

2017 HOUSE JUDICIARY

HB 1397


2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1397
2/6/2017
27929

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

Attachment 1-4

Chairman K. Koppelman: Opened the hearing on HB 1397. Roll call was taken. Have a quorum.

Rep. N. Toman: Introduced HB 1397. (Attachment 1) Passed out NCSL Research. (3:00) HB 1397 is a prohibition on state agency and the executive branch agencies introducing bills on their own behalf into the state legislature. Open for questions.

Rep. Maragos: Do you know how many states listed here meet biennially or do not meet continual session?

Rep. Toman: I don't recall.

Chairman K. Koppelman: There are four states that meet biannually; we are one of only four. It used to be all of them.

Representative Klemin: What is the rational for this bill?

Rep. Toman: The House and Senate are the lawmakers. The interest is to take back that power and agencies can draft legislation but they need to find a committee or a legislator to sponsor it for them; just like the general public does.

Chairman K. Koppelman: Have we had a problem here in ND with them introducing bills?

Rep. Toman: I don't know that you would classify it as a problem but it is a separation of powers issue to me. That is why brought it forward.

Rep. Nelson: On the interim this year, we had over 3,000 pages of administrative rules which have the force of law, where the administrative agencies don't submit a bill to this.

They actually write law. Isn't it really a better control on the executive branch to have them submit a bill to the entire body rather than the process that we go through in the interim? They have more control in that and if you dot this you are actually pushing they to write more administrative law?

Rep. Toman: We have given them the power to write administrative law within the purview of century code and I don't think that would be the case. It's is an idea that sponsor either a committee or legislator would do their homework and accept it based on its merits, not based on the work load.

Rep. Hanson: In the first page of your research that you handed out, (attachment 1) you listed all the non-legislative entities that can directly introduce legislation; are all of those currently able to introduce legislation in ND today including state boards and commission and lobbyists in our state?

Rep. Toman: Boards and commissions cannot unless they go through an agency or committee or a legislator.

Rep. Klemin: Do you have any statistics from this session about the bills that have been introduced by agencies and judicial branch?

Rep. Toman: Statistics as in number of bills?

Rep. Klemin: Yes, I heard that we had 805 bills introduced and of those how many were introduced by agencies? Representative Michael How many were introduced by agencies? by judicial branch?

Rep. Toman: I do not have that information at my fingertips. I would say that in the interim, the intent of this bill is that they do have the ability to go to those committees much like the administrative rules and pitched their ideas so to speak so that they have roughly 18 months to get their legislation done so they don't have to do it on their own. They can go do it on their own to get the committee to sponsor or not sponsor it.

Chairman Koppelman: In my time here I have noticed that there are certain agencies that seem to have a practice even though in ND, they have this authority that your bill deals with. There are a few agencies that have made it a regular practice to come to the legislators and ask them to introduce bills that agency might want. Yet, as you point out, not common or certainly universal. Have you talked with any agencies to get a sense for why some do that and some don't?

Rep. Toman: I have not but I do appreciate that as a legislator that there are a couple or more so are doing that good, because then the legislator doesn't just set it down and say here's a bill that I introduced. Hopefully they don't.

Rep. Maragos: What we propose to take back an authority something that we gave to the executive branch. Did you do any research on why we gave it to them in the first place?

Rep. Toman: I did not; I hope it wasn't because we were not wanting to do the work but that was before my time.

Chairman Koppelman: I did check into the question regarding allowing the executive branch agencies or other branches of government from any other state to introduce legislation in the legislative branch. The response that I got was that ND was the only state that permits executive agencies or the supreme court to introduce bills with the exception of states in which the governors submits the budget. They went on to talk about an issue in Massachusetts; they have a rite of free petition by which any citizen can have a bill introduced and dates back to 1600's and appears in the Commonwealth's Constitution of 1780.

Representative Hanson: Many states allow one body, so if they are a bicameral body then perhaps the senate or the house or the judicial branch can introduce legislation.

Chairman Koppelman: Yes, I haven't digested the NCSL memo as yet.
Further testimony in support of HB 1397. Any testimony in opposition to HB 1397?

Jared D. Hendrix: Citizen, Bismarck, ND: He presented testimony (Attachment 2). If the executive branch can write law, why do we have need of the legislature? (12:14) Who is responsible for bills that are passed? When you have a legislator who puts their name on a bill, they are accountable to that bill. If there are questions regarding legislation, they surely should have the option of asking a legislator to introduce the bill. The 2015 Session there was about 12% of the bills were agency introduced bills. In this session looks to be in the same range. At the end of my testimony, (Attachment 2), I added a personal preference to amend this bill with stronger language and in support of the bill, I urge you to "Do Pass".

Rep. Satrom: Are you aware of any problems or abuses?

Jared Hendrix: To me it is sort of an element of democracy that all of you work very hard to run for office and get elected. From the position of the people from the citizens, we want somebody to be accountable for the laws that we live under. The problem is that somebody submitting or requesting a draft who is a state employee who is not elected by the people is therefore less accountable.

Rep. Paur: I can think of a good reason why a legislative management bill should have a specific sponsor but can you tell me your reason?

Jared Hendrix: Individual legislators will put their name on a bill and be accountable to it and it also creates an incentive where if the ideas brought to them, something that is important to you, you will do the work necessary to be the best advocate possible for it

Rep. Paur: ND legislature works really well with the bureaucracies and the agencies. I have been impressed in this committee at a lot of the bill cleanup that I've seen coming in from the agency people where they have gone through and found wording and consistencies in the laws that we have passed. In Wyoming, my home state, we did not have that coordination and I can see a huge benefit when it happens.

Jared Hendrix: Yes, that cooperation is important and it does happen here. Nothing in this proposed legislation would prohibit that relationship from continuing. You can still. As a

committee, request insider information or clarification from representatives from state agencies.

Rep. Paur: There should be a healthy tension between the different branches of government because it counterbalances, do you think?

