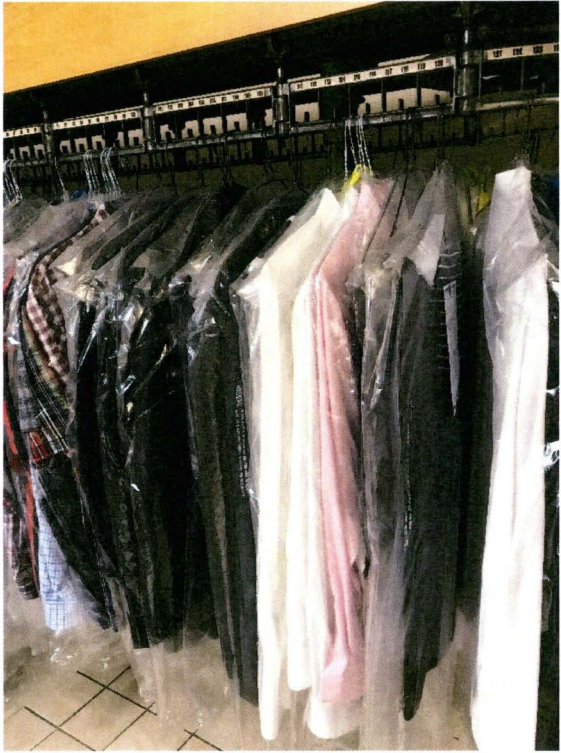
*U.B. 1200  
3.14.2019  
Att #1 p.1*

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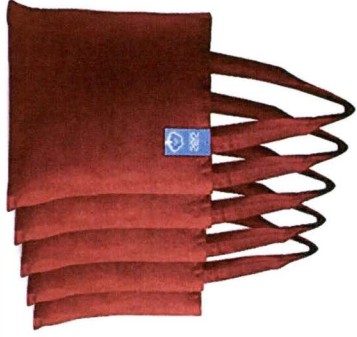
**Thank you for your time and let's leave the choice to the customer at the store paper or plastic. I will stand for any questions.**











Reusable Bags  
 Eco-friendly. Eco-friendly. Reusable. Reusable. Eco-friendly.  
 Cloth Bags - Set of 2 - 100% Cotton. Eco-friendly. Eco-friendly.  
 Cloth Bags - Set of 2 - 100% Cotton. Eco-friendly. Eco-friendly.  
 Cloth Bags - Set of 2 - 100% Cotton. Eco-friendly. Eco-friendly.  
 Cloth Bags - Set of 2 - 100% Cotton. Eco-friendly. Eco-friendly.








Y. B. 1200  
 3.14.2019  
 Att #1 p.2



# SUPPORT HB 1200 Consumer Choice

North Dakotans are accustomed to choose and, as service providers, we have strong concerns that trying to dictate behavior change through added fees, product bans, and penalties will create a multitude of unintended consequences. We know that consumers want and deserve choice and that North Dakotans embrace sustainability efforts by specifying paper, plastic, bringing their own re-usable bag or opting for no bag at checkout.

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- ◆ This is a consumer choice issue, and we are committed to serving the needs of our customers.
- ◆ A city-by-city bag ban, tax, or fee would create competitive disadvantages along the border, limiting our competitive edge and stifling economic growth.
- ◆ We know that consumers will shop price. A recent survey by the National Association of Convenience Stores (NACS) showed that 64% of consumers would drive 5 miles out of their way to save 5 cents per gallon on gas.
- ◆ Our customers are used to having the complimentary option at check-out, and have an expectation to be given that option to make the best choice for their family.
- ◆ Ordinances that include a mandatory fee put the burden of execution on our cashiers, and manytimes can put them in an awkward customer service position.

Our members care a great deal about their customers and the environment; many are already engaged in numerous ways to support and encourage recycling and re-use efforts; many of which are responses to consumer desire and demand.

