

2009 HOUSE CONSTITUTIONAL REVISION

HCR 3057

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3057

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 02/25/09

Recorder Job Number: 9740

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Koppelman: We'll open the hearing on HCR 3057.

The title was read by the clerk.

Rep. Winrich, District 18, offered testimony in support of HCR 3057. See Attachment #1.

Rep. Schneider: Rep. Kelsch has a version similar to this that increases it to 100 days. Is there a reason for the 120.

Rep. Winrich: No, other than it seemed that if 80 is appropriate for a normal session, maybe half that time would be appropriate for a particular budget session.

Rep. Meier: Have you heard from citizens that have stated that they haven't had enough time or opportunity to come and approach the legislature on different issues?

Rep. Winrich: I have heard complaints about specific bills where people were unable to give testimony. Particularly in a case where a bill is hog housed and completely changes. In many such situations there is virtually no opportunity for citizens to make their opinions known to the legislature.

Chairman Koppelman: Do you where 80 days stacks up in terms of state's limits? I would suspect we're on the low side.

Rep. Winrich: I do not know, but I would agree with your speculation. Certainly in our neighboring states, the legislature seems to have more latitude.

Chairman Koppelman: Further questions? Thank you for your testimony. Further testimony in support of HCR 3057? Testimony in opposition to HCR 3057? Any neutral testimony to HCR 3057? Seeing none, we'll close the hearing on HCR 3057.

Rep. Winrich supplied supplemental testimony regarding limitations on legislative sessions in other states as compared to North Dakota's 80-day limitation. See Attachment #2.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3057

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/05/09

Recorder Job Number: 10321

Committee Clerk Signature *Lou Engelson*

Minutes:

Chairman Koppelman opened the hearing on HCR 3057.

Chairman Koppelman: Next we'll take a look at HCR 3057. This one is a resolution that deals with extending the terms of the legislative session to 120 days.

Rep. Schatz: I'll move a do not pass.

Rep. Meier: I'll second it.

Chairman Koppelman: Motion and second for do not pass. Motion by Rep. Schatz. Second by Rep. Meier. Is there discussion?

Rep. Conrad: I think we are stressed out here. I think we need to look at some of the ways we do our business. That might be able to cut down on our work load.

Chairman Koppelman: Stretch it out?

Rep. Conrad: No, I don't want that. I'd like to do that before we spend any more time. One of the things I do know is that there isn't a county commissioner in the state that gets his information directly on the spot. Everybody gets information ahead of time. If we were to get just some information ahead of time, I think we can cut down on a lot of testimony. If we limited people to five minutes which most cities and towns do, we could considerably lower time. I will be supporting the motion.

Rep. Kretschmar: I'm going to support the motion of do not pass. It was kind of a struggle to get it changed from 60 to 80 days. There was considerable opposition. That amendment which to me modeled the constitution convention did not pass by a very large margin. I think it was in the 1986 election. Today, with the 80 days, we've never gotten there. Seventy-eight maybe 79 one year. Maybe this year it will be different, and we'll get to 80 days. One year, right at the end, we were called back into a special session. I think going to 120 days would be too much at this point in time.

Rep. Uglem: Most people that I talk to think we do enough damage. Besides that there are also a lot of us that are active farmers in the house. If I had to come down here for 100 days, I couldn't run. I think it might hurt some of our rural representations unless we would be guaranteed it would be split into two sessions.

Rep. Kretschmar explains how the sessions are scheduled in South Dakota.

Chairman Koppelman: So there are really two sides to the debate. I think even with urban folks. Employers and things, when you look at that long of a stretch, if it were all at once, it would be an issue. I heard one of our colleagues say the other day she didn't believe she could serve if we went to annual sessions because even though she's gone longer every other year, her employer is more amenable to that than he would be letting her go for a shorter period. I think it's all over the board.

Rep. Schatz: The one thing that I've noticed is that we have an increase in number of retired people. Retired people have experiences in lots of good things but depending on who shows up here and who is willing to run.

Chairman Koppelman: I've noticed since I've been here is that there are very few middle aged people. We end up having some younger legislators who are in the earlier stages of their

careers and we have some older, retired legislators. Further discussion? Seeing none I'll ask the clerk to call the roll on a do not pass recommendation on HCR 3057.

Chairman Koppelman: Rep. Conrad has returned to the room. We're still on HCR 3057. All have voted except Rep. Conrad. How do you vote?

Rep. Conrad: Yes.

9 yes, 0 no, 0 absent and not voting. Rep. Schatz was assigned to carry the resolution.