Rep. Jones: I really appreciate your bringing this in support of this bill. What I have seen is that often agencies will do what is good for the agencies. Sometimes there are things that come forward that good for them that's not good for the people. We represent the people.

Rep. Nelson: You are saying that the separation of powers is the writing of law, but when a agency submits a bill, that's not writing law. That is submitting a bill. We work on it and we write the law. But the administrative rules process they write law. Wouldn't your real argument be against the administrative rules process and not against agencies submitting bills?

Jared Hendrix: I would say not. They are not inclusive from one another.

Rep. Vetter: That would include the governor submitting his budget proposal, as far as the bills that go along with it, is that correct?

Jared Hendrix: This bill, as I understand it, exempted anything that relates to the budget.

Chairman K. Koppelman: Directing his question to the bill's sponsor, Rep. Toman; there is a reference to a judicial budget; the bill refers to 54441.106; 5444.106.1; 5444.107. On lines 11-13 of the bill, it talks about the judicial budget requested. Is that in one of those other sections or was you intent to eliminate that option?

Rep. Toman: I could look that up for you. I think it would be good to take back the budgetary reins with 0 base budgeting and the governor's statements in his campaign and address that we tend to agree with.

Chairman K. Koppelman: Some of this is happening this session I might add. I ask for your testimony and support of HB 1397.

Kim Badenhop; (23.25) is representing herself as a citizen and tax payer. When I learned about this bill, and today's discussion, I wanted to come forward and speak to encourage those of you in the legislature to have more responsibility and authority and not let the executive branch have more authority than you do. When encountering issues and taking them to state agencies, House and Senate, and executive branch, it has become very clear to me that the executive branch is much more powerful than the legislative branch. We clearly do our work in keeping you all representing us but sometime it is not the case. Many of us citizens would like all of you in the legislative branch to have a stronger voice and to be more balanced with the executive branch that your currently are.

Rep. Jones: I have ended up here just for that very reason that you have just stated. I believe that the people need really strong representation. We can't control it through one means; we need to learn how to use the budget etc.

Chairman K. Koppelman: Any further testimony in support of HB 1397?

Rep. Toman: I looked those numbers up for you and they do deal with OMB and the governor's budget.

Chairman K. Koppelman: Is there testimony in opposition to H B 1397?

Grant Levi: Director of the North Dakota Department of Transportation Department:
The Department of Transportation opposes HB 1397. (Attachment 3) 25.56 – 3237

Chairman K. Koppelman: Is there a reciprocal process in state government among the branches that I am not aware of. I have called your office about a concern about a transportation issue and I have done that. I agreed early on that agencies in the executive branch working with very well. I can walk down the hall and talk to the chief justice about a judicial matter. I value greatly that interaction and interplay in our state. The sponsor of this bill is approaching in a constitutional perspective. There is no authority for a legislator to come into another branch of government and submit something that otherwise can be done through your agency.

Grant Levi: Our agency brings a bill for your consideration. We consider what changes you are asking of us and we look into what it would mean to us; we do that out of respect for relationship. We are allowed to bring a bill to you for your consideration. Ultimately, you decide. We are here to listen and look for ways to become more efficient and effective. It has brought us to much change as a state agency.

Chairman K. Koppelman: Would it be a burden in your mind if the process would to change in such a way that you would need to get a legislator's name on a bill? No one else can introduce a bill in a legislature of any state other than legislators and no one can in North Dakota except executive branch agencies and the judiciary. It is a unique mix.

Grant Levi: North Dakota has always prided itself in doing business in 80 days every 2 years. We believe it is more efficient

Chairman K. Koppelman: Would we put a disclaimer on the bill?

Grant Levi: I would question the need for that?

Rep. Jones: In Wyoming the agencies cannot introduce bills when they come lobby bills. They can come in and answer questions. There is a lot more tension between the agencies. So you understand that the legislators are wanting to make sure that we retain the control of the legislation from the beginning to end?

Grant Levi: In no way do I believe that we are affecting your ability to make a decision when we are introducing a bill. I respect that you have an independent decision-making process. You see things on many occasions differently than what we may. That is what makes this process work so well. I have spent many hours in front of you and I never know what to expect from your committee.

Rep. Jones: My concern is death by fiscal note. I am concerned for the people I represent. I like this piece of legislation. Are you looking into the fiscal notes?

Grant Levi: I appreciate your concerns. A fiscal note only occurs when there is a request from the legislative body. When it comes to us, our job is to give you the most honest assessment of costs that are associated with it. We can disagree when we follow national standards in these instances. Our best professional judgement is used to put them together at any point in time we submit one a legislator or the legislative body; we stand up and defend why we put it together.

Rep. Hanson: You mentioned the concept of the agency efficiency. ND legislature meets 80 days every biennium. The members of the legislature don't have staff. Can you compare how legislatures in other states might go about diving into an issue?

Grant Levi: When I work with other states many of them have legislators and they have committee and committee structure to take a lot of time and put in a lot of time to put things all together in preparation for introducing bills.

Chairman K. Koppelman: SD constitution has a shorter timeframe than we have. They have gone to annual sessions and 60-day timeframe. They have term limits. How does it work there? How do they manage if the agency cannot introduce bills?

Grant Levi: I have not had a discussion with our SD counterpart on this. Your legislative counsel has done all kinds of things on that.

Chairman K. Koppelman: You said you do not issue a fiscal note, unless requested?

Grant Levi: A fiscal note comes in and is brought forward. There are rare occasions we will contact them if we have concerns. We will contact them and bring it up to the chairman of that committee to make them aware. It come through legislative council and we have a contact that we have established in our agency who basically takes the lead.

Chairman K. Koppelman: Do you give head ups if you see a bill is going to cost money, should we have a fiscal note on this or does it come the other way?

Grant Levi: Typically I work with bill sponsors or the chair committee.