The grocery industry is a leader in promoting recycling and has voluntarily borne the cost of recycling programs for decades. We are committed members of our communities and believe a holistic and sustainable approach is achievable without bans, mandates and fees.

We believe that a comprehensive recycling solution will leverage investment in programs that are convenient, cost-effective, and sustainable, while offering opportunities for North Dakotans to make their best environmentally friendly choices.

**Legislators interested in promoting the ability of their constituents to make decisions that best meet their family's needs should support HB 1200, which allows for the freedom of choice at check out!**

H. B. 1200  
3.14.2019  
att #2  
p.2

**Chairman Burckhard**, members of the committee; good morning. I am John Dyste, President of the North Dakota Grocers Association and I am here to speak in support of **House Bill 1200**

The NDGA is a state trade association representing the retail food industry. We are celebrating over 60 years of representing consumers, careers and communities. We have over 120 retail members and over 80 associate members with locations in practically all cities within North Dakota. Our membership includes grocers, convenience stores, wholesalers, manufacturers, and allied partners. Our member companies employ thousands of North Dakotans in every county of the state

The NDGA and its membership are incredibly proud to be a part of the communities we serve. Social and environmental responsibility is a priority for our members. The North Dakota food industry is a leader in voluntary recycling, and is dedicated to aggressive waste reduction. We continually

review our products to ensure they are the most environmentally friendly products available. Today, most all bags are 100% recyclable and 100% reusable.

For over a decade we have voluntarily encouraged our shoppers to reduce, reuse and recycle by offering plastic recycling at our convenient drop locations. Thousands of pounds of plastic are recycled annually. These recycled products are not just the bags used at our stores, they are all the plastic bags used within a home. This is an excellent community service, as curbside is not an option for these products. NDGA and the Fargo/Moorhead grocery retailers have partnered with the FM Area Plastic Bag Task Force to bring additional opportunities to educate consumers while promoting choice at check-out for area residents.

Local bag restrictions have the potential to interfere with the many outstanding voluntary efforts already underway. They have shown a minuscule impact on litter and reducing waste, and create a multitude of unintended

consequences. Providing our customers with choices is our top priority. Operating in an environment of varying local laws will cause customer confusion, add costs to business for compliance, all of which will cause unproductive increased costs for all parties. City-by-city policy approaches create a direct market disadvantage to the businesses localities are striving to promote. There are obvious examples where retailers would be adversely affected- Fargo/West Fargo, Bismarck/Mandan. But rural retailers could also face an issue – Park River/Grafton, Beulah/Hazen, Parshall/New Town. These are examples of town separated by a few miles. As an incredibly mobile society, consumers will make the choice that fit their needs.

We want to be very clear that our number one concern as an industry is the effect the patchwork of ordinances will have on our customers. The food retail industry prides itself on its ability to ensure that our consumers have all the conveniences and choices they need and deserve during



*HB 1200  
3.14.2019  
att #2  
p. 5*

their shopping experience. Execution at check-out has many complicated layers, such as additional costs for implementation and execution, a slower check-out experience, governmental program restrictions, and taxation complications, all of which will change our customers shopping experience. Proposals such as this have the tendency to move us in the opposite direction, in some cases with even regressive results.

Neighboring states of Minnesota and Wisconsin recognized the problem and have passed laws similar to HB 1200.

We ask that you support **HB 1200**. Thank you and I will stand for questions.

*H. B. 1200  
3. 14. 2019  
Att # 3*



Senate Political Subdivisions Committee

03/14/19

HB 1200

Chairman Burckhard and committee members, my name is Alison Ritter and I am speaking today on behalf of the National Federation of Independent Business (NFIB). NFIB is a non-profit, non-partisan organization and is the nation's largest small business advocacy group.

In North Dakota we represent nearly 2,500 small businesses. Our average member has 10 employees and gross sales of approximately \$500,000 per year.