FISCAL NOTE
 Requested by Legislative Council
 02/20/2009

Bill/Resolution No.: HCR3057

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

House Concurrent Resolution No. 3057 is a proposed amendment to section 7 of Article IV of the Constitution of North Dakota to increase the maximum number of days the Legislative Assembly may meet in regular session from 80 days to 120 days.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The potential fiscal impact of the constitutional amendment if approved by the voters in the November 2010 general election would be dependent upon the number of actual days the Legislative Assembly is in session. Each legislative day the Legislative Assembly is in session is estimated to cost approximately \$58,000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The budget request for the Legislative Assembly for the 2009-11 biennium includes funding for a 77 legislative-day 2011 session. If the 2011 Legislative Assembly would meet for additional days, the estimated cost of these additional days would range from \$58,000 for one day to \$2,494,000 for the 43 additional days, the maximum allowed under the proposed constitutional measure.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Allen H. Knudson	Agency:	Legislative Council
--------------	------------------	----------------	---------------------

Phone Number: 328-2916

Date Prepared: 02/24/2009

REPORT OF STANDING COMMITTEE (410)
March 5, 2009 4:40 p.m.

Module No: HR-40-4176
Carrier: Schatz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3057: Constitutional Revision Committee (Rep. Koppelman, Chairman)
recommends **DO NOT PASS** (9 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HCR 3057 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HCR 3057

Testimony of Rep. Lonny Winrich

In Support of HCR 3057

Good afternoon, Chairman Koppelman and members of the Constitutional Revision Committee. For the record, I am Rep. Lonny Winrich from District 18 in Grand Forks and I am here as the prime sponsor in support of HCR 3057. I'm sure that, as legislators, we are all familiar with the constitutional limitation that restricts legislative sessions to 80 days. We schedule our housing arrangements in Bismarck on the basis of that restriction, we plan our spring vacations around it and, for those of you who are farmers, I strongly suspect that the planning of spring field work depends on it. More importantly, I believe that the 80 day limitation also severely restricts our ability to give full hearings to the citizens of North Dakota on the many measures that come before the legislature.

How often have you heard the chair of a legislative committee hearing a controversial measure announce that the proponents and opponents would each be limited to a certain number of minutes? I know that we try to give wide latitude to citizens in hearings, and I am not criticizing the chairs of our committees but I think we should allow the citizens of North Dakota better access to the legislative process.

Also, almost every session, we consider a proposal to hold an annual session of the legislature or, at least a "budget adjustment" session in even numbered years. As appropriate as these proposals seem to many of us, they are usually rejected by the legislature with one of the primary reasons being the 80 day restriction. HCR 3057 would address these problems by increasing the 80 day limit to 120 days.

Whether the regular session expands, or an off-year session is created, or some combination of the two is the result is a decision for legislative leadership to make. The important result of HCR 3057 would be the possibility of those things happening. Mr. Chairman and members of the committee, I urge you to recommend DO PASS on HCR 3057 and I would be happy to respond to your questions.

Attachment #1

To: Chairman Koppelman and the Constitutional Revision Committee

From: Representative Lonny Winrich

ABW

Date: February 26, 2009

During yesterday's hearing on HCR 3057, I was asked about limitations on legislative sessions in other states as compared to North Dakota's 80 day limitation. Checking with the Legislative Council staff, I found a chart in "The Book of the States" published by CSG. As might be expected there is no consistent approach used by the various states to limiting legislative sessions. A few states have no limits whatsoever. Those that do almost invariably permit special sessions and in 32 of the 50 states there is no limit on the length of a special session although there may be limits on legislator's pay or expenses.

What does seem to be unique about North Dakota is the absolute limit of 80 days in a biennium. For example, South Dakota's legislature is limited to regular sessions of 40 days in odd numbered years and 35 days in even numbered years. However, by petition of 2/3 of the members of both houses the legislature can call a special session on which there is no limit. Montana's regular sessions are limited to 90 days each year but by petition a majority of each house can call an unlimited special session. Virginia has a limit of 30 calendar days in odd numbered years and 60 calendar days in even numbered years but by a 2/3 vote can extend any session by 30 calendar days. Virginia also permits 2/3 of the members of the legislature to call an unlimited special session.

I hope this answers any questions you may have about our relative position with respect to limitations on legislative sessions. I've attached a copy of the chart—it is somewhat confusing because much of the information is in the end notes.