Rep. Johnson: Under the current system doesn't it seem like their needs are secondary to a state employee? Wouldn't it be just as effective and efficient for them to bypass legislative sponsorship and introduce bills on their own as we well?

Grant Levi: Yes that is a good question. The House is the peoples chamber and you work closely with constituents. I have seen many bills introduced on behalf of listening and working closely with the people. I believe the process we have in place is the most efficient one for the reasons I have stated.

Chairman K. Koppelman: Further testimony in opposition for HB 1337.

Maggie Anderson, Dept. of Human Services: I am here in opposition to HB 1397. We carefully consider agency legislation before we bring it forward. HB 1135 proposes to consolidate the employment of people with disabilities with the rehabilitation council and that is a bill that came forward because of that. HB 1134 helped us to be concerned with the bills that go forward use "People first language." The is language that refers to human beings within the Human Services code is this language. HB 1136 was the bill that help us to review our chapters of code, the largest being Chapter 5006, and that resulted in HB 1136. All have been heard and passed in the House. HB 1120 were similar in going forward. The first section of the bill was a cleanup; there was a clarification we wanted to make sure was in code that had to do with the comparison of brand name and generic drugs. We were given the authority between brand and generic but not between generic and brand. The committee asked us if we had that authority. We wanted to make sure it was clear. We didn't want anyone to question whether we were misappropriating our authority. Psychotropic drug us was another concern we wanted clarity for administrating to children that are on Medicaid which brought much needs policies changes through working together and passed through the House. There was no written testimony from Maggie Anderson 51.08

Chairman K. Koppelman: These federal rules you were talking about; how do the other states survive. They have to go and find a legislator and sponsor a bill, is that correct?

Maggie Anderson: I do not have this kind of communication with my counterparts whether they introduce bills etc. What I do know is that they have full time legislators and staff to share the responsibilities and you do not have full time staff who work on particular issues for your committee.

Chairman K. Koppelman: Is there further discussion on opposition to HB 1397?

Aaron Webb: Ass't. Commissioner, Department of Financial Institutions. I am here in opposition to HB 1397. We are an agency that regulates banks, credit unions, trust companies, and other depository and non-depository institutions. Our department reviews and applies a lot of laws within the state on a daily basis. Based on our understanding and familiarity of these laws and their applications and their interconnectivity with federal laws, as well as the industries that we charter and license, we are capable and well-suited to draw up and introduce legislation on their behalf. Our department regularly views all the laws that apply to our industries and we insure that they are adequate, consistent and relevant at every session. The staff includes examiners, at times the state banking board and the state credit union board. They examine and amend to get a good quality product to introduce. We share with our legal counsel and the attorney general's office. We also bring it to the governor's office. Most importantly, we meet with the industries that we regular at well and discuss the legislation. They have this opportunity to bring up issues that they have which can lead to amendments that suit the industry as well. We all meet at the place of understanding what the content is designed to accomplish. Our agency is accredited as a bank credit union and a mortgage regular. We have a team that comes out and looks at our creditability, our capabilities as a financial regulator and applies best practices of the regulators across the nation and other agencies similar to us. And one such best practice included in every one of our accreditations is our ability to introduce a bill appropriate legislation to impact our industries. Also we are involved in our legislative process.

Chairman K. Koppelman: Are there questions for Mr. Webb.

Rep. Klemin: Why are you accredited? Who is doing it?

Aaron Webb: We are accredited through various trade associations that represent regulators across the nation. One of them is the Conference of State Bank Supervisors. They put together an accreditation manual and then they have examiners come out and look at look at us as an agency to determine that we meet the standard of all other regulators across the nation. We get the benefit of seeing what works in all the different state and what doesn't work.

Representative Klemin: If they didn't accredit you we would still have a Department of Financial Institutions.

Aaron Webb: You are right. We have credibility at the national level; they know that we are going our job as well as credibility to the public. They know that their state is being regulated in a safe and sound manner. It gives credibility to our regulatory oversight as well as other regulators to combine and work together with them to create efficiencies.

Rep. Johnston: I think the scrutiny of your department is a good thing. Would that suddenly go away were there not occur if you had to seek a legislator sponsor?

Aaron Webb: It wouldn't go away. But it would add another layer that we would have to follow; we feel we have a rather robust review process where we involve all parties to that legislation because it is industry that we are regulating and we meet with them on a regular basis. We feel that all parties have had a chance to discuss our legislation. It is another piece; another step.

Chairman K. Koppelman: In the other 49 states that do not allow agencies in the executive branch to introduce legislative that those counterparts are accredited and just the process is different?

Aaron Webb: I was not aware of other states. I am assuming that the accreditation team will take into account whatever lies on the books. I just know that we get a very high rating because we are very actively involved and were able to introduce legislation.

Chairman K. Koppelman: In the end process the final stage is that it is reviewed by the Governor's office? Is that the case with other agencies as well?

Aaron Webb: That gives the executive branch more credibility at the national level.

Chairman K. Koppelman: Further testimony to HB 1397? Is there any neutral testimony to HB 1397?

Hearing closed.

Handout out later (Attachment 4) Brenda Erickson testimony.

2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1397
2/13/2017
298259

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

1

Chairman K. Koppelman: Opened the hearing on HB 1397. Passed o8ut proposed amendment 17.0853.01001. (#1) I am not sure the amendment catches what I was after. The amendment was supposed to say they could have submitted bills early, but they would have to have legislatures names on them. The idea is to contact a legislature.

Representative Paur: A note said to add an emergency clause. I don't know why we would?

Closed.