On behalf of our membership in North Dakota, we ask that you give a Do-Pass recommendation to House Bill 1200. This bill will maintain a level playing field across the state and prevent a potential patchwork of inconsistent regulations. These regulations will increase the costs and the regulatory burden on small businesses without proven benefits.

We appreciate the efforts of the sponsors of this legislation to stop additional mandates that could be placed on our members.

H.B. 1200  
3.14.2019  
Att #4  
P.1



March 14, 2019

The Honorable Randall A. Burckhard  
Senate Political Subdivisions Committee  
North Dakota Legislative Assembly  
600 East Boulevard  
Bismarck, ND 58505-0360

RE: Support for HB 1200

Chairman Burckhard and members of the Senate Political Subdivisions Committee:

My name is Matt Seaholm, and on behalf of the American Progressive Bag Alliance (APBA), which represents American plastic bag manufacturers and recyclers, I would like to submit this statement for the record.

The APBA commends the North Dakota Legislative Assembly for considering House Bill 1200, which would ensure regulatory uniformity for auxiliary containers in North Dakota. An overwhelming majority of the House passed this bill on February 19, and we look forward to working with the Senate on this important issue.

For certain industries and issues, such as auxiliary containers, it makes sense for there to be state-level regulatory uniformity. Several states, including Indiana, Florida, Michigan, Minnesota, Missouri, Iowa, Idaho, North Carolina, and Wisconsin, have led the way on this issue and have already established legislation that clarifies the need for these types of policies to fall under the purview of states.

Unfortunately, we are seeing regulatory patchworks pop up in states where there are no uniformity laws. This shortsighted approach leads to regulatory chaos and confusion not just for the industry, but also for the hardworking business owners and consumers who live and work where local ordinances are enacted. When auxiliary containers are regulated, banned, or taxed at the local level, it is common to see rules that vary from city to city and from county to county. These local ordinances may not only include a ban or fee on certain items, but they also commonly establish varying manufacturing standards for products.

These inconsistent laws and regulations have serious drawbacks. Without statewide uniformity, APBA member companies could be faced with having to develop city-specific product lines, threatening their ability to achieve economies of scale in production. The grocery stores, shops, and restaurants that purchase their products – many of which have locations throughout a state – could be forced to change out the entire stock of products at some locations and not others, charge fees at some locations and not others, and simultaneously master and keep up with a different

HB 1200  
3.14.2019  
att #4 p.2

set of compliance requirements for each city ordinance. Inevitably, these costs get passed down to consumers, effectively raising the cost of groceries and other items.

Our organization represents plastic bag manufacturers and recyclers, but House Bill 1200 is about so much more than plastic bags. Charleston, South Carolina recently passed an ordinance driven by environmental activists to ban anything and everything using the term "food service ware" that "includes, but is not limited to: all containers, clamshells, bowls, plates, trays, cartons, cups, straws, stirrers, napkins, cutlery and other items." Even foam coolers and packing peanuts are banned in Charleston. Unfortunately, we are seeing this movement across the country.

Local control is about protecting the individual, not the power of local government. This bill protects taxpayers and North Dakota businesses. We respectfully request a do pass recommendation on HB 1200. Thank you for your consideration of this legislation, and please don't hesitate to reach out with any questions.

Sincerely,



Matt Seaholm  
Executive Director, American Progressive Bag Alliance

CC: The Honorable Howard C. Anderson, Jr.  
Vice Chair  
Senate Political Subdivisions Committee

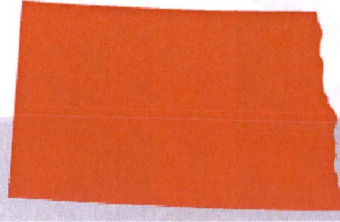
The Honorable Jim Dotzenrod  
Committee Member  
Senate Political Subdivisions Committee

The Honorable Jordan Kannianen  
Committee Member  
Senate Political Subdivisions Committee

The Honorable Diane Larson  
Committee Member  
Senate Political Subdivisions Committee

