

2013 HOUSE APPROPRIATIONS

HB 1099

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1099

1/24/13

17665

Conference Committee

Committee Clerk Signature

Meredith Tracholt

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 54-16-04.3, 54-44.1-04, and 54-44.1-06 of the North Dakota Century Code, relating to budget section authority to add employee positions, agency budget requests, and the preparation of budget data.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer called the committee to order and opened the hearing on HB 1099.

Rep. Jim Schmidt, District 31: Introduced the bill.

7:45

Chairman Delzer: What your bill is looking for is a different item on the budget bills plus accompanying documentation on all new FTEs?

Rep. Schmidt: I am looking for justification for me signing, as a legislator, on new positions, not on and FTE basis, but on a permanent or part-time basis.

Chairman Delzer: You see the permanent and part-time basis as different than the FTE numbers?

Rep. Schmidt: Absolutely.

8:35

Rep. Mark Owens, District 17: In support of the bill, let me add that in the Federal Acquisition Regulations (FAR) and Defense Acquisition Regulations (DAR), there are various different forms of contracts let. Some contracts demand the number of hours by individual by category what was done, deadlines, and milestones to get paid. If we are requiring it in relation to a number of these contracts at the state and federal level, it seems to me that as a taxpayer and to explain to taxpayers I should be able to explain where money is going, the number of hours being spent, and the duties being performed, rather than a generic FTE.

12:15

Chairman Delzer: If you have an issue on a new FTE on a policy bill, what documentation do you ask for? Or is that something you passed on to the Appropriations Committee?

Owens: I don't recall a specific bill that ever had a new FTE; we were always told it was in the agency bill going before Appropriations. So it was never in the policy bill, yet in many cases they were adding the duties in the policy bill that they hoped these new FTEs would be doing.

13:20

Sen. Donald Schaible, District 31: I support this bill. This gives the clarity and justification for increasing, and decreasing, FTEs when needed.

14:35

Rep. Skarphol: I'm not always sure what the federal government does is something we should be doing. How encumbering is this on state agencies? Do we get a sufficient return for the time invested?

Rep. Schmidt: In my experience, it does take time, but the time you take to do that is time you should be taking. If you can't identify the products you need to receive or produce and identify the staff hours that go with those, then how do you know what you are doing is adequate and efficient? It's good planning.

Rep. Dosch: Your bill primarily deals with the adding of new employees. Is there any evaluation of current employees?

Rep. Schmidt: There isn't anything in this bill to do that. Past positions that I hired often had a 'not to exceed' yearly date on them. I was more concerned with where we are going from today forward, so it does not include previous or existing employees.

Rep. Nelson: Looking at agency budgets, existing employees sometimes get shifted to a different department within the division. I see some of this that is already occurring. I don't know if the policy committees always see that, but we do break that down pretty well.

Chairman Delzer: That in essence is part of the question. I know there is documentation on FTEs; it may be a matter of whether or not we are sharing the proper information with the rest of the assembly.

Rep. Schmidt: Yes, we have asked for documentation on FTEs to determine better what those are, when I put my name to it I know what I'm signing. We haven't usually received that. Maybe it's an issue between appropriations and policy. All I know is, I want to know more.

21:50

Pam Sharp, Director, Office of Management and Budget: See Attachment 1.

25:05

Chairman Delzer: How do you come up with some of your numbers? Just what you had for temporary last time? From the legislative and citizen standpoint is you're probably going use the money given for temporaries, whether you need it or not. I understand both sides of this argument. In essence, the biggest cost we have in state government is state employees.

Sharp: I would disagree with the statement that when agencies have temporary dollars, they spend it whether they need it or not. Agencies don't do that; they're very discreet in how they use their temporary dollars.

Chairman Delzer: Under the current system, there is no turnback of salary dollars. They're normally used during the biennium.

Sharp: Temporary dollars to come back to state government general fund turnback. Agencies would be remiss to use their temporary dollars to fund permanent positions, because then those positions have to be funded going forward.

Chairman Delzer: It sits in the salary line, does it not?

Sharp: It is a separate account code in the salary line.

Chairman Delzer: Can you show us all of that comes back to the general fund when it's not used for temporary salaries? That none goes for pay increases for permanent staff? If you do a pay increase, you build the next budget on whatever level you're at.

Sharp: That is correct, you build the next budget at the level that you're at. But we do give agencies a hold-even amount. If their salaries go up, they have to find some other money somewhere else in their budget to submit their hold-even amount. I am not aware of any practices where agencies use temporary dollars to bolster FTE positions. It comes back to bite them.

29:10

Tracy Stein, Human Resource Director, ND Department of Corrections and Rehabilitation: See Attachment 2.

35:50

Maggie Anderson, Interim Executive Director, Department of Human Services (DHS): See Attachment 3.

37:45

Chairman Delzer: Are you opposed to delineating how many FTEs you need, or strictly to section 1 of the bill, which seems to say you'd have to come before the budget section with temporaries?

Anderson: We are opposed to Section 1.

Chairman Delzer: Are you opposed to sharing with the policy committees the information you use to justify your FTEs during the budget process?

Anderson: Historically, we provide that detail in the Fiscal Note (FN) and we provide that detail to the policy committee. To the Human Resources division of this committee, we always provide the detail on any new positions requested or shifted positions.

Chairman Delzer: When you go through OMB and the budgeting process, before it comes to the legislature, you must have more detail than what is put in the FN, because that is more of a summary. Is there a chance of sharing more of the information you currently have, currently being done, but perhaps not shared as it should be?

Anderson: When we build the department's budget, we go through all of that. Separately, when additional policy bills are introduced during the session and we construct a FN, we have tried to provide the detail to the policy committee, typically when the department testifies on a bill that is not in the Governor's budget. We provide testimony specifically related to the FN and any FTE or other costs associated. We're willing to provide additional detail if that would resolve some of the concerns raised.

Rep. Skarphol: Maybe it would be useful for this committee to see the paperwork that is done, for purposes of deciding whether or not we want all that information. Is that doable?

Anderson: Speaking for the DHS, yes, we could provide the backup for the FN.

Rep. Skarphol: How many did you request this time?

Anderson: No new FTE, but we did move some.

Chairman Delzer: As a committee, we'll request from a number of the agencies the background on one or two of the FTEs, so we can see that.

Rep. Skarphol: It might be good for us to see what the department has done, representing the shift, but also a department that has requested multiple FTEs, to see the volume of material involved. If we understand what you go through, we might have a more substantial reason to do or not do something.

Rep. Monson: The prime sponsors used the federal background they had a lot. DHS does a lot with federal funding. When you get federal money, do you have to go through a procedure like this?

Anderson: Each federal source may have specific requirements. In Medicaid, we do not have to specifically request funding, e.g., for a pharmacist. We may have to update a cost allocation plan. We have other funding sources that are more grant specific, where if it's 100% federal funds, we need to go them and justify why we need that position to carry the work out. At any time or during audits, they can ask us how we are staffing our positions.

46:45

Kim Molesworth, Chief of Administrative Services Division, ND Game & Fish Department: See attachment 4.

49:10

Rep. Monson: If this were in place, would you perhaps feel like you had to come in and overstate your need, which would in the end cost us, because you would want to make sure you had the ability to hire those people?

Molesworth: I would say agencies may do that to make sure they are covered. There are both everyday office and emergency situations that arise. We manage our budget, we have a base budget for temps, and we use them efficiently as we need them.

51:00

Maren Daley, Job Service ND: We support the G&F position. The current system works very well and we would not want to see it changed. The line item for temporary staff allows agencies to have the flexibility to hire temps as needed to meet customer needs. Does this promote frugality? Absolutely yes. We have had flat or declining federal funding for at least 12 years, we are down 135 FTE positions, and our workload and costs have been increasing. It's also very hard to hire temps in ND right now with a tight labor market. Having that line item for a temporary budget is vital to help us meet our key needs.