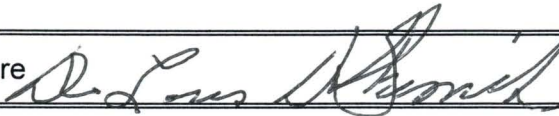
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1397
2/14/2017
28374

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

1

Chairman K. Koppelman: Reopened the meeting on HB 1397. Went over the proposed amendment. Passed it out. (#1) The main opposition we had to this bill was one of convenience. This bill says only legislatures should introduce legislation, with the exception of budgets from the legislative branch. The executive branches that opposed the bill did it on the grounds that it is convenient to work on these pre-filed bills and get them before the legislature and it is convenient for the legislatures to come to town and have work to do. The amendment would deal with subsection 4 where it says an executive branch agency or the judicial branch may request a member of the legislative assembly to introduce a bill on behalf of the agency or the judicial branch; a bill introduced under this subsection by a member of the legislative assembly also must specify the name of the requesting entity. It would only state introduced by Rep. whoever in request of DOT. Basically like we do now.

Representative Klemin: Where does it say the bill must be pre-filed?

Chairman K. Koppelman: It doesn't. this would be allowed for the pre-filed bills which is their custom.

Motion made to amend .01001 by Rep. Maragos; Seconded by Rep. Magrum

Discussion:

Voice vote carried.

Do Pass as Amended Motion Made by Representative Vetter: Seconded by Rep. Simons

Discussion:

Representative Satrom: Is this a solution looking for a problem? Do we have abuses?

Representative Vetter: In ND we have a unique legislation where every bill that gets introduced is heard and voted on. Why do we want to delegate our power to agencies and other things? They could not tell us why.

Representative Klemin: I am going to oppose the motion. I don't think there is a problem.

Representative Johnston: I don't see any problem with a legislator owning a bill. The way the system is now nobody had to own it. I think this leads to excessive growth of government, but when I mentioned it to a testifier he said it was an extra step. The step he is talking about is the step you and I have to take when we want a bill. We have to find a legislature and sell the idea to him so the average citizen is secondary to a government agency or employee. I think that is fundamentally wrong.

Representative Hanson: I am going to resist the do pass as well. We still have say and we still have the final votes. About ten other states do have at least one chamber that will allow agencies to submit a bill. It is not that unique. We are part time legislators and we don't have staff. Asking us to know all these bills that are technical corrections is not necessary and they can own that.

Chairman K. Koppelman: I think it is a principal situation. We are the legislative branch and no one else can introduce legislation other than legislators except for agencies and they happen to be part of another branch of government; the executive branch. I think they should get a name on it so it would be clear that this is an agency bill but Rep. whoever agreed to sign onto and if they can't find 141 to do that maybe the bill shouldn't be part of the process.

Representative Simons: I think it is important that other agencies understand they do not make laws. We make law; they make rules. It is still right. If they want to they should run for office; otherwise no special privileges.

Representative Maragos: We gave them for good reasons. We are a citizen legislature and we are all very busy. How many have to get up and leave our committee because we are going down to testify in another committee. I don't see us making them run around and find legislators because there are legislators that don't want to put a bill in and don't want to be pestered. Then that puts it on the ones that will do it and will do the work, but it is a lot of extra work. I don't see any problem. For good reason the legislature decided that the policy would be that we would allow agencies to bring bills in that they thought were important and now we want to take that back. I am going to resist this.

Representative Klemin: This doesn't apply to interim committee or the Uniform Law Commission. I agree with Representative Maragos. This will put a lot more effort into bills by the rest of us. Agencies usually are putting in bills because the law requires them to do it. I think the agencies have been responsible and we are actually the final decision makers.

Chairman K. Koppelman: I think the agencies from state government do a fabulous job. I think we need agency expertise. By enlarge in many cases as an agency calls me to introduce legislation; I look at it and see what they are trying to accomplish here. If I don't

want to do a lot of work into it, I may just come in and say I introduced this bill on behalf of the Attorney General's office and then leave and they go into the bill. They can still do that.

Representative Vetter: The regular citizen has to go to a legislator. In these agencies they have professional to help them put together these bills, testify and all these other things. I have heard people complain that these agencies can do anything. Why are we putting them above the average citizen?

Chairman K. Koppelman: It could be other entities that ask you to introduce a bill.

Representative Maragos: I put in all my bills for individuals. Rep. Vetter makes it sound like the agencies are personally benefiting from this and they are not. Agencies have to come down here if they could stay away, but it is their responsibility as public servants to do what is in the best interest of the people of ND. We are the ultimate deciders of it all.

Representative Simons: These people from the state are on the state payroll and to come and make law that benefits the state is to me a double standard. I have gotten a lot of emails on this. It doesn't look right.

Representative Jones: I am here to represent the people of my district and the citizens. What is good for the agency is to make the job comfortable for them is not necessarily good for the people. I have seen it in a lot of different cases. I have commended ND for agencies working with the legislature. I have seen where agencies have gotten too proud of themselves and I don't want it to happen here. I think this sends the right message.

Rep. Karls: I represent this district which is full of state employees. Hard working state employees. When you go back to look at who the heads of those agencies are. A lot of them serve at the will of the governor. Some of them have been heads of their agencies for many governors. They might have a really time coming to this body. Let's face it a democrat may not get your budget or bill very far so you would look for a republican. It might be heard to go to them and ask for that sponsorship. A lot of agency people are nonpolitical. Is this a solution in search of a problem?

Do Pass as Amended Roll Call Vote #2: 6 Yes 9 No Failed

Do Not Pass as Amended by Representative Klemin: Seconded by Representative Roers Jones:

Roll Call Vote #3: 9 Yes 6 No 0 Absent Carrier: Representative Nelson:

Closed.

2/14/17 DP

17.0853.01001
Title.02000

Prepared by the Legislative Council staff for
Representative K. Koppelman
February 6, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1397

Page 1, line 21, after the underscored period insert "A bill introduced under this subsection by a member of the legislative assembly also must specify the name of the requesting entity."