The Honorable Judy Lee  
Committee Member  
Senate Political Subdivisions Committee

*H. B. 1200  
3.14.2019  
letter # 4 p. 3*

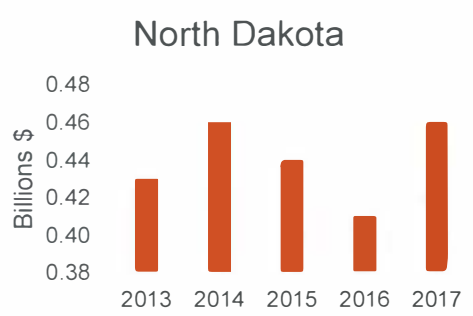
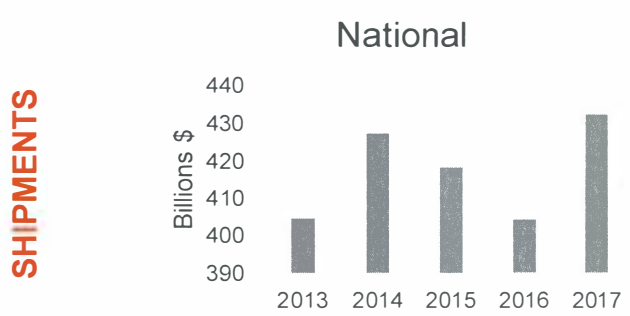


# Plastics in North Dakota

<b>EMPLOYMENT</b>	<b>Direct Industry Employment</b>	<b>1,110</b>
	<b>Captive Industries</b>	<b>260</b>
	<b>Total Industry Employment (Direct + Captive)</b>	<b>1,370</b>
	Dependent Industries Employment	
	Construction	25,240
	Manufacturing, Nondurables	2,850
	Manufacturing, Durables	9,320
	Health Care Providers	51,740
	Food Service Industry	28,030
	Other Services	3,180
<b>Total Industry + Dependent Industries</b>	<b>121,730</b>	

<b>PAYROLL (\$ millions)</b>	Plastics Industry	\$68
	Plastics Dependent Industries	\$5,782
	<b>Total</b>	<b>\$5,850</b>

<b>TAXES (\$ millions)</b>	Federal Income Tax	\$1,085
	State Income Tax	\$90
	FICA Taxes	\$657



Plastics play a vital role in the delivery of many thousands of products and services that enhance every aspect of our lives, including automotive, health and medical, construction and recreation. In 2017, the U.S. plastics industry accounted for \$432.32 billion in annual shipments and directly employed 989,000 people.

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# GET THE FACTS: PLASTIC BAGS

3.14.19 add #4 p.4

## PLASTIC BAGS ARE A PART OF OUR EVERYDAY LIVES

From manufacturing grocery bags to recycling plastic wraps and films, APBA represents pioneering companies that value sustainability and waste reduction - **just like you.**

This fact sheet shares the latest evidence on:

- 1** The environmental impact of plastic bags versus alternatives.
- 2** Environmental and economic consequences associated with plastic bag regulations.
- 3** The benefits of plastic bag reuse and recycling.

## HOW ENVIRONMENTALLY FRIENDLY ARE PLASTIC BAGS VS. ALTERNATIVES?

“Lightweight plastic carrier bags provide the absolute best environmental performance.”  
Denmark Environmental Protection Agency



Paper Bags

Paper bags use **17.3x** more water and emit **2x** more greenhouse gases than plastic bags."



Thicker Plastic Bags

Bags made of non-woven polypropylene, or "reusable bags," must be used **11 to 59** times to have a **lower environmental impact** than a typical plastic bag."



Cotton Tote Bags

Cotton bags require between **100 to 2,954** uses for their environmental impact to be lower than a common plastic bag."

## DID YOU KNOW?

EPA and national litter surveys show that plastic bags make up the tiniest fraction of overall waste and litter."

Plastic bags represent **LESS THAN 1%** of waste & litter.