Attachment #2

Table 3.2
LEGISLATIVE SESSIONS: LEGAL PROVISIONS

State or other jurisdiction	Regular sessions				Special sessions		
	Year	Legislature convenes		Limitation on length of session (a)	Legislature may call	Legislature may determine subject	Limitation on length of session
		Month	Day				
Alabama	Annual	Jan. Mar. Feb.	2nd Tues. (b) 1st Tues. (c)(d) 1st Tues. (e)	30 L in 105 C	No	Yes (f)	12 L in 30 C
Alaska	Annual	Jan.	2nd Mon.	121 C	By petition, 2/3 members, each house	Yes	30 C
Arizona	Annual	Jan.	2nd Mon.	(i)	By petition, 2/3 members, each house	Yes	None
Arkansas	Biennial- odd year	Jan.	2nd Mon.	60 C (h)	No	No (j)	None
California	(l)	Jan.	1st Mon. (d)	None	No	No	None
Colorado	Annual	Jan.	No later than 2nd Wed.	120 C	By petition, 2/3 members, each house	Yes	None
Connecticut	Annual	Jan. Feb.	Wed. after 1st Mon. (n) Wed. after 1st Mon. (o)	(p)	By petition, 2/3 members, each house (q) Joint call, presiding officers, both houses	Yes	None
Delaware	Annual	Jan.	2nd Tues.	June 30	Joint call, presiding officers, both houses	Yes	None
Florida	Annual	Mar.	1st Tues. after 1st Mon.(s)	60 C (h)	Joint call, presiding officers, both houses or by petition	Yes	20 C (h)
Georgia	Annual	Jan.	2nd Mon.	40 L	By petition, 3/5 members, each house	No	40 L
Hawaii	Annual	Jan.	3rd Wed.	60 L (h)	By petition, 2/3 members, each house	Yes	30 L (h)
Idaho	Annual	Jan.	Mon. on or nearest 9th day	None	No	No	20 C
Illinois	Annual	Jan.	2nd Wed.	None (ll)	Joint call, presiding officers, both houses	Yes (g)	None
Indiana	Annual	Jan.	2nd Mon. (d)(l)	odd-61 C or Apr. 29; even-30 C or Mar. 14	No	Yes	30 L or 40 C
Iowa	Annual	Jan.	2nd Mon.	None	By petition, 2/3 members, each house	Yes	None
Kansas	Annual	Jan.	2nd Mon.	odd-None; even-90 C (h)	Petition to governor of 2/3 members, each house	Yes	None
Kentucky	Annual	Jan.	1st Tues after 1st Mon.	odd-30 L even-60 L	No	No	None
Louisiana	Annual	Mar. (o) Apr. (n)	last Mon. (o) last Mon. (n)	even-60 L in 85 C; odd-45 L in 60 C	By petition, majority, each house	Yes	30 C
Maine	(l)(m)	Dec. Jan.	1st Wed. (b) Wed. after 1st Tues. (o)	3rd Wed. of June 3rd Wed. of April	By petition, majority, each house	Yes	None
Maryland	Annual	Jan.	2nd Wed.	90 C	By petition, majority, each house	Yes	30 C
Massachusetts	Biennial	Jan.	1st Wed.	(w)	By petition (x)	Yes	None
Michigan	Annual	Jan.	2nd Wed.	None	No	No	None
Minnesota	(y)	Jan.	Tues. after 1st Mon. (n) 3rd Sat. in May (y)	120 L or 1st Mon. after	No	Yes	None

See footnotes at end of table.

See footnotes at end of table.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS—Continued