Renumber accordingly

Date: 2-14-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

House Judiciary

Committee

☐ Subcommittee

Amendment LC# or Description: 01001 Attachment #1

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

Motion Made By Maragos Seconded By Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice
Vote
carried*

Date: 2-14-17
Roll Call Vote: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1347

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 01001 attachment #1

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

Motion Made By Vetter Seconded By Simons

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson		✓
Vice Chairman Karls		✓	Rep. Nelson		✓
Rep. Blum		✓			
Rep. Johnston	✓				
Rep. Jones	✓				
Rep. Klemin		✓			
Rep. Magrum	✓				
Rep. Maragos		✓			
Rep. Paur		✓			
Rep. Roers-Jones		✓			
Rep. Satrom		✓			
Rep. Simons	✓				
Rep. Vetter	✓				

Total (Yes) 6 No 9

Absent 0

Floor Assignment :

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

Failed

Date: 2-14-17
Roll Call Vote 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 17.0853.01001

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

Motion Made By Klemin Seconded By Roers Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman		✓	Rep. Hanson	✓	
Vice Chairman Karls	✓		Rep. Nelson	✓	
Rep. Blum	✓				
Rep. Johnston		✓			
Rep. Jones		✓			
Rep. Klemin	✓				
Rep. Magrum		✓			
Rep. Maragos	✓				
Rep. Paur	✓				
Rep. Roers-Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter		✓			

Total (Yes) 9 No 6

Absent 0

Floor Assignment : Rep. Nelson

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

REPORT OF STANDING COMMITTEE

HB 1397: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1397 was placed on the Sixth order on the calendar.

Page 1, line 21, after the underscored period insert "A bill introduced under this subsection by a member of the legislative assembly also must specify the name of the requesting entity."

Renumber accordingly

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1397

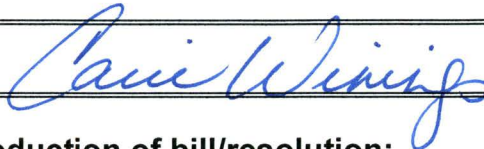
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1397
3/16/2017
Job Number 29326

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

Attachments: 1-3

Chairman Poolman: Opened the hearing on HB 1397.

Representative Toman, District 34: Testified to explain and in support of the bill. This bill is a prohibition on executive branch agencies introducing policy bills without a legislator sponsor or approval from legislative management committee to sponsor the bill on their behalf. There are exceptions for the budgets. The impetus behind it is that, in my opinion, that is what we are elected to do. We are to create the laws. You could make the argument that pushing the button and having the debate in committee is creating the laws, but I don't think we should abdicate our authority to agencies to draft legislation.

(1:30) Senator Bekkedahl: I agree with principle that you are putting forward here, but I am a little concerned about the operational aspects. It may be a little selfish on my part, but I am priming ten bills this session and I think this would put a lot more bills into our pockets on the prime responsibility. How do you suggest we handle the number of bills that come forward, or is the intent more to limit the agency bills coming forward on policy discussions?

Representative Toman: I do not know that the intent is to limit that or to increase work. Obviously, it would probably increase some work load on some of us. When you look at some of them they are simply clean up bills. I don't think this precludes them from getting legislative management to get an interim committee to sponsor on their behalf and pre-file those types of bills. Granted that means you have to show up to the committee hearing, but that is your choice to take those or not take those.

Senator Bekkedahl: Hearing that, is there any opportunity for a provision in your bill submission, even by amendment, to address house cleaning issues. I do see that you have to take the time to follow the bill and introduce it etc. I am not trying to lessen my work load because I think it is our responsibility to do that, but looking at this operationally in an 80-day

session, what kind of impediments are we going to create to even get the house keeping bills done?

Representative Toman: I would be amenable to a verbiage change to allow for that. I don't know how you would write that amendment. I don't have that amendment written to classify a cleanup bill vs. a policy bill. I know there was a friendly amendment in the House but I have not read that. Maybe they would offer that here.

Chairman Poolman: Here is my one concern when I read this bill. One thing that I look at when I look at a bill is that I look to see if it came from a legislator or an agency. My attention is higher when an agency has come to us with something than it is with a legislator. My fear is that now you are going to put a legislator's name on it and I am not really going to know that it came from an agency. I am a little bit more suspect of something that comes from an agency rather than a legislator. If I then don't have the ability to differentiate, I will be concerned because they all will just look like they come from legislators and I don't know who is really behind the bill? I certainly know that some agencies already do that. I worry this has the opposite effect of what you are trying to achieve. Can you speak to that?

Representative Toman: I understand where you are coming from. I would see that working as introduced on behalf of an agency kind of like we do with the interim committees. I have thought about some of those things. I have not had any amendments drawn up to clarify that. It is not a "gotcha" to the agencies, it is solely that we are the law making branch of government. I am not asking you to amend it to make it work that we are discussing here, but if that is the committee's wish to do something like that, I would be supportive of that.

Chairman Poolman: That might address Senator Bekkedahl's concern as well. Could that alleviate the need for Senator Bekkedahl to follow that bill through every hearing?

Representative Toman: With the survey from NCSL, there are several states, and we are one of the only states that allows that. There are carve outs in other states that would be similar to that. I would offer that to you and you can look at it.

(7:45) Al Jaeger, Secretary of State: Testified in opposition to the bill. My comments are more in observation. This is my 13th legislative session, although I was not the first one to have an agency bill, we seldom have agency bills due to the fact of the election being right before the session and we are usually scrambling to make sure the election goes well. I did have some bills this session. We receive, as an agency, a letter from legislative council and the letter kind of urges us to advance bills. Particularly for housekeeping etc. The reason given is so that come January you have something to work on. I know for myself, if you have 35 freshmen and I am trying to find people for the bill, where do you find them. You, as a freshman don't know anything about introducing a bill and you do not have the experience to bring a bill to the floor. So, do we hit you in December in the pre-session time? I have to pick on those that have been around a while. We are urged to get bills together on our own. In your first few weeks you are scrambling to get all kinds of bills introduced to meet all of the deadlines. I make it pretty clear that if a legislator has introduced a bill on my behalf, they are welcome to come in, but often I come in and I represent the bill.