53:00

Dave Leftwich, Deputy Director for Business Support, ND Department of Transportation: See attachment 5.

Chairman Delzer: Seeing no further testimony, we'll close the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1099
2/12/13
Job 18830

Conference Committee

Committee Clerk Signature

Meredith Trachott

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to agency budget requests and the preparation of budget data.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: Let's start on HB 1099. This bill has to do with what we expect for justification for new employees, especially in policy committees. During the hearing there was a lot of consternation, especially about temporary employees, thinking they would have to go in front of the budget section every time they wanted to hire a temporary employee. In discussion with the sponsors, that was not their intention; they were looking for better justification for new FTEs. They said to take section 1 out of the bill. I have an amendment drafted for that.

Rep. Monson: I wonder if they would overstate their temp needs to cover themselves, and in the end would that cost us more?

Chairman Delzer: It's still up to us in appropriations to look at that line item. The idea was to get a little more information on paper, something easily readable for policy committees. They have access to everything we have, but they probably don't have the same familiarity with trying to get to it.

Rep. Nelson: Is it your desire to have a motion? My notes show section 2 is also pretty burdensome from the administrative end, the documentation of timelines. I have a hard time understanding how this will be helpful. I move Do Not Pass; motion seconded by **Rep. Hawken**.

Chairman Delzer: We have a motion; discussion? I think we should have it discussed on the Senate side, but I do not feel comfortable with it going forward with section 1 in it.

Rep. Dosch: I don't find this onerous at all.

Rep. Sanford: In discussion with Rep. Schmidt, it was the permanent employees he wanted justified, the part time was not as big a deal. If we were going to make it workable, it would have to be amended beyond just section 1 to deal with that temporary component.

Chairman Delzer: Would you do, make it just full time?

Rep. Sanford: You could have a block number for temporary, perhaps based on historical usage.

Chairman Delzer: That's pretty much what we have. I think they are looking for justification that can show up when it appears before a policy committee. We talk about these, but I don't know that we have anything in writing as to how they justify them. Maybe it's something we should be looking at.

Rep. Sanford: I'm just reporting my interpretation of the conversation. He was most interested in the permanent.

Chairman Delzer: We have to deal with what we have before us.

07:45

Rep. Kempenich: It's where the temporary became permanent, so they could track that. Page 2 is one of the things; then the last paragraphs basically restate it. He was comparing how federal operations work versus state operations.

Rep. Skarphol: You serve on the emergency commission; in reading this bill, how is it different than what was done in this last interim? The secretary of state's office requested three additional employees, they were granted; did the emergency commission get a description as described in this bill justifying the need for the positions?

Chairman Delzer: It was not provided in writing, as this describes, though it was certainly provided verbally. It obviously was enough that the emergency commission felt justified to move forward.

Rep. Skarphol: Would you be more comfortable if the information requested here were provided?

Chairman Delzer: I think it's something you can't really answer until you go through it one time. In general, I do think it would be better? Yes, I do. Can I say, without a doubt? No.

Rep. Kempenich: Agencies come in during the interim and hire temporary people if the work load ebbs and flows. The thing is, a lot of times if they hire temporary, they come in asking for full time. Is that temporary for something specific? Will it be ongoing? The explanations are on record, but it's more verbal than written. This is trying to get a structure in place, what the job description is and how it will affect or enhance the agency.

Rep. Glassheim: My understanding of this bill is it pertains only to preparation of budgets. These requirements are for agencies to give information to OMB one to two years ahead of

when they may or may not need part-time temporary help. They don't know that in advance.

Chairman Delzer: In essence, they do that already. They come up with a temporary number and an overtime number. If it's simply justified by saying we did this last time, and it's what we needed, then that's what they should probably put. We have a motion before us, further discussion? Seeing none, a roll call vote was done. The motion failed 6 Yes, 15 No, 1 Absent.

Rep. Kempenich moved the bill be amended by removing section 1, seconded by **Rep. Thoreson**.

Chairman Delzer: Discussion? Seeing none, a voice vote was done; motion carried.

Rep. Kempenich moved Do Pass as Amended on HB 1099, seconded by **Rep. Thoreson**.

Chairman Delzer: Discussion?

16:20

Rep. Skarphol: With the removal of that section, we still have in law the practice utilized over this prior interim for the emergency commission to give three employees to the Secretary of State?

Chairman Delzer: As far as I'm aware.

Allen Knudson, Legislative Council: Yes.

Rep. Monson: I would feel better if we had the temps out of there. I can see where some temps maybe should be in there. It's complex. It's a big burden on some agencies, based on the nature of their work. Maybe it will work.

Chairman Delzer: I would think they must do this at some point in time, this is just sharing the documentation with us.

Rep. Monson: To cover themselves, they're going to pad that number.

Chairman Delzer: Do you think they pad the number now?

Rep. Monson: Not as much as they will if this were passed.

Chairman Delzer: Further discussion? Seeing none, a roll call vote was done. The motion carried 18 Yes, 3 No, 1 Absent. **Rep. Kempenich** will carry the bill.

13.0309.01001
Title.02000

Prepared by the Legislative Council staff for
Representative Delzer,
February 12, 2013

VKL
2/13/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1099

Page 1, line 1, remove "54-16-04.3,"

Page 1, line 1, remove the second comma

Page 1, line 2, remove "budget section authority to add employee positions,"

Page 1, line 3, remove the comma

Page 1, remove lines 5 through 14

Renumber accordingly

Date: 2/12/13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1099**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Nelson Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Rep. Streyle		X
Vice Chairman Kempenich		X	Rep. Thoreson		X
Rep. Bellew		X	Rep. Wieland		X
Rep. Brandenburg		X			
Rep. Dosch		X			
Rep. Grande		X	Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt		X	Rep. Guggisberg	X	
Rep. Martinson		X	Rep. Holman	X	
Rep. Monson		X	Rep. Williams		
Rep. Nelson	X				
Rep. Pollert		X			
Rep. Sanford		X			
Rep. Skarpol		X			

Total Yes 6 No 15

Absent 1

Floor Assignment _____

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

motion failed

Date: 2/12/13
Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1099**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarpol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

remove section 1

voice vote carries

Date: 2/12/13
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1099**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim		X
Rep. Kreidt	X		Rep. Guggisberg		X
Rep. Martinson	X		Rep. Holman		X
Rep. Monson	X		Rep. Williams		
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarpol	X				

Total Yes 18 No 3

Absent 1

Floor Assignment Rep. Kempenich

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

REPORT OF STANDING COMMITTEE

HB 1099: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (18 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1099 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "54-16-04.3,"

Page 1, line 1, remove the second comma

Page 1, line 2, remove "budget section authority to add employee positions,"

Page 1, line 3, remove the comma

Page 1, remove lines 5 through 14

Renumber accordingly

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1099

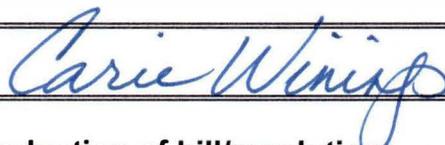
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1099
03/15/2013
Job Number 19991

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Minutes:

Chairman Dever: Opened the hearing on HB 1099.

Representative Jim Schmidt, District 31: Testified as sponsor of the bill and to explain the bill. The purpose of the bill is to really be able to define what kind of employees that departments are really asking for. We need to decide if they are really a permanent employee or are they a part time etc. (5:34) Explained the new language on page 2 and page 7.

(8:46)Chairman Dever: Would you expect that this documentation would be included with a fiscal note?

Rep. Schmidt: I would. We do not see that in policy right now. Human Services committee was the one that was where I sat and we got a lot of that increased FTE's and we did not see what those were. We did not know if they were permanent full time or part time positions. I think that has a huge impact on our budget process.

