

AG Ellison: “Governor is operating well within his statutory and constitutional authority”

Responds to Senate majority leader’s concern over Governor’s authority during peacetime emergency

March 20, 2020 (SAINT PAUL) — Minnesota Attorney General Keith Ellison issued the following statement today about Governor Walz’s authority during the peacetime emergency, in response to concerns about it that Senate Majority Leader Paul Gazelka raised yesterday:

“Senate Majority Leader Gazelka yesterday spoke of his and his caucus’s readiness to meet the needs of the people of Minnesota in what I agree with him are ‘extraordinary times.’ I join all Minnesotans in thanking them for that leadership. He also expressed a concern that Governor Walz’s leadership during the peacetime emergency ‘not be unilateral and unchecked.’

“As Minnesota’s chief legal officer, I want to assure all Minnesotans that the Governor is operating well within his statutory and constitutional authority. The Legislature conferred on the Governor the authority and the duty to ‘protect the public peace, health and safety, and preserve the lives and property of the people of the state’ in a time of emergency. That power is not unchecked: the Executive Council, which is authorized and empowered under Chapter 9, is the check on the Governor’s emergency powers authorized in Chapter 12. Section 12.21, subd. 3(1) allows the Governor to ‘make, amend, and rescind ... necessary orders and rules’ in an emergency, but those orders and rules do not have the effect of law unless or until they are approved by the Executive Council.

“As a member of the Executive Council, I have not voted and will not vote for any action I do not believe is authorized under Minnesota law and Minnesota’s constitution. I take that duty very seriously. This is why my staff is working hand in hand with subject-matter experts in each agency and the Governor’s staff to assure the legality and constitutionality of the Governor’s actions during the peacetime emergency.

“The executive, legislative, and judicial branches of state government are all doing a remarkable job of responding to Minnesotans’ fast-changing needs in this uncertain time. As Attorney General, I will keep working closely with all three branches while continuing to uphold the duly-enacted laws and the constitution of the State of Minnesota.”