(11:05) Senator Bekkedahl: Is the context of that letter from legislative council asking you to submit those bills before session that you already have in hand or is it to urge you to come up with bills?

Al Jaeger: No, it is for what we need. Our deadline for agency submitted bills is Thursday of the week that you come in December. We have a deadline to get them in the first week you are here. In observation, most of you may not realize the path that the bill takes after you have voted on it. The bill goes through both houses, to the Governor, and then it comes to my office as Secretary of State. At some point I touch every one of the bills that is passed and signed by the Governor. Knowing that this bill has come up, there has been a number of bills that I have touched in the past week that have gone through the Governor's office. I do see the title and I see who introduced it. When I flip to the last page and it is an agency bill, where my signature appears below everyone else's, the vote totals are put on those bills. I have signed bills that were agency sponsored where the vote was 47-0 and 97-0. I have to wonder what we trying to solve. We did have one agency bill that had two word changes and we decided that we were not going to bother any of you for it. It passed both chambers without a dissenting vote. That is the observation part I am sharing with you. I do know there have been agency bills in session that have been killed. Whatever that reason that might be, I don't know how you differentiate between housekeeping and policy. One of the things that I have learned over the years is that we are careful in choosing our words because we need to be specific and point out all the changes. It seems to me that there are reasons for it, and one would be that you are only here 80 days. The freshmen really do learn the system by some softball bills that come from agencies. The easy ones are good to learn the process on.

(16:20) Julie Fedorchak, North Dakota Public Service Commissioner: Testified in opposition to the bill. We have a couple of concerns. We can live with this if it happens. We believe in minimizing the number of agency bills and keeping them to more of the housekeeping type of matters. From a practical standpoint we do see a couple of concerns. The timing and deadlines are an issue. Trying to grab people during pre-session when it really busy. I also believe this burden will mostly fall on the Bismarck/Mandan legislators.

(18:25) Grant Levi, North Dakota Department of Transportation: See Attachment #1 for testimony in opposition to the bill.

(21:50) Senator Bekkedahl: My question goes to the 3 examples you have given here. In your mind would you consider those three and say whether they are policy or clean up in your mind? They all look like policy to me, but I want your interpretation on that.

Grant Levi: There is a fine line between the two. I would offer that they are all policy that we brought forward for you to consider. Some could say that being consistent with federal rules and regulations could be considered a cleanup, but I don't consider it as such. The legislative body still needs to make the decision of how we function here in the state of North Dakota.

(23:40) Maggie Anderson, Department of Human Services: Testified in opposition to the bill. Similar to the Department of Transportation, we also go through a process before we introduce bills as a cabinet agency. We had 15 agency bills that we sponsored. We believe that it is an efficient process as it is, both for legislators and for the department. For many of

our agency bills we were the only ones that testified in the hearing. We would consider some of them to be housekeeping and some are policy. There are also some that are federal changes that we have to come in line with. We go through a very thorough internal process. We look at if there are any budget implications. We identify what our agency bills are early in the summer before session because we have to know if any of the bills have a budget impact. All of our bills go through the Governor's office to receive their review and approval before we introduce them as bills. (25:45 -See Attachment #2 for bills that were presented this session along with the details from Human Services. Proceeded to walk through each bill and whether they were cleanup or policy.)

(28:58) Aaron Webb, Assistant Commissioner, Department of Financial Institutions: Testified in opposition to the bill. Our agency oversees bank regulation, credit unions, trust companies, and non-depository institutions (collection agencies, money brokers, money transmitters, payday lenders, debt settlement providers.) Based on that wide variety of industries that we regulate, we look at a lot of different statutes and rules. We have a very robust review process when we introduce legislation. It goes through internal all the way from the commissioner to the field examiner. We also have the state banking board and the state credit union boards that review the legislation. It goes to our legal counsel and it also goes to the Governor's office. We believe that process ensures that you get a good work product to review at the legislative level. Unique to our department is that we currently are accredited as a bank, a credit union, and a mortgage regulator and as part of that accreditation process, we have accreditation teams come in and review our capabilities as a regulator. Basically, they are looking at best practices of regulators across the nation. One best practice that showed up in each one of our accreditations has always been our ability to introduce legislation to the industries that we regulate and also to be actively involved in the legislative process. I think that underscores our capabilities in this area.

(31:00) Bryan Klipfel, Director, Workforce Safety and Insurance: See Attachment #3 for testimony in opposition to the bill.

Chairman Poolman: Closed the hearing on HB 1397.

2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1397
3/23/2017
Job Number 29605

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

No Attachments

Chairman Poolman: Opened HB 1397 for committee discussion. We had a lot of agencies come in and talk about how problematic that would be and we have so passionate advocates on the other side that want only legislators to be able to participate in the legislative branch.

Senator Vedaa: Is it true that North Dakota is the only state that allows anyone else besides a representative or a senator to put in bills?

Chairman Poolman: That was the testimony of the sponsor.

Senator Bekkedahl: I did research under the NCSL website. It is true that in the pure sense that we are the only ones that do it the way that we do, but there are caveats and opt outs for others to kind of do the same thing that we do if needed. I don't know that we are singular. I would agree with the sponsor that in a true sense we are probably the only ones that do it this way. It did not indicate to me that we are doing anything wrong doing it this way. I am planning to oppose the bill based on what I did for my research.

Vice Chairman Davison: Moved a Do Not Pass.

Senator Meyer: Seconded.

Chairman Poolman: Is there any discussion.

Senator Meyer: I agree with Senator Bekkedahl's sentiments. I see when these agencies come in they know exactly what they want in the bill and why they need it. They can convey the message better than any one of us. I was wondering what the pass/fail rate on those bills that go through is.

Chairman Poolman: We received testimony as to the pass/fail rate. I am not sure if it was in committee or if it was emailed to me. The pass rate is very high and we often pass them out unanimously in both house.

Senator Vedaa: How long has this been going on in the state? Has it always been this way?