Chairman Dever: Would you expect that internally the agency would go through this same process in determining their need for an employee and this bill would simply as for them to include that documentation.

Rep. Schmidt: Yes. If we are able to say that we need 2 FTE's, and even though that does not say a whole lot to me and it still doesn't, two FTE's is about 4160 hours and if you can determine that you need 4160 hours, you ought to be able to determine if it is a full time position and what they are going to do. (gave an example of a bill in committee) The other thing I see is how can you come up with a figure for the dollars and not know what you are going to get for that money? Especially when you take it that far.

Vice Chairman Berry: Could you explain the FTE hours again?

Rep. Schmidt: The FTE is a full time equivalent, meaning that you could have a number of individuals working for you and the total time that they put in for a year is 2080 hours. When you say 2080 hours, a permanent full time position is going to cost us more money for those same hours because you have an opportunity for a 50 to 60 year commitment to that employee. If you hire part time for those same hours, you are not going to be paying benefits therefore you will have some financial savings on some of that part. I understand that we budget temporary differently that what we budget permanent; that is not what this is referring to. When a bill comes forth - they should be able to tell us exactly what kind of employee they need for those 2080 hours.

Vice Chairman Berry: The bill outlines the four kinds of employees and you are saying that you want it defined by the departments what they are exactly looking for and break it down.

Rep. Schmidt: Yes, I would like at least something more than FTE.

Vice Chairman Berry: You are just saying that you would like it basically delineated out more specifically?

Rep. Schmidt: Yes, I would like that but if we don't achieve that that is fine. We just want something more than what we have now.

Vice Chairman Berry: What do you currently see?

Rep. Schmidt: Just FTE.

Chairman Dever: I am sometimes confused by the construction of a bill. When I look at this, the changes are repeated in every section of the bill and the dates are July 31st 2013. Budget bills start July 1st. Is that why we see this constructed the way it is?

Rep. Schmidt: That was not our concern - appropriations put that in. My concern was that next session the bill that come from an agency identify with something more specific than simply FTE.

Chairman Dever: In the interim the emergency commission has the ability to authorize FTE's.

Representative Schmidt: I have no comment on that.

Vice Chairman Berry: Do you have a hard copy of your testimony?

Representative Schmidt: I do not.

(16:50) Pam Sharp, Director, Office of Management and Budget: See Attachment #1 for testimony in opposition to the bill.

(21:15) Senator Cook: Did you testify in the house this way?

Pam Sharp: Yes I did.

Senator Marcellais: Has the state ever had a rift?

Pam Sharp: The state has not had an overall state rift, but state agencies do rifts if the situation arises. They could have reorganization. There could be something that happens where for some reason there is something they are not doing that was required, or a reduction in budget.

Senator Marcellais: Are there bumping rights between agencies?

Pam Sharp: There are not bumping rights and I might refer to Mr. Purdy for more detail on this. When a rift occurs, the person is on a list of rift employees and other agencies are made aware of who is on that list and has to consider those individuals for employment. They are not required to hire them.

Chairman Dever: Do I understand from your testimony that temporary employees are sometimes not anticipated?

Pam Sharp: That is absolutely accurate. Agencies need the flexibility to hire temporary employees. There are circumstances that come up in different department.

Senator Nelson: If you have a very small agency with 2 ½ FTE's, that doesn't necessarily mean you have 2 full times and a part time. That could be three part times and a full time or you could have anything that adds to 2.5 in the number of hours and I think that is what Representative Schmidt is going after. He wants to know what that means and what the actual bodies in your office are.

Pam Sharp: That information is readily available through HRMS. If someone is filling one full time slot or if someone else is filling a halftime slot, and those positions are funded at that level.

Senator Nelson: Higher Ed has been in the news at 7 FTE's and what does that mean they will be hiring?

Pam Sharp: It may be that the working term of an FTE for the federal government might be a little different from state government. In state government one FTE is one person who works 2080 hours per year. If it says 7 FTE's for higher ed, I think 7 means 7 bodies.

Senator Schaible: You mention that the information is available for existing employees. The concern that I have with that is that it would be helpful to have that when you are looking at these bills. Even if it is policy, we are still the ones recommending yes or no and

to the body, the floor, and appropriations. We still deal with a position and I think it would be helpful if we had that information as a policy group so we understand what you are looking for. Don't you think that it is important that we understand the type of employee we are looking to hire and what we are recommending?

Pam Sharp: Maybe I am misunderstanding what you are saying. When an agency requests a new FTE and they provide the justification, it is in the budget documents and it is in their information and it is our budget documents in our book and in our detail, so I say that it is readily available in that way. The policy committee has access to that information as well. When a temporary employee is hired, it is budgeted from a pool of money.

Senator Schaible: I am not trying to limit your flexibility on your temporaries. When we are looking at something and we were given a number; we want to know what is going to happen. Clarification alone would be a great help.

Pam Sharp: to make this even more complicated, when you bring up higher ed; higher ed has the ability to hire as many FTE's as they wish to add, whether they have requested it or not.

Vice Chairman Berry: Is there any attempt between the prime sponsor and your office to find common ground on this?

Pam Sharp: There have been no individual discussions with Representative Schmidt at all, but I am willing.

Senator Cook: (asks a question regarding DOT and moving the deadline for vehicle tags and how that pertains to employees being needed) Is it safe for me to assume that their flexibility to hire temporary employees to not there?

Pam Sharp: There is flexibility if there is money in a budget to hire temporaries.

Senator Marcellais: How does a legislator get the information to our constituents as to why a department is hiring a new employee?

Pam Sharp: I think a phone call to the department and get the story, usually there is a valid reason but it might not be a reason that they could have foreseen 3 years before that when they were putting their budget together.

Chairman Dever: In regards to the construction of the bill, current policy has a sunset of July 31st, and the amended new policy would have an effective date following July 31st, is there actually a sunset or is that just for the purpose of this bill?

Pam Sharp: I do not know what that is. I do not know how this bill was constructed.

Chairman Dever: Do you know if current policy has a sunset on it?

Pam Sharp: I am thinking that there must have been some kind of change in the Century Code at one point that had a new effective date and that is why there are two sections of law but I don't know what that change might have been. It is probably how OMB prepares the budget data. I really don't know.

Chairman Dever: We will find that out.

(34:25) Kim Molesworth, Chief Administrative Services Division, North Dakota Game and Fish Department: See Attachment #2 for testimony in opposition to the bill.

(44:25) Chairman Dever: you have talked about mostly temporary employees and I am curious if you have concerns about reporting requirements regarding permanent employees.

Kim Molesworth: Permanent FTE's are standard FTE's and they are approved by the legislature and we are not going to get an FTE unless you approve it. All those details are already recorded in our budget change requests in IBARS. I don't have any objection for FTE's as far as full time. Full time temporaries are a whole different category then full time

FTE's. They have to be approved by you and that documentation is already in the budget documents.

Vice Chairman Berry: My understanding from listening to your testimony that there is a pool of money for temporary employees for circumstances that may come up, and you are saying this would be virtually impossible to really spell that out with the variables?

Kim Molesworth: In a nutshell, that is correct. When we prepare our budget, there is a line. Some agencies prepare more detail in their budget for temps. We put ours as one line for each division. There is an account code on PeopleSoft that specifically is for temporary staff only. So those expenditures are specifically identified as temporary. What I am saying is to get into all the details we would have to add modules to the BARS reporting system and agencies would have to go in and type those same details for temporary positions which are probably not even accurate because we are guesstimating into the future of what they are going to do. We do budgets and come up with our own estimates but to type it into a document it would be an exercise that would not be accurate.

Vice Chairman Berry: Do you think that a discussion with the prime sponsor would be fruitful?

Kim Molesworth: I have not.

Vice Chairman Berry: Would you be willing?

Kim Molesworth: I would.