State or other jurisdiction	Regular sessions				Special sessions		
	Year	Legislature convenes		Limitation on length of session (a)	Legislature may call	Legislature may determine subject	Limitation on length of session
		Month	Day				
Mississippi.....	Annual	Jan.	Tues. after 1st Mon.	125 C (z); 90 C (z)	No	No	None
Missouri.....	Annual	Jan.	Wed. after 1st Mon.	May 30	By petition, 3/4 members, each house	Yes (g)	30 C (aa)
Montana.....	Biennial— odd year	Jan.	1st Mon.	90 L	By petition, majority, each house	Yes	None
Nebraska.....	Annual	Jan.	Wed. after 1st Mon.	odd—90 L; even—60 L	By petition, 2/3 members each house	Yes	None
Nevada.....	Biennial— odd year	Feb.	1st Mon.	120 C	No (oo)	No	None (k)
New Hampshire.....	Annual	Jan.	Wed. after 1st Tues.	45 L	By petition, 2/3 members, each house	Yes	15 L (r)
New Jersey.....	Annual (mm)	Jan.	2nd Tues. of even year	None	By petition, majority, each house (nn)	Yes	None
New Mexico.....	Annual	Jan.	3rd Tues.	odd—60 C; even—30 C	By petition, 3/5 members, each house	Yes (g)	30 C
New York.....	Annual	Jan. (kk)	Wed. after 1st Mon.	None	By petition, 2/3 members, each house	Yes (g)	None
North Carolina.....	(y)	Jan.	3rd Wed. after 2nd Mon. (n)	None	By petition, 3/5 members, each house	Yes	None
North Dakota.....	Biennial— odd year	Jan.	Tues. after Jan. 3, but not later than Jan. 11	80 L in the biennium	Yes (ff)	Yes	None (ff)
Ohio.....	Annual (mm)	Jan.	1st Mon. (ee)	None	Joint call, presiding officers, both houses	Yes	None
Oklahoma.....	Annual	Feb.	1st Mon.	last Fri. in May	By vote, 2/3 members, each house	Yes	None
Oregon.....	Biennial— odd year	Jan.	2nd Mon.	None	By petition, majority, each house	Yes	None
Pennsylvania.....	(dd)	Jan.	1st Tues.	None	Governor may call	No	None
Rhode Island.....	Annual	Jan.	1st Tues.	None	Joint call, presiding officers, both houses	Yes	None
South Carolina.....	Biennial	Jan.	2nd Tues.	None	By vote, 2/3 members, each house	Yes	None
South Dakota.....	Annual	Jan.	2nd Tues.	odd—40 L; even—35 L	By petition, 2/3 members, each house	Yes	None
Tennessee.....	Annual (bb)	Jan.	2nd Tues.	90 L (u)	By petition, 2/3 members, each house	Yes	30 L (u)
Texas.....	Biennial— odd year	Jan.	2nd Tues.	140 C	No	No	30 C
Utah.....	Annual	Jan.	3rd Mon.	45 C	No	No	30C
Vermont.....	Annual	Jan.	Wed. after 1st Mon.	None	No	Yes	None
Virginia.....	Annual	Jan.	2nd Wed.	odd—30 C (h); even—60 C (h)	By petition, 2/3 members, each house	Yes	None (gg)
Washington.....	Annual	Jan.	2nd Mon.	odd—105 C; even—60 C	By vote, 2/3 members, each house	Yes	30 C
West Virginia.....	Annual	Jan.	2nd Wed.	60 C (h)	By petition, 3/5 members, each house	Yes (g)	None
Wisconsin.....	Biennial	Jan.	1st Mon.	None	By petition, majority members each house	Yes	None

See footnotes at end of table.

STATE LEGISLATURES

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

State or other jurisdiction	Regular sessions			Special sessions			
	Year	Month	Day	Limitation on length of session (a)	Legislature may call	Legislature may determine subject	Limitation on length of session
Wyoming.....	Annual	Jan. (odd yrs.) Feb. (even yrs.)	2nd Tues. (odd yrs.) 2nd Mon. (even yrs.)	odd-40 L; even-20 L; biennium-60L.	By petition, majority members each house	Yes	20 L
Dist. of Columbia.....	(bb)	Jan.	2nd day	None	No	No	None
American Samoa.....	Annual	Jan. July	2nd Mon. 2nd Mon.	45 L 45 L	No	No	None
Guam.....	Annual	Jan.	2nd Mon. (ii)	None	No	No	None
No. Mariana Islands.....	Annual (v)	(ii)	(d)(j)	90 L (j)	Upon request of presiding officers, both houses	Yes (g)	10 C
Puerto Rico.....	Annual (v)	Jan. Aug.	2nd Mon. 3rd Mon.	5 mo. 4 mo.	No	No	20 C
U.S. Virgin Islands.....	Annual	Jan. (cc)	2nd Mon. (cc)	None	No, Governor calls	No	None

Source: The Council of State Governments' survey, December 2005.

Key:

C—Calendar day

L—Legislative day (in some states called a session day or workday; definition may vary slightly, however, generally refers to any day on which either house of legislature is in session).

(a) Applies to each year unless otherwise indicated.

(b) General election year (quadrennial election year).

(c) Year after quadrennial election.

(d) Legal provision for organizational session prior to stated convening date. Alabama—in the year after quadrennial election, second Tuesday in January for 10 C. California—in the even-numbered general election year, first Monday in December for an organizational session, recess until the first Monday in January of the odd-numbered year. Indiana—third Tuesday after first Monday in November. No. Mariana Islands—in year after general election, second Monday in January.

(e) Other years.

(f) By 2/3 vote each house.

(g) Only if legislature convenes itself. Special sessions (extraordinary sessions) called by the legislature are unlimited in scope in New Mexico.

