

Chairman Schauer

& Members of the House Government & Veterans Affairs Committee

Jared Hendrix, resident of Minot, ND. Thank you for your time and consideration on HB 1285. I write today in Favor.

Empower the Legislature Support the Separation of Powers (HB 1285)

This bill simply requires that all bills submitted by legislative agencies must be sponsored and introduced by a legislator. It reaffirms the separation of power between the three branches of government. ND State Constitution, Article III, Section 1. “...*the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives...*” Article IV, Section 13, states, “*The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution.*” Enacting law encompasses the *entire* process of drafting, introducing, procedurally moving and voting on legislation.

According to the National Conference of State Legislatures (NCSL), 3 states currently allow agencies of government — extensions of the executive branch — to submit requests for bills to be drafted. North Dakota is the **ONLY** state that allows for agencies to directly introduce bills. This process is not prescribed in state statute or the State Constitution. It exists only in legislative rules drafted by the legislature.

Common Questions

What is the process for agencies to introduce bills?

According to what Legislative Council told me, agency officials simply send an email or physically visit the offices of Legislative Council with a bill proposal and have it drafted. They are required to list a responsible party, usually a deputy, an attorney or someone within the agency who is working on the drafting. Legislative Council reviews them and assigns them to committees by subject matter per legislative rules. Leadership reviews that and makes the final decision to pre-file them. Generally, someone from the agency who requested it, will present it before the Committee. The agency *can* get sponsors if they wish, which used to be more common, but is now infrequent.

Do agencies need to be able to introduce bills in order to address matters of compliance with federal regulation?

Session is every 2 years. These “compliance” changes will still be voted on in the same timetable, regardless of whether an agency is able to introduce them.

Would this bill make it more difficult for agencies to bring ideas to the Legislature?

It will only make it more difficult for agencies to bring bad ideas to the Legislature. Good ideas will easily find bill sponsors. Furthermore, Interim Committees can begin to work on an array of issues and agency officials can be called upon as a resource in developing new legislation *at any point in time*. Committees and legislators can always request testimony and expertise from agency employees.

Code section 54-35-02, the powers and duties defined to the Legislative Management include collecting information concerning the welfare of the state, studying and considering important issues of policy as well as preparing proposed bills for consideration of the succeeding legislative session. Section 54-35-08 addresses the timeframe requirements for presenting recommended legislation, which can be done so by "...any department, board, commission, agency, officer, official, or employee of the state desiring the consideration of the legislative management..."

Aren't agency bills just "housekeeping" bills?

Some bills remove a single word or correct minor language (which should make it easier for an agency official to convince a legislator to introduce it). We should not view bills in two categories - one introduced by agencies, and the other introduced by the elected legislators. All bills must receive equal scrutiny. Furthermore, some agency bills are policy bills, and elected legislators should always determine if policy should be introduced.

Will Legislators be inundated with agency bills they don't care about?

It will have the opposite effect. Agencies will not waste time developing bills that are unlikely to find a sponsor. This will benefit *both* legislators and agencies. A legislator gains greater expertise on specific issues and therefore agencies will gain better advocates for their bills. They may even find legislators who are willing to develop a comprehensive bill that will include many (or all) of their "housekeeping" items.

What is a good example of an agency bill that was a waste of time?

HB 1130 from the Office of Management and Budget in 2017. This bill would have taxed senior citizens in nursing homes. It was defeated 89-1 in the House. No legislator would have likely introduced this bill. It went through 2 committee hearings, a floor discussion and likely consumed many paid hours of state employees, both in the agency and in Legislative Council. This wasted both the Legislature's and agency's time.

Sincerely,
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