Senator Marcellais: You mention in your testimony that you are opposed to the sections of this bill that pertain to temporary employees, do you have any recommendations on how to correct that?

Kim Molesworth: The way the bill is written right now, it is adding in to put in the detail into a budget two years in advance for temporary employees and the agency does come up

with those numbers when we are preparing our budget but we don't go list 57 lines. We just recommended that the bill not be passed based on the temporary employees being included in there. When it mentions the full time employees in there; that work is already being done.

Senator Marcellais: I think they are assuming that the representative is talking about federal.

Chairman Dever: I would like to point out that the sunset date and the effective date listed in the bill are in current Century Code. There is some change taking place with these requirements effective August 1st, and I will have to read more carefully to find out what those changes are. We will need to look at those as a committee.

(49:50) Mark Zimmerman, Director of North Dakota Parks and Recreation

Department: See Attachment #3 for testimony in opposition to the bill.

(52:58) Chairman Dever: Do I understand that you have to, in your budget request for the coming two years, project what you are going to spend on seasonal employees and I would suspect also report what you spent on seasonal employees in the previous two years?

Mark Zimmerman: That is correct. We do report that.

(54:20) Dave Leftwich, Deputy Director for Business Support for the North Dakota

Department of Transportation: See Attachment #4 for testimony in opposition to the bill.

(55:59) Senator Cook: Did you hear my question to Mrs. Sharp earlier and would you like to respond to that (regarding vehicle tags)?

Dave Leftwich: We currently do have about 18 temporary employees working in motor vehicle to help us catch up with that work load. What has hit motor vehicle is that we have a lot of new people moving into the state and we have a lot of people getting license plate

and the workload has increased more than we had expected. We are looking at different methods of outsourcing some of that work to get caught up on that.

Senator Cook: We just moved the bar from 45 days to 75 days - that is where it is going to stay.

Dave Leftwich: We just changed the date for the sticker in the window so that people are not picked up for not having a license plate on in time. We have gotten the time down to 7 weeks.

Vice Chairman Berry: Have you had any communication with the prime sponsor?

Dave Leftwich: We have not but we would be willing to.

Vice Chairman Berry: Maybe we need to sit down and come to an understanding.

Dave Leftwich: We do give explanation for our FTE's in our budget and we also give it to the appropriations committee. Our assumption all along was that appropriation shares that with the rest of the legislature. Maybe that is not the case.

Vice Chairman Berry: So you request a certain amount of money for temporary employees as well?

Dave Leftwich: That is correct. It depends on where our needs are and we adjust.

Senator Nelson: (question on license plates and time not pertaining to the bill)

(1:01:43) Tracy Stein, Human Resource Director, North Dakota Department of

Corrections and Rehabilitation: See Attachment #5 for testimony in opposition to the bill.

(1:06:30) Chairman Dever: You hire people either temporary or permanent and you don't hire them 1 to 5.

Tracy Stein: No, we need people 24/7. We are having trouble finding medical staff.

Chairman Dever: Closed the hearing on HB 1099.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1099
04/09/2013
Job Number 21039

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Dever: Opened HB 1099 for committee discussion. This bill requires agencies to justify what additional FTE's are being requested for.

Senator Schaible: See Attachment #1 for proposed amendments. I am sure the agencies were not in favor of any part of the bill, but they definitely were not in favor in the portion that involved the part time help. The amendments pertain to that portion.

Alan Knutson, Legislative Council: (Explained to the committee what FTE means and what kind of additional information the appropriation committees receive that policy committees do not) It varies by agency as to how detailed the information is that is brought in the budget requests.

(3:10) Senator Schaible: That is exactly the point. The other question is if you get a request for an FTE - that does not tell you the specifics and the concerns that I have is that whether it is policy committee or appropriations, it seems the question we have all the time about FTE's is the justification of that. I have talked to several Appropriations people on the Senate side and this started in Appropriations on the House side and just with that question. It is not intended to hinder our agencies or our departments on over burdensome of planning their budget, but it is just so that when we look to get the nod of approval of expanding FTE's that we understand the position where it came is justified by having

criteria of what they are going to be doing and is the benefit worth what we are going to be paying. In talking to appropriations people, some of them like it the way it is and some of them think that this is a good idea. The intent is to understand what we are approving of in the FTE's.

Chairman Dever: So could this be included along with the fiscal note.

Senator Schaible: I guess - that would be fine. It forces the department when they ask for an FTE to clarify what they are going to be used for and the question I get at home all of the time is the question about expanding governments and what these people are doing. I think it would be good for our agencies to clarify that for us and it would be easier to justify what I am voting on.

Alan Knutson: The section that is being here is the budget request section. It does not force agencies to do anything on the fiscal notes. Through legislative rules we indicate what agencies are to include. We would not need legislation to do that. This section deals with when the agencies are asking for it in their budget request, what they need to include. The last part of the bill is when OMB presents their budget to the legislature, that they need to indication the number of FTE's and those kinds of things.

Chairman Dever: What are the wishes of the committee?

Senator Schaible: Moved the Amendments 13.0309.02001.

Senator Cook: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carries.

Senator Schaible: Moved a Do Pass As Amended.

Senator Cook: Seconded.

Vice Chairman Berry: The question of flexibility is what we heard over and over by the agencies that testified.

Chairman Dever: I think that was related to temporary/part-time positions.

Vice Chairman Berry: I think it was the whole general idea to be able to be flexible. The concern was that it would end up being a paperwork exercise and not actually change what they do because they need to have that ability. They may not always know what they would do.

Senator Schaible: This would force them to clarify that and it would put some burden on that but I think the burden is appropriate when you are requesting more FTE's and the job that they are going to do. I would imagine agencies won't like this somewhat but I think that anywhere else when you plan a budget and include FTE's, in the real world that is essential. Eventually, I think it would improve the whole process.

Senator Nelson: Is there anything in here that would prevent, after this new FTE was hired, them from advancing through the system to other jobs within the agency? Is this FTE assigned to a particular position?

Senator Schaible: The intent is any new employee, so I would say not.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent. Motion Carries.

Senator Schaible: Carrier.

April 4, 2013

JB
4-9-13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1099

Page 2, line 10, remove "or temporary employee"

Page 7, line 17, replace the underscored comma with "and"

Page 7, line 18, remove ", temporary full-time employee positions, and temporary part-time"

Page 7, line 19, remove "employee positions"

Page 7, line 19, replace the underscored comma with "and"

Page 7, line 20, remove the underscored comma

Page 7, line 20, remove "The period of time for which"

Page 7, remove lines 21 and 22

Renumber accordingly

Date: 4/9

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1099

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number B.0309, 02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Schaible Seconded By Senator Cook

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 4/9
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. 1099

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0309.02001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Schaible Seconded By Senator Cook

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Schaible

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

REPORT OF STANDING COMMITTEE

HB 1099, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1099 was placed on the Sixth order on the calendar.

Page 2, line 10, remove "or temporary employee"

Page 7, line 17, replace the underscored comma with "and"

Page 7, line 18, remove ", temporary full-time employee positions, and temporary part-time"

Page 7, line 19, remove "employee positions"

Page 7, line 19, replace the underscored comma with "and"

Page 7, line 20, remove the underscored comma

Page 7, line 20, remove "The period of time for which"

Page 7, remove lines 21 and 22

Renumber accordingly

2013 CONFERENCE COMMITTEE

HB 1099

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1099
4/18/13
Job 21264

Conference Committee

Committee Clerk Signature

Meredith Trauholt

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to agency budget requests and the preparation of budget data.

Minutes:

You may make reference to "attached testimony."

Rep. Kempenich: Called the committee to order and there was a quorum. Will the Senate run through how they amended this bill, and how you think this bill should work?