J.B. 1200  
3.14.19  
Att #4  
P.5



# PLASTIC BAG BANS DON'T SAVE MONEY



## Low-Income Families and Food Insecurity

Bag bans and taxes affect everyday people – **low-income families in particular.** Bag ban or tax policies directly add costs to grocery bills by charging customers for each bag or by forcing them to buy other, more expensive bags. And with **15.6 million U.S. households food insecure in 2016,**<sup>vii</sup> many can't afford a tax on plastic bags when they struggle to feed their families.



## Small Businesses

**Bans can increase costs** – especially for small businesses. Bag ordinances create more challenges for small businesses to comply, raise operational costs and even direct profits elsewhere.

- A 2012 study by the National Center for Policy Analysis found that banning plastic bags negatively impacted retail sales and employment in the ban area, shifting business to stores just outside the bag ban region.<sup>viii</sup>



## City Costs

Cities often adopt bag bans, fees or taxes to try to address solid waste and sanitation costs. However, in cities that have adopted bag restrictions, **there is no evidence proving the efficacy of these measures.**

- A 2013 NCPA study examined six city budgets and found that plastic bag restrictions did not result in savings for even one city. For instance, after Brownsville, Texas, passed a fee on plastic bags in 2009, the city's **solid waste revenues and expenses rose** in both of the first two years of the ban, while garbage collection fees experienced a general upward trend.<sup>viii</sup>

# WHAT WORKS INSTEAD: REUSE AND RECYCLING PROGRAMS

## PLASTIC BAGS ARE THE MOST ENVIRONMENTALLY FRIENDLY CHOICE.



### Recycle

**Plastic retail bags are 100 percent recyclable and highly reused.<sup>ix</sup>**

- Plastic bags are being **recycled more than ever before.** In 2015, 1.2 billion pounds of plastic bags and film were recycled through take-back programs – a 34-million-pound increase from 2014.<sup>x</sup>
  - EPA shows a 74 percent increase in the rate of plastic bag, wrap and film recycling since 2005.<sup>x</sup>
- There are nearly **30,000 grocery stores and retailers across the U.S.** with in-store drop-off points where shoppers can return their 100 percent recyclable plastic bags.

### Reuse

- Plastic bags are reused as garbage liners at a rate of **77.7 percent.<sup>xii</sup>**
- After plastic bags are recycled, many are used to make environmentally friendly materials for playgrounds, benches, construction materials and more.<sup>xiii</sup>

vii. Ministry of Environment and Food of Denmark, Life Cycle Assessment of grocery carrier bags, February 2007.  
viii. Life Cycle Assessment for Three Types of Grocery Bags: Recyclable Plastic, Compostable, and Paper, by Robert F. Pyle, Recyclable Paper, Lutz Claef, and Bernard R. Y. Boustrad, Consulting & Assessment, and 2012 RECYCLE-QUEBEC, Environmental and Economic Highlights of the Results of the Life Cycle Assessment of Shopping Bags, December 2012.  
ix. Y. J. JOURNAL, Environmental and Economic Highlights of the Results of the Life Cycle Assessment of Shopping Bags, December 2012.  
x. Advancing Sustainable Materials Management 2014 Tables and Figures, Environmental Protection Agency, December 2016, ER Planning PR Bags, report brief – 2015 Litter Cleanup Rankings, Environmental Protection Agency, 2015.  
xi. United States Department of Agriculture, Food Security Status of U.S. Households, 2016, 2014.  
xii. National Center for Policy Analysis, "A Survey on the Economic Effects of Los Angeles County's Plastic Bag Ban," August 2012.  
xiii. Do Bans on Plastic Grocery Bags Save Cities Money?, 11. Sterling Burnett, National Center for Policy Analysis, December 2013.  
xiv. APCC Insight, "National Plastic Shopping Bag Recycling Signage Testing," March 2007.  
xv. 2015 National Post-consumer Plastic Bag & Film Recycling Report, American Chemistry Council, March 2017.  
xvi. EPA, Municipal Solid Waste Report: 2011, May 2013 and Moore Recycling Associates Inc., 2013 National Post-consumer Plastic Bag & Film Recycling Report, February 2015.  
xvii. Recycle-Québec, Environmental and Economic Highlights of the Results of the Life Cycle Assessment of Shopping Bags, December 2012.  
xviii. What Plastics Can't Become, American Chemistry Council, 2018.