Chairman Poolman: I have not been here all that long, but as long as I have been here it has always been that way. I was an intern in 1997 and it was that way then.

Senator Bekkedahl: We did have a discussion on focusing on policy and not clean-up or housekeeping. I think part of the issue was agencies bringing policy changes in. While we had that discussion, it occurred to me that policy bills from agencies can be federal policy change compliance and mirroring those federal policy changes. At one point I was thinking about an amendment to this bill that would address clean-up but not policy, but I further internal review tells me that policy, to some degree, needs to originate from them to us because none of us have the pulse on federal changes that are happening like that.

Chairman Poolman: I certainly understand where this comes from. I agree with the thought process that we want to make sure that we retain our power as the legislative branch and that they are separate as the executive branch. The practical application of this is that this is what gets us going in the beginning of session. We hear all of the agency bills and that helps freshmen get up to date. From a personal standpoint, as a Bismarck legislator, I know who they are going to call to come and sign on every bill because they will not be able to track us down during the three day organizational session and their bill deadline is the end of that week. As someone who has sponsored too many bills, I do not want to get in that kind of situation, or put my other fellow Bismarck/Mandan legislators in that position either. I will be supporting the motion.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Meyer will carry the bill.

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Davison Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	✓				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Meyer

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

REPORT OF STANDING COMMITTEE

HB 1397, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1397 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1397



#1
1397
2-6-17

Bill Introductions by Non-Legislative Individuals or Entities

In March 2016, a request for information about bill introductions was sent to principal clerks and secretaries. The specific question was:

In your chamber, which **non-legislative** individuals or entities have the ability to **directly** introduce legislation?

- a) None
- b) Governor
- c) Lieutenant governor
- d) Any executive branch department or agency
- e) Chief Justice
- f) Any judicial branch court or agency
- g) State board or commission
- h) Local government entity
- i) Lobbyist
- j) Any state resident
- k) Other (please describe)

Shown below is a summary of the responses.

The following chambers responded that non-legislative individuals or entities *cannot* directly introduce legislation.

Alabama House
Arizona House
Arkansas Senate and House
California Senate and Assembly
Colorado House
Connecticut Senate and House
Delaware Senate and House
Florida Senate and House
Georgia Senate and House
Hawaii Senate and House
Illinois Senate and House
Indiana Senate and House
Iowa Senate and House
Kansas Senate and House
Kentucky Senate
Louisiana Senate and House
Maryland Senate and House
Michigan House

Minnesota Senate
Mississippi House
Missouri Senate and House
Montana Senate and House
Nebraska Unicameral
Nevada Senate and Assembly
New Hampshire Senate and House
New Jersey General Assembly
New Mexico Senate and House
New York Assembly
North Carolina House
Oklahoma House
Pennsylvania Senate and House
South Carolina Senate and House
Tennessee Senate and House
Texas Senate and House
Utah House
Vermont Senate and House


Other responses and comments

Alaska Senate and House. Essentially, the Governor can introduce bills through the Rules Committee but no other non-legislative entities can directly introduce legislation. Per Uniform Rule 37, this is the same for the Senate and House.

Uniform Rule 37. Introduction of Bills.

(a) Any member, group of members, standing, special, or joint committee may introduce a bill, subject to the provisions of these Uniform Rules. A bill must be introduced, in proper form as approved by the enrolling secretary of the legislature, with the original and three copies delivered to the chief clerk or secretary. The bill is then assigned a number which it retains through subsequent changes and substitutions. The bill is considered formally introduced when the clerk or secretary reads the heading and title aloud in open session (first reading). Bills may be introduced through the Rules Committees by the governor and the permanent interim committees pursuant to provisions of law.

Colorado Senate. The governor.




Colorado House. Only a legislator can introduce legislation. They receive input from constituents, lobbyists, government agencies, governor's office, and may request the office of legislative legal services to draft a bill on an issue that has been suggested. The request for legislation must come from a legislator. We also have committee bills which are bills that have been suggested by an interim committee or a committee of reference, but again, a legislator must be a sponsor and introduce the bill.

Iowa Senate. In the Iowa Senate, no non-legislative individuals or entities have the ability to **directly** introduce legislation. The Governor and state departments and agencies may have our legislative services agency prepare **proposed** bills and resolutions in proper form to be submitted to the President of the Senate for referral to the appropriate standing committee, however.

Iowa House. None, with this qualifier: the Governor, major executive branch agencies, the judicial branch, and major boards and commissions may file legislation with the Senate and House presiding officers, who may assign such legislation, known as Senate Study Bills or House Study Bills to a standing committee for consideration. If such a standing committee approves of the legislation, the sponsorship of the legislation changes to the standing committee and is reported to the floor as a committee bill subject to consideration by the full house. In Iowa only bills sponsored by legislators individually or by standing committees can be voted on in either house.

Maine House. Only members can submit legislation for introduction. The Governor and agencies can propose legislation, but it will still need a member to be the sponsor to introduce the legislation. That being said, we do have a citizen's initiative process, where the public can have petitions signed to propose legislation to the state that can either be passed by the legislature or submitted to the people to approve.



Maryland. Administration bills and departmental bills, as we call them, must have a legislative sponsor. For the Governor's (Administration) bills, the presiding officers are the sponsors as a courtesy. For departmental bills, the chair of the standing committee with jurisdiction is the sponsor, again as a courtesy. The sponsor line would

read, for example: The Speaker (Administration) or Chairman, Health and Government Matters Committee (Department of Health and Mental Hygiene).

Massachusetts Senate. The Senate does basically what the House does. We tell anyone who wishes to file without a Senator filing on his behalf (by request or as a petitioner) is that it will be placed on file as soon as it comes into the office and will stay there until a member requests that it be admitted.

Massachusetts House. Technically any state resident may be a bill author. Under Article XIX of the Constitution, citizens have such a right. That right, however, ends with the filing. Any measure filed without the sponsorship of a Senator or Representative may not advance beyond the filing, unless it is taken from the files at the request of a Senator or Representative and that legislator endorses the measure, thereby sponsoring it.