(h) Session may be extended by vote of members in both houses. Arkansas—2/3 vote. Florida—3/5 vote, session may be extended by vote of members in each house. Hawaii—petition of 2/3 membership for maximum 15-day extension. Kansas—2/3 vote. Virginia—2/3 vote for 30 C extension. West Virginia—may be extended by the governor.

(i) No constitutional or statutory provision; however, by legislative rule regular sessions shall be adjourned sine die no later than Saturday of the week during which the 100th day from the beginning of each regular session falls. The Speaker/President may by declaration authorize the extension of a period not to exceed seven additional days. Thereafter the session can be extended only by a majority vote of the House/Senate.

(j) After governor's business has been disposed of, members may remain in session up to 15 C by a 2/3 vote of both houses.

(k) No limit, however legislators are only paid up to 20 calendar days during a special session.

(l) Regular sessions begin after general election, in December of even-numbered year. In California, legislature meets in December for an organizational session, recesses until the first Monday in January of the odd-numbered year and continues in session until November 30 of next even-numbered year. In Maine, session which begins

in December of general election year runs into the following year (odd-numbered); second session begins in next even-numbered year.

(m) Second session limited to consideration of specific types of legislation. Maine—budgetary matters, legislation in the governor's call; emergency legislation; legislation referred to committees for study.

(n) Odd-numbered years.

(o) Even-numbered years.

(p) Odd-numbered years—not later than Wednesday after first Monday in June; even-numbered years—not later than Wednesday after first Monday in May.

(q) Notice sent to secretary of state.

(r) Limitation is on payment of legislative pay and mileage.

(s) A regular session of the legislature shall convene on the first Tuesday after the first Monday of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.

(t) Legislators may reconvene at any time after organizational meeting; however, second Monday in January is the final date by which regular session must be in process.

(u) 90 legislative days over a two-year period. During special sessions members will be paid up to 30 legislative days; further days will be without pay or per diem.

(v) Legislature meets twice a year. During general election years, the legislature only convenes on the January session.

(w) Legislative rules say formal business must be concluded by November 15th of the first session in the biennium, or by July 31st of the 2nd session for the biennium.

(x) Joint rules provide for the submission of a written statement requesting special session by a specified number of members of each chamber.

(y) Legal provision for session in odd-numbered year; however, legislature may divide, and in practice has divided, to meet in even-numbered years as well.

(z) 90 C session every year, except the first year of a gubernatorial administration during which the legislative session runs for 125 C.

(aa) 30 C if called by legislature; 60 C if called by governor.

(ab) Each General Assembly convenes for a First and Second Regular Session over a two-year period.

(ac) The legislature convenes in January on the second Monday, March, June and September, the third Wednesday.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

- (dd) Sessions are two years and begin on the first Tuesday of January of the odd-numbered year. Session ends on November 30 of the even-numbered year. Each calendar year receives its own legislative number.
- (ee) Unless Monday is a legal holiday, in second year, the General Assembly convenes on the same date.
- (ff) Legislative Council may reconvene the Legislature assembly. However, a reconvened session may not exceed the number of days available (80) but not used by the last regular session.
- (gg) No limitation, but the convening of the new General Assembly following an election would by operation end the special session.
- (hh) Each Council period begins on January 2 of each odd-numbered year and ends on January 1 of the following odd-numbered year.
- (ii) Legislature meets on the first Monday of each month following its initial session in January.
- (ij) 60 L before April 1 and 30 L after July 31.
- (kk) Session officially begins on the first Wednesday following the first Monday of the new legislative term (commencing the first of the year), and lasts until the legislature completes its business and adjourns sine die.

However, over the past several years, both houses have adopted the tactic of declaring a recess at the call of the leaders, in order to facilitate easy recall of the legislature to override vetoes, etc. Over time the custom has become to formally adjourn both houses just before the new session opens; in the case of 2005, on January 7th. This leads to the rather interesting convention that when the governor calls the legislature into session, it is considered "special" or "executive", even though the regular session is ongoing.

- (ll) Constitution encourages adjournment by May 31.
- (mm) Legislative session consists of two-year terms divided into annual sessions.
- (nn) Governor may call legislature in certain cases.
- (oo) Assembly Joint Resolution No. 13 from the 72nd Session (2003) passed during the 2005 Session. Therefore, the question of whether the Legislature should be able to call itself into special session will be on the 2006 General Election ballot for approval. If the voters approve the measure, a signed petition of 2/3 of the elected members in both houses would allow the legislature to call itself into a special session for specific business (to be specified in the petition) and for no more than 20 calendar days.