Sen. Schaible: The idea behind the bill was clarification for all types of employees, to classify them and what they do, and the benefit ratio of each employee. In the hearing, we heard testimony from a lot of agencies with many concerns on the whole bill, but especially with temporary employees. It seemed requiring the request for the information we were asking for was detrimental to how they would be able to project budgets and their flexibility in temporary employment. The Senate thought the best way to proceed was to eliminate the temporary and just look at full-time employment. That's the basic difference between the Senate and House versions.

Rep. Kempenich: When we had it on the House side, the concept was to track. When you're on Appropriations, you do track it better, but the policy committees came in with concerns. It was the intent of the House to have some type of tracking ability. The sponsor wanted to track full-time, part-time, and temporary employment, that was the intent of this. We've talked about how best to manage this on budget bills, too. Temporary dollars become floating dollars to a certain extent when they aren't attached to anything, and that was one of the concerns we were trying to address. It is the reporting part of this coin that is most important, so the legislature is aware of what they are being asked to fund. A lot of temporaries become full-time employees at some point. What the Senate proposed doesn't sound unreasonable.

04:35

Rep. Dosch: You want to remove the temporary part-time and temporary full-time positions? It's my understanding that some departments hire temporary full-time people, but full-time employees are classified as temporary. The temporary part-time I could see. WSI, e.g., I think has about 30 temporary full-time employees.

Sen. Schaible: I believe the original intent was looking at a commitment to somebody that could be 40-60 years. The classification of an employee can be confusing. If it's an employee with benefits and an ongoing contract, maybe that's a better definition of what the intent was. The intent was never to burden an agency so badly that it makes it difficult to do the work they're trying to do, as far as budgeting and projecting a year or two out. In retrospect, when I push the green button to increase FTEs, I want to understand how many noses that really means, and are these going to be benefits that are paid for a very long time. That was the intent. What's the correct language to do that? I'm not positive.

Rep. Kempenich: I've had some conversations with Rep. Schmidt. Is there some language you worked out with him when you were dealing with the bill on the Senate side?

Sen. Schaible: The main point was the full-time employment, that we got that in a position that we could justify that to both houses. We thought that was important enough to move forward. I think it's a good way to start, and if this needs to be expanded, we can do that at a later date. We asked if this was enough to get what we wanted, and I think this addresses our biggest concerns.

08:20

Rep. Kempenich: On Appropriations side, the green sheets do delineate this out. We get into new employees a lot, but we don't get into what the old employees are doing or where they're at, if they've been repositioned or a mission changes. That's always a concern, too. I think for policy part, this would cover things with the report.

Sen. Schaible: You are on Appropriations, so you are more in tune with employment than I am on a policy committee, but Senate Appropriations even has split concerns. FTEs come up frequently in floor debate, and the lack of information can be scary.

Rep. Kempenich: I think that's why the House felt this was something we needed to look at a little harder. We've seen in the past where temporary positions are really permanent, or the employee works quarter-time and gets full-time benefits. There are a lot of issues when you get into how to classify these types of positions. This starts us on the path to clarification. We'd have to see the type of reports we'd get back from the agencies, and then see what we would need to do with it. I'd like to run this past Rep. Schmidt again, because he's been the driver behind this. I think this is something we can probably agree to, to move this forward and see how it works. We'll look into that, and then have another meeting later. With that, we'll be adjourned.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

HB 1099
4/19/13
Job 21324

Conference Committee

Committee Clerk Signature

Meredith Tracholt

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to agency budget requests and the preparation of budget data.

Minutes:

You may make reference to "attached testimony."

Rep. Kempenich: Called the committee to order and there was a quorum; Sen. Berry sat in for Sen. Nelson. Based on our discussion yesterday, I think what the Senate has proposed is a start in this area. Is there any other discussion or conversation needed?

Sen. Schaible moved that the House accede to the Senate amendments, seconded by **Sen. Berry**.

A roll call vote was done, and the motion carried 6 Yes, 0 No, 0 Absent. The committee was adjourned.

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriations

Bill/Resolution No. 1099 as engrossed

Date: 4/19/13

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House Senate Amendments on HJ/SJ page(s) 1397 ..

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1099 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Schaible Seconded by: Sen. Berry

Representatives	4/18		Yes	No		Senators		4/18		Yes	No
	X	X				X	X				
Kempenich (Chair)	X	X	X			Poolman		X	X	X	
Dosch	X	X	X			Schaible		X	X	X	
Guggisberg		X	X			Nelson		X			
						Berry			X	X	

Vote Count Yes: 6 No: 0 Absent: —

House Carrier Rep. Kempenich Senate Carrier Sen. Poolman

LC Number _____ of amendment

LC Number 13.0309.02000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1099, as engrossed: Your conference committee (Sens. Poolman, Schaible, Berry and Reps. Kempenich, Dosch, Guggisberg) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1397 and place HB 1099 on the Seventh order.

Engrossed HB 1099 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HB 1099

HB 1099
1/24/13
Attachment 1

House Bill 1099
House Appropriations Committee
January 24, 2013

Pam Sharp
Office of Management and Budget

I appear before this committee in opposition of House Bill 1099.

Section 2 requires that each agency include in their budget request to the Office of Management and Budget, not only a request for any new full-time employees, (which is current practice) but also a request for any temporary employee positions for the next two years. The agencies must also include documentation justifying the need for the position, describe the circumstances resulting in the need, and identify the number of hours the position will be involved in specific activities and anticipated outcomes of the activities.

I believe this would be extremely burdensome and difficult for agencies to do given that they must consider a three year time frame when they are preparing their budget.

Agencies that utilize temporary positions have an identifiable amount of money in their budget to spend on temporary employees. This pool of money allows them the flexibility to react quickly to workload situations in their agencies to provide the services they are required to provide. It is highly unlikely agencies will know exactly when and the number of and type of temporary employees they will need to employ during the upcoming biennium when they are preparing their budget.

Finally, the bill requires OMB to keep track of permanent full-time positions (which we already do) and report for the previous biennium, the current biennium, and the proposed biennium:

Permanent part-time employee positions
Temporary full-time employee positions
Temporary part-time employee positions

In addition, we must identify the period of time for any proposed new temporary full-time position or temporary part-time position is to be authorized.

All of this will require a large amount of time for OMB agencies to figure out in advance, figure out after the fact, compile and report; with little value to show for it.

Agencies need to be able to react to their workload and unusual situations at the time that situation is happening. This takes away their flexibility.

When agencies prepare their budgets, they indicate the amount of temporary dollars required for the upcoming biennium. Our analysts compare this to what was spent in the previous and current bienniums. If an increase is requested, that increase has to be justified. This is done through discussions with the agency on their workload changes and what has changed that requires more temporary dollars. It is highly unusual to have a significant increase in temporary dollars unless a very unusual situation has occurred.

This bill requires an unnecessary level of bureaucracy and reporting that will not improve the efficiency or effectiveness of state government, but will take flexibility away from state agencies in providing services.



NORTH DAKOTA
Department of Corrections
& Rehabilitation

HB 1099
1/24/13
Attachment 2

Central Office

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Jack Dalrymple, Governor
Leann K. Bertsch, Director

House Appropriations
Representative Jeff Delzer Chairman
House Bill 1099

Mr. Chairman and members of the Committee, I am Tracy Stein, Human Resource Director for the ND Department of Corrections and Rehabilitation (DOCR). I am here today in opposition to HB 1099.

Prior to each legislative session state agencies prepare their budgets requests for submission to the Office of Management and Budget, Governor's office and eventual approval before Legislative Assembly. During the process of preparing the budget requests the DOCR Fiscal Administrators, Managers and other personnel carefully analyze previous trends, project future staffing needs, and determine the funds needed to fulfill those needs. Once finalized, the information is presented to the Appropriations Committees in the Senate and House which is carefully scrutinized by those committee members before final approval by the legislative session. The content changes within HB 1099, in our opinion, create an unnecessary layer of review for internal measures and procedures that are already in place at the agency levels before additional staff and/or additional temporary funds are utilized. Like private businesses, state agencies are cautious to only utilize what's needed and when. Businesses, however, need a certain extent of flexibility in these matters to be able to respond quickly to needs. Bringing these matters to a committee that meets quarterly is not quick enough and if a request were denied, it could be detrimental the ND DOCR and hinders our ability to

protect the public and ensure efficient and safe operations in our facilities and the community.