*HL B. 1200  
3.14.2019  
att #5  
p.1*

**Senate Political Subdivisions Committee**  
**Chairman Randy Burckhard**  
**March 14, 2019**

**By: Tom Barry**  
**City Manager, City of Minot**  
[tom.barry@minotnd.org](mailto:tom.barry@minotnd.org)  
**701-340-1736**

**HB 1200**

Chairman Burckhard and Members of the Political Subdivisions Committee, my name is Tom Barry, City Manager for the City of Minot. Thank you for the opportunity to submit this testimony.

From the city leadership's perspective, let me say that the City of Minot does not have a position on the use of plastic bags or auxiliary containers. Furthermore, the issue of plastic bags and policy to regulate them through taxes or fees has not been considered or acted upon by Minot's City Council. It has been in the local news; we have made a commitment to take the question up more formally in conjunction with consideration of a citywide recycling program later this year.

That said, the genesis of Minot's conversation on this issue was brought to us by a group of concerned Minot citizens who would like to see their community take a stronger position on environmental stewardship. This last point, that this conversation came from our citizens, is an important one.



*HB 1200  
3.14.2019  
Att #5 p.2*

With that information in hand, the City of Minot's position on this bill has nothing to do with plastic bags. It has everything to do with local control and home rule charter authority. We believe this issue is in our domain and we would like it to stay there. That's it.

At City Manager, let me also say that I'm acutely aware that the unintended consequences of bad policy can be worse than the initial problem. And it's on the idea of unintended consequences that I'm going to wrap up.

What are the unintended consequences of government communicating to citizens that their voices and opinions do not matter and do not deserve consideration? In Minot, this issue has come before us because this is what a group of citizens want their City Council to consider. What message do we send if we preemptively remove that authority and make the decision of their City Council meaningless? I don't believe that message is a good one, and I don't want to be the one that delivers it.

If we're allowed to do the work, municipal governments can be the place where policy starts and evolves and is ultimately proven effective or otherwise. North Dakota's cities are exactly the right places to take up this type of work, but we cannot do it if the authority to do so is removed through the passing of this bill. Thank you for your time. I respectfully encourage a "Do Not Pass" on HB 1200.

H.B. 1200  
3.14.2019  
att #: 6

**NDLA, S PSD - Wocken, Mary Jo**

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**From:** Avis Tvedt <avistvedt@gmail.com>  
**Sent:** Monday, March 11, 2019 4:51 PM  
**To:** NDLA, S PSD - Wocken, Mary Jo; Vedaa, Shawn A.  
**Subject:** House Bill 1200

\*\*\*\*\* CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. \*\*\*\*\*

In acknowledging that there will be a hearing on House Bill 1200 at 8:30 Wednesday, March 13th, I write in opposition to this bill. I am unable to appear at the hearing and send this written opposition instead.

House Bill 1200 introduced by Dan Ruby of Minot seeks to prohibit the City of Minot from regulating or imposing fees on the use of plastic bags, cups, straws, bottles, or other reusable single-use packaging. Decisions on the use of plastic should be decided by local governments and not by the legislature in Bismarck. Passage of this bill would deny the citizens of Minot the right to make their own decisions regarding the use of plastics.

As a legislature are you really prepared to deny the right of city governments across the State of North Dakota from making decisions regarding the disposal of their garbage?

And Representative Ruby, I am unable to believe that as a business person connected with garbage in Minot, you do not have a vested interest in seeing that this bill you sponsored passes. It has all the earmarks of self-serving legislation.