The DOCR relies on a number of temporary personnel to perform services to provide security and programming for the offenders. Some of our current temporary staff includes a dentist, pharmacy tech, medical director, psychiatrist, mental health administrative support, instructors, surveillance officers, pre-sentence investigators, transport officers, and correctional officers. In one recent case, our Psychologist II working at NDSP retired and we were unable to fill the vacancy after a considerable length of time. One of the responsibilities of that position was to perform clinical supervision of Psychologist Residents employed within the DOCR. In order to fulfill that supervision I was on short notice, able to find and hire a Psychologist from the private sector on an hourly basis to perform clinical supervision for the Psychologist Resident to meet her education requirements requiring the clinical supervision. Psychologists are hard to find but with the ability to retain our Psychologist Residence and “grow our own” psychologist the DOCR meets its needs for providing important programming and providing our agency with a solution to a gap in a specific sector of the workforce.

In 2011 as the flood was overtaking the Missouri River Correctional Center 57 minimum security inmates were housed on the fourth floor of the Administrative Building located at the James River Correctional Center(JRCC) in Jamestown. JRCC immediately requested two full time temporary correctional staff to assist in the security in monitoring those inmates since they could not pull correctional staff from the shifts within JRCC. The request was granted. Temporary personnel provide services for the DOCR to fulfill needs created by external factors such as Court ordered pre-sentence investigations or work associated with increases in the number of offenders sentenced to probation or prison. Another external factor is the high potential for liability when working with inmates. Because of this, it is difficult to obtain contractual services in some of our professional positions such as a Dentist and a Medical Director and in turn

the DOCR started hiring these staff as temporary employees. As a temporary employee these professionals do have protection from liability as an employee of the DOCR and have representation by the Attorney General's office if allegations of misconduct are made by offenders regarding their care by those professional.

Temporary staff fill a void for shift relief and a way to reduce the stress, expense, and potential for burnout when authorized staff are required to work overtime. Authorized personnel may request military leave, annual leave, and extended medical or other FMLA leave which cannot always be controlled or predicted. The DOCR employs and recruits a large number of staff that are in the National Guard for their training and expertise. This increases the amount of military orders and leave taken. We also have a large amount of tenured staff earning more annual leave than new hires so when the DOCR is not provided adequate staffing with authorized positions for our shifts we need to supplement that gap with temporary staff, at times, on short notice. Employing temporary correctional officers can occur at almost any time though-out a year. This process has been beneficial for our agency because it also enables us to have a pool of trained and knowledgeable applicants when authorized FTE vacancies occur in our security positions. Temporary correctional officers can laterally transfer into those vacancies fully trained. A minimal delay in recruiting, posting, filling, and training of personnel means safer institutions and communities.

Offenders greatly outnumber DOCR staff at any given time in our correctional facilities and in the community. Having a plan that orchestrates the proper placement and functioning of all staff at all times so that no one gets hurt, escapes, or reoffends is no small accomplishment! In our current process, budget request are reviewed by the legislature, temporary monies are granted and I do know that managers within the DOCR act conservatively when requesting temporary help in their work units. Dave Krabbenhoft, our Administrative Services Director analyzes those requests for additional temporary help based on funds available in our budget. The DOCR manages its budget with fiscal prudence and we feel that the additional process of documenting the need for temporary positions and circumstances underlying that request to

the Emergency Commission would create delays that will hinder the services provided by the DOCR. This process is already being accomplished through the Legislature and authorized vacated positions are being analyzed by the Hiring Council.

I strongly recommend **a do not pass vote** on the content changes within HB 1099.

Mr. Chairman and committee members this concludes my testimony. If you have any questions, I would be happy to answer them at this time. Thank you for your time.

**Testimony
House Bill 1099
House Appropriations
Representative Delzer, Chairman
January 24, 2013**

Chairman Delzer, members of the House Appropriations Committee, I am Maggie Anderson, Interim Executive Director for the Department of Human Services (Department). I am here today to testify in opposition to House Bill 1099.

The Department opposes this bill as it relates to temporary positions. Given the scope of services provided by the Department, it is extremely difficult to predict two years in advance how many temporary positions will be needed and for what purpose. The Department budgets for temporary positions based on current and expected needs. Sometimes needs present outside of those expected when the budget is built.

Examples of temporary staff needs include:

- **Retirees who come back to work on a part-time, time-limited basis** - Former employees are a valuable resource to the Department, particularly in hard-to-fill positions.
- **Medicaid claims processing** - When providers submit claims to be paid, temporary staff assist with processing claims so payments to providers can be made in a timely and accurate manner.
- **Interns** - The Department supports and has utilized the State of North Dakota Internship Program which has been helpful in filling vacancies.

- **Flooding/natural disasters** - The Department has employed crisis counselors to help residents and clients who have been affected by flooding or other natural disasters.
- **24/7/365 staffing** - Temporary staff are used in many of our 24-hour residential operations, particularly covering evening and weekend shifts.

As of December 31, 2012, the Department had approximately 100 temporary staff. While that number fluctuates on a monthly basis, it has remained fairly consistent over the past several years. The Department has a process in place whereby the creation of a temporary position occurs only when necessary, and through review at various levels within the organization.

The Department, by its very nature, must react to client needs as well as community and societal issues. The ability to hire temporary staff when needs present assists us in fulfilling our mission.

House Bill 1099 would severely impact our ability to serve clients and residents of North Dakota.

This concludes my testimony. I would be happy to answer any questions you might have.



House Appropriations Committee
Testimony on HB 1099

North Dakota Game and Fish Department
Kim Molesworth, Chief Administrative Services Division
January 24, 2013

Mr. Chairman and members of the House Appropriations Committee, my name is Kim Molesworth, Chief of the Administrative Services Division of the North Dakota Game and Fish Department. I am testifying today in opposition of HB 1099.

We oppose the sections of this bill that pertain to temporary employees. The bill requires that any request for temporary employees should be included in agency budget estimates for the next two fiscal years and must include detailed documentation justifying the need for the temporary position. The documentation must describe the need for the position, the number of hours the position will be involved in specific types of activities and the anticipated outcomes.

The department employs full time and part time temporary employees and up to 50 seasonal employees for approximately 3-6 months per year at 40 hours per week. Our full time and part time temporary employees are routine positions and it would be possible to detail them in the agency budget for the next biennium. Our concern is with our department's seasonal temporary employees. In our licensing section, seasonal temporary employees are hired May through August to help during peak hunting license sales and lotteries. The majority of our seasonal temporary employees are needed in each district office throughout the state for the fisheries and wildlife divisions. The number of seasonal temps for these two divisions has ranged from 38 to 47 positions in the last three years. The fisheries and wildlife divisions have a specific field season to get needed work accomplished. Circumstances out of our control, such as weather, can dictate a change in the need or location for temporary staffing. Depending on a variety of conditions, the majority of these temporary positions have a considerable amount of flexibility. For example, if an individual who is hired for a seasonal position is a recent college graduate and is available for continued employment, there may be continued work available due to a unique fall field project, a demand for continued noxious weed control through the fall months, or severe weather which is causing extra work load relating to deer depredation. All of these situations are highly variable and are not predictable. Losing this hiring flexibility would be costly to our department.

The ability to project in detail the needs for the next biennium for each division, the specific type of activity and the number of hours for each temporary employee would be difficult and lack accuracy due to unpredictability. It would limit the department's flexibility to hire temporary staff as needed to adjust to circumstances that affect our department workload. The current system works well for the department and provides us with the needed flexibility to meet the constantly changing needs of our department.

As this bill is written, by having to request approval for additional temporary positions from the budget section, which only meets quarterly, will hamper our ability to effectively perform our management goals, for example on boat ramps and wildlife management areas, in a timely manner since sometimes the window of opportunity is short (i.e. high water/low water).

We respectfully ask for a DO NOT PASS on HB 1099 as written. This concludes my testimony.

House Appropriations Committee

January 24, 2013 – 9:00 a.m.

Roughrider Room

**North Dakota Department of Transportation
Dave Leftwich, Deputy Director for Business Support**

HB 1099

Mr. Chairman and members of the House Appropriations Committee, my name is Dave Leftwich and I am the Deputy Director for Business Support for the North Dakota Department of Transportation (DOT.)

The DOT opposes HB 1099 as it relates to temporary employment. HB 1099 requires that any request for temporary employees should be included in agency budget estimates for the next two fiscal years and must include documentation justifying the need for the temporary position. Agency budget data must include the number of temporary positions authorized for the previous biennium, the current biennium, and the proposed next biennium. The period of time for which any proposed new temporary position is authorized must also be identified.

The DOT depends greatly on temporary employees to fulfill the essential mission of the Department. Temporary employees are utilized statewide and in a variety of divisions including; Construction, Maintenance, Legal, Drivers License and Motor Vehicle, Human Resources, and State Fleet. Workloads in these areas vary based on seasonal needs, weather, emergencies, and a fluctuating demand for services. Seasonal needs depend on the progress of construction projects and if they are all going on at once or if they are spread out over the construction season. The weather can affect if we need additional help in the winter for snow removal or in the spring to fix roadway break-ups. Emergencies, such as flooding, may require us to hire flaggers within a short time frame. Service levels, such as changes in Motor Vehicle requirements, could also cause us to hire additional temporary employees.

Our need for temporary employees has varied greatly in the past. Since January 2011, our use of temporary employees has ranged from 84 to 118 employees at any one time.

Based on these variations, it would be very difficult to project with any accuracy the location for temporary employees within the Department two to four years into the future. The current system works well for the Department and provides us with the needed flexibility to meet the constantly changing needs for public service.

Thank you Mr. Chairman, This concludes my testimony.

Engrossed House Bill 1099
Senate Government and Veteran's Affairs Committee
March 15, 2013

Pam Sharp
Office of Management and Budget

I appear before this committee in opposition to Engrossed House Bill 1099.

Section 2 requires that each agency include in their budget request to the Office of Management and Budget, not only a request for any new full-time employees, (which is current practice) but also a request for any temporary employee positions for the next two years. The agencies must also include documentation justifying the need for the position, describe the circumstances resulting in the need, and identify the number of hours the position will be involved in specific activities and anticipated outcomes of the activities. This would be extremely burdensome and difficult for agencies to do given that they must consider a three year time frame when they are preparing their budget.

Agencies that utilize temporary positions have an identifiable amount of money in their budget to spend on temporary employees. This pool of money allows them the flexibility to react quickly to workload situations in their agencies to provide the services they are required to provide. It is highly unlikely agencies will know exactly when and the number of and type of temporary employees they will need to employ during the upcoming biennium when they are preparing their budget.

Finally, the bill requires OMB to keep track of permanent full-time positions (which we already do) and report for the previous biennium, the current biennium, and the proposed biennium:

- Permanent part-time employee positions
- Temporary full-time employee positions

Temporary part-time employee positions

In addition, we must identify the period of time for any proposed new temporary full-time position or temporary part-time position is to be authorized.

All of this will require a large amount of time for OMB and state agencies to figure out in advance, figure out after the fact, compile and report; with little value to show for it.

Agencies need to be able to react to their workload and unusual situations at the time that situation is happening. This bill takes away their flexibility.

When agencies prepare their budgets, they indicate the amount of temporary dollars required for the upcoming biennium. Our analysts compare this to what was spent in the previous and current bienniums. If an increase is requested, that increase has to be justified. This is done through discussions with the agency on their workload changes and what has changed that requires more temporary dollars. It is highly unusual to have a significant increase in temporary dollars unless a very unusual situation has occurred.

This bill requires an unnecessary level of bureaucracy and reporting that will not improve the efficiency or effectiveness of state government, but will take flexibility away from state agencies in providing services.

I urge a Do Not Pass on this bill.



Senate Government and Veterans Affairs Committee
Testimony on HB 1099

North Dakota Game and Fish Department
Kim Molesworth, Chief Administrative Services Division
March 15, 2013

Mr. Chairman and members of the Senate Government and Veterans Affairs Committee, my name is Kim Molesworth, Chief of the Administrative Services Division of the North Dakota Game and Fish Department. I am testifying today in opposition of HB 1099.

We oppose the sections of this bill that pertain to temporary employees. The bill requires that any request for temporary employees should be included in agency budget estimates for the next two fiscal years and must include detailed documentation justifying the need for the temporary position. The documentation must describe the need for the position, the number of hours the position will be involved in specific types of activities and the anticipated outcomes.

The department employs full time and part time temporary employees and also up to 50 seasonal employees for approximately 3-6 months per year at 40 hours per week. Our full time and part time temporary employees are routine positions and although cumbersome, it would be possible to detail them in the agency budget for the next biennium. Our main concern is with our department's seasonal temporary employees. The majority of our seasonal temporary employees are needed in each district office throughout the state for the fisheries and wildlife divisions. The number of seasonal temps for these two divisions has ranged between 38 to 47 positions in the last three years. The fisheries and wildlife divisions have a specific field season to get needed work accomplished. Circumstances out of our control, such as weather, can dictate a change in the need or location for temporary staffing. For example, on boat ramps sometimes the window of opportunity is short (i.e. high water/low water). Depending on a variety of conditions, the majority of these temporary positions have a considerable amount of flexibility. For example, if an individual who is hired for a seasonal position is a recent college graduate and is available for continued employment, there may be continued work available due to a unique fall field project, a demand for continued noxious weed control through the fall months, or severe winter weather which is causing extra work load relating to deer depredation. All of these situations

are highly variable and are not predictable. Losing this hiring flexibility would be costly to our department and hamper our ability to effectively perform our management goals.

The ability to project in detail the needs for the next biennium for each division, the specific type of activity and the number of hours for each temporary employee would be difficult and lack accuracy due to unpredictability. It would limit the department's flexibility to hire temporary staff as needed in order to adjust to circumstances that affect our department workload. The current system works well for the department and provides us with the needed flexibility to meet the constantly changing needs of our department.

We respectfully ask for a DO NOT PASS on HB 1099. This concludes my testimony.

NORTH DAKOTA PARKS AND RECREATION DEPARTMENT

TESTIMONY

HB 1099

Friday, March 15, 2013

Mr. Chairman and members of the Senate Government and Veterans Affairs Committee, I am Mark Zimmerman, Director of North Dakota Parks and Recreation Department. I appear before this committee in opposition of HB 1099. Please allow me to provide a few examples of how the requirements of this legislation would negatively impact our Department.

In the past five years, 2009-2012, the Parks and Recreation Department has hired an average of 150 seasonal employees each season. These positions include seasonal rangers, maintenance supervisors and maintenance staff, entrance station aides, interpreters and administrative assistants. Although each of these positions has its specific responsibilities, its common to cross-train staff to handle multiple duties during peak visitation periods. It would be a difficult and cumbersome requirement to maintain records for these overlapping duties and precise time spent in the various jobs.

Consideration should also be given to the scenario of a seasonal employee terminating early in the season to participate in a college sport or register for a pre-Labor Day return to school. This then requires the hiring of additional seasonal employees to complete the summer season. Often times these personnel changes develop quickly and require immediate action to maintain the level of service expected at our state parks.