Again, I urge that you send this through your committee hearing with a Do Not Pass recommendation.

Respectfully,

Avis Tvedt  
1105 Squaw Pt Rd  
Bottineau, ND 58318

HB 1200  
3.14.2019  
att # 7

**NDLA, S PSD - Wocken, Mary Jo**

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**From:** Trygve Hammer <trygvehammer@gmail.com>  
**Sent:** Tuesday, March 12, 2019 7:39 AM  
**To:** Vedaa, Shawn A.; NDLA, S PSD - Wocken, Mary Jo  
**Subject:** HB 1200

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Good morning,

I will keep this short:

1. HB 1200 is not a good look for this state legislature.
  - a. It overreaches into city governance, where problems are generally solved without partisanship. It is more government in the worst way.
  - b. It seems to indicate disdain for and distrust of both "political subdivisions" and community activists. In military terms, it favors "command push" over "recon pull," high command over troops on the battlefield.
  - c. It presents, at the very least, the appearance of impropriety in that it was introduced in the ND House by Rep. Dan Ruby, who arguably has a business interest that would be protected by this bill—this after the legislature's decidedly unenthusiastic embrace of the 2018 ethics initiated measure.
2. There is nothing to be gained from stifling local governments in this way. Perhaps one of them will try something and it will work. Perhaps one of them will try something and it will fail. Either way, we learn something on the small scale.
3. I hope you will reconsider your support for this bill.

Thank you,  
Trygve Hammer

H.B. 1200  
3.14.2019  
att # 8

**NDLA, S PSD - Wocken, Mary Jo**

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**From:** Kelli Hively <kelli7603@yahoo.com>  
**Sent:** Tuesday, March 12, 2019 9:39 AM  
**To:** NDLA, S PSD - Wocken, Mary Jo  
**Subject:** House Bill 1200

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Please take into consideration, as a voting resident in the state of North Dakota, my stance on House Bill 1200.

This bill would prohibit the City of Minot from regulating or imposing fees on the use of plastic bags, straws, etc.

I am maintaining that this is City of Minot business and not anything that should be dictated by the legislature in Bismarck.

Thank you.

Kelli Hively  
Minot, ND

H. B. 1200  
3.14.2019  
att # 9

**Testimony**  
**House Bill 1200**  
**Senate Political Subdivisions Committee**  
**March 14, 2019, 8:30 a.m.**  
**North Dakota Department of Health/North Dakota Department of**  
**Environmental Quality**

Good morning Chairman Burckhard and members of the Political Subdivisions Committee. My name is Chuck Hyatt, and I am director of the Waste Management Division of the North Dakota Department of Health's Environmental Health Section, soon to be the North Dakota Department of Environmental Quality. I am here today to identify two specific concerns the Department has with HB 1200.

First we are concerned regarding the impact HB 1200 would have on our enforcement program with the potential to divert our limited resources from environmental and public health protection to ordinance review enforcement. HB 1200 proposes to use the solid waste management law (NDCC 23.1-08) to prohibit communities from using local control to regulate "auxiliary containers," including bags, cups, bottles, straws, or other packaging. It would require the Department to enforce HB 1200 and potentially impose a civil penalty of up to twelve thousand five hundred dollars per day and the individuals who are involved could be charged with a Class C felony. This is an area currently not pursued by the Department and we request that our involvement in the enforcement phase of the law be removed and if desired replaced with an alternative method of enforcement.

Additionally, the language of HB 1200 which defines auxiliary containers is very broad. This does not just impact plastic bags. If a local community, due to local challenges, wished to require certain containers to be food grade, tamper proof, or flame resistant, it is unclear whether their action would be considered a ban on the alternatives, and therefore prohibited. To address this concern we believe that extensive areas of existing law would need to be reworked and a detailed new set of administrative rules would have to be developed to provide clarity to local communities.

This concludes my testimony and I am happy to answer any questions you may have regarding HB 1200.