Another consideration is that several times during a biennium the Department has the need and opportunity to employ a seasonal/temporary employee to assist with special projects such as finishing a construction project before the onset of winter, filling in for an injured full time employee or working extra duties to meet increased visitation and usage of the parks and recreation areas.

It would be difficult, at best, and severely inefficient, at worst, to project a number of temporary/seasonal employees, estimate hours and wages and quantify the results of these efforts 2 years in advance.

North Dakota Parks and Recreation Department works to tailor the hiring of seasonal and temporary employees on an "as needed" basis for each park and division. The Department views the requirements of this legislation as unnecessary and potentially adverse to the mission of the Department. North Dakota Parks and Recreation asks for a DO NOT PASS on HB 1099.

Senate Government and Veterans Affairs Committee

March 15, 2013 - 9:20 a.m.

Missouri River Room

North Dakota Department of Transportation
Dave Leftwich, Deputy Director for Business Support

HB1099

Mr. Chairman and members of the Senate Government & Veterans Affairs Committee, my name is Dave Leftwich and I am the Deputy Director for Business Support for the North Dakota Department of Transportation (DOT).

The DOT opposes HB1099 as it relates to temporary employment. HB1099 requires that any request for temporary employees should be included in agency budget estimates for the next two fiscal years and must include documentation justifying the need for the temporary position. Agency budget data must include the number of temporary positions authorized for the previous biennium, the current biennium, and the proposed next biennium. The period of time for which any proposed new temporary position is authorized must also be identified.

The DOT depends greatly on temporary employees to fulfill the essential mission of the Department. Temporary employees are utilized statewide and in a variety of divisions including; Construction, Maintenance, Legal, Drivers License and Motor Vehicle, Human Resources, and State Fleet. Workloads in these areas vary based on seasonal needs, weather, emergencies, and a fluctuating demand for services. Seasonal needs depend on the progress of construction projects and if they are all going on at once or if they are spread out over the construction season. The weather can affect if we need additional help in the winter for snow removal or in the spring to fix roadway break-ups. Emergencies, such as flooding, may require us to hire flaggers within a short time frame. Service levels, such as changes in Motor Vehicle requirements, could also cause us to hire additional temporary employees.

Our need for temporary employees has varied greatly in the past. Since January 2011, our use of temporary employees has ranged from 84 to 118 employees at any one time.

Based on these variations, it would be very difficult to project with any accuracy the location for temporary employees within the Department two to four years into the future. The current system works well for the Department and provides us with the needed flexibility to meet the constantly changing needs for public service.

If you have any questions, I'll be happy to respond to them.



NORTH DAKOTA
**Department of Corrections
& Rehabilitation**

Attachment #5

Central Office

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Bismarck, ND 58502-1898

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TDD 1-800-366-6888 • TTY Voice 1-800-366-6889

Jack Dalrymple, Governor
Leann K. Bertsch, Director

Senate Government and Veterans Affairs
Senator Dick Dever Chairman
House Bill 1099

Mr. Chairman and members of the Committee, I am Tracy Stein, Human Resource Director for the ND Department of Corrections and Rehabilitation (DOCR). I am here today in opposition to HB 1099.

Prior to each legislative session state agencies prepare their budgets requests for submission to the Office of Management and Budget, Governor's office and eventual approval before the Legislative Assembly. During the process of preparing the budget requests the DOCR Fiscal Administrators, Managers and other personnel carefully analyze previous trends, project future staffing needs, and determine the funds needed to fulfill those needs. Once finalized, the information is presented to the Appropriations Committees in the Senate and House which is carefully scrutinized by those committees before final approval by the legislative session. The proposed amendment changes on the second page, lines 12-15 within HB 1099, in our opinion, create an unnecessary layer of review for internal measures and procedures that are already in place at the agency levels before additional staff and/or additional temporary funds are utilized. Like private businesses, state agencies are cautious to only utilize what's needed and when.

The DOCR relies on a number of temporary personnel to perform services to provide security and programming for the offenders. Some of our current temporary staff include a dentist, pharmacy tech, medical director, psychiatrist, mental health, administrative support, instructors, surveillance officers, pre-sentence investigators,

transport officers, and correctional officers. Identifying the number of hours and activities that each one of these positions will be involved with during the building of the budget can be a moving target because of unforeseen circumstances that arise with staff positions in the DOCR though-out a year. In one recent case, our classified Psychologist II working at NDSP retired and we were unable to fill the vacancy after a considerable length of time. One of the responsibilities of that position was to perform clinical supervision of Psychologist Residents employed within the DOCR. In order to fulfill that supervision, on short notice, I was able to find and hire a Psychologist from the private sector on an hourly basis to perform clinical supervision for the Psychologist Resident to meet her education requirements requiring the clinical supervision. Psychologists are hard to find but with the ability to retain our Psychologist Residence and "grow our own" psychologist the DOCR meets its needs for providing important programming and providing our agency with a solution to a gap in a specific sector of the workforce.

In 2011 as the flood was overtaking the Missouri River Correctional Center 57 minimum security inmates were housed on the fourth floor of the Administrative Building located at the James River Correctional Center (JRCC) in Jamestown. JRCC immediately requested two full time temporary correctional staff to assist in the security in monitoring those inmates since they could not pull correctional staff from the shifts within JRCC. The request was granted. Temporary personnel provide services for the DOCR to fulfill needs created by external factors such as Court ordered pre-sentence investigations or work associated with increases in the number of offenders sentenced to probation or prison. Another external factor is the high potential for liability when working with inmates. Because of this, it is difficult to obtain contractual services in some of our professional positions such as a Dentist and a Medical Director and in turn the DOCR started hiring these staff as temporary employees. As a temporary employee these professionals do have protection from liability as an employee of the

DOCR and have representation by the Attorney General's office if allegations of misconduct are made by offenders regarding their care by those professional.

Temporary staff fill a void for shift relief and a way to reduce the stress, expense, and potential for burnout when authorized staff are required to work overtime. Authorized personnel may request military leave, annual leave, and extended medical or other FMLA leave which cannot always be controlled or predicted by managers. The DOCR employs and recruits a large number of staff that are in the National Guard for their training and expertise. This increases the amount of military orders and leave taken. We also have a large amount of tenured staff earning more annual leave than new hires so when the DOCR is not provided adequate staffing with authorized positions for our shifts we need to supplement that gap with temporary staff, at times, on short notice. Employing temporary correctional officers can occur at almost any time though-out a year. This process has been beneficial for our agency because it also enables us to have a pool of trained and knowledgeable applicants when authorized FTE vacancies occur in our security positions. Temporary correctional officers can laterally transfer into those vacancies fully trained.

Offenders greatly outnumber DOCR staff at any given time in our correctional facilities and in the community. Having a plan that orchestrates the proper placement and functioning of all staff at all times so that no one gets hurt, escapes, or reoffends is no small accomplishment! In our current process, budget request are reviewed by the legislature, temporary monies are granted and I do know that managers within the DOCR act conservatively when requesting temporary help in their work units. Dave Krabbenhoft, our Administrative Services Director analyzes those requests for additional temporary help based on funds available in our budget.

I strongly recommend **a do not pass vote** on the content changes within HB 1099. Mr. Chairman and committee members this concludes my testimony. If you have any questions, I would be happy to answer them at this time. Thank you for your time.

13.0309.02001
Title.

Prepared by the Legislative Council staff for
Senator Schaible

April 4, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1099

Page 2, line 10, remove "or temporary employee"

Page 7, line 17, replace the underscored comma with "and"

Page 7, line 18, remove ", temporary full-time employee positions, and temporary part-time"

Page 7, line 19, remove "employee positions"

Page 7, line 20, remove "The period of time for which"

Page 7, remove lines 21 and 22

Renumber accordingly