Art. XIX reads as follows:

"Article XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer. [See Amendments, Art. XLVIII, The Initiative, II, sec. 2.]"

House Rule 29 states:

"Petitions.

29. The member presenting a petition shall endorse his/her name thereon; and the reading thereof shall be dispensed with, unless specially ordered. [37.] (18.)."

In the House the citizen's right to file, under Article XIX, is recognized. Whenever such a petition is filed by a citizen, it is assigned a docket number and a docket entry record of the filing is recorded; but, because of House Rule 29, we do not assign the measure a bill number, or advance it by referring it to a committee.

Nebraska Unicameral. Technically no one other than a member. A member may introduce a bill on "behalf of the governor" but a member must have his/her name on it.

Nevada Senate. Some entities may request bill drafts by statute: NRS 218D.175 – 218D.220: Gov., Supreme Court, Lt. Gov., Executive Branch Agency, counties, cities, school districts, association of counties or cities, Other (NV Silver Haired Legislative Forum). <http://www.leg.state.nv.us/NRS/NRS-218D.html#NRS218Dsec175>. Bill draft requests may never receive an introduction and, therefore, die as a draft. Citizens must go through their legislators to secure bill drafts.

Nevada Assembly. By statute, some of the non-legislative entities listed can request the drafting of a BDR (bill draft request) by legislative counsel, but the proposed legislation must be introduced by a legislator or a standing committee. In practice, these BDRs may be split between the two houses and introduced by the standing committees having jurisdiction over the subject matter. When the bill is printed, the name of the requester is shown as "on behalf of."

Ohio Senate. In Ohio, any state resident may directly introduce legislation via initiative petition

Oregon House. The Governor on behalf of the executive branch and the Chief Justice yes on behalf of the entire judicial branch

Statute 171.127 When proposed measure to bear name of person other than member requesting introduction; statement of chief sponsor. (1) Each proposed legislative measure shall at the time of

submission for filing bear the name of any state or other public agency or representative thereof, any private organization or representative thereof, or any person other than a member of the Legislative Assembly at whose specific formal request the measure is being introduced. As used in this subsection, "formal request" means the presentation, submission or providing of a drafted measure to a member or committee of the Legislative Assembly.

(2) Each proposed legislative measure shall bear a statement signed by the chief sponsor thereof, stating that all agencies, organizations and persons that have formally requested the measure are named thereon.

Statute 171.130 Pre-session filing of proposed measures; printing and distribution. (1) At any time in advance of any regular or special session of the Legislative Assembly fixed by the Legislative Counsel Committee, or at any time in advance of a special session as may be fixed by joint rules of both houses of the Legislative Assembly, the following may file a proposed legislative measure with the Legislative Counsel:

(a) Members who will serve in the session and members-elect.

(b) Interim and statutory committees of the Legislative Assembly.

(2) On or before December 15 of an even-numbered year, or at any time in advance of a special session as may be fixed by joint rules of both houses of the Legislative Assembly, the following may file a proposed legislative measure with the Legislative Counsel:

(a) The Oregon Department of Administrative Services, to implement the fiscal recommendations of the Governor contained in the budget report of the Governor.

(b) The person who will serve as Governor during the session.

(c) The Secretary of State, the State Treasurer, the Attorney General and the Commissioner of the Bureau of Labor and Industries.

(d) The Judicial Department.

(3) Notwithstanding subsection (2) of this section, a statewide elected official who initially assumes office in January of an odd-numbered year may submit proposed measures for introduction by members or committees of the Legislative Assembly until the calendar day designated by rules of either house of the Legislative Assembly. The exemption granted by this subsection to a newly elected Governor does not apply to state agencies in the executive branch.

(4) On or before December 15 of an even-numbered year, a state agency may file a proposed legislative measure with the Legislative Counsel through a member or committee of the Legislative Assembly.

(5) The Legislative Counsel shall order each measure filed pursuant to subsections (1) to (4) of this section prepared for printing and may order the measure printed. If the person filing a measure specifically requests in writing that the measure be made available for distribution, the Legislative Counsel shall order the measure printed and shall make copies of the printed measure available for distribution before the beginning of the session to members and members-elect and to others upon request.

(6) Copies of all measures filed and prepared for printing or printed pursuant to this section shall be forwarded by the Legislative Counsel to the chief clerk of the house designated by the person filing the measure for introduction.

(7) The costs of carrying out this section shall be paid out of the money appropriated for the expenses of that session of the Legislative Assembly for which the measure is to be printed.

(8) The Legislative Counsel Committee may adopt rules or policies to accomplish the purpose of this section.

(9) This section does not affect any law or any rule of the Legislative Assembly or either house thereof relating to the introduction of legislative measures.

Statute 171.133 Approval of Governor required for state agency measure introduction. (1) A state agency shall not cause a bill or measure to be introduced before the Legislative Assembly if the bill or measure has not been approved by the Governor.

(2) As used in ORS 171.130 and this section, "state agency" means every state agency whose costs are paid wholly or in part from funds held in the State Treasury, except:

- (a) The Legislative Assembly, the courts and their officers and committees;
- (b) The Public Defense Services Commission; and
- (c) The Secretary of State, the State Treasurer, the Attorney General and the Commissioner of the Bureau of Labor and Industries.

Vermont House. In our chamber, only representatives can submit bills and resolutions for consideration. Members of the public can petition the legislature to take action. The Governor can submit a proclamation to the House for consideration as well.

Washington Senate. Only members of each body can introduce measures. We do allow for some notations such as "At the request of the Governor" or "At the request of the Dept. of Transportation"—we call those agency request bills.

Washington House. In general, only members have the ability to formally introduce legislation. That said, other state agencies or entities are frequently listed at the top of our bills along with the sponsors. Usually it will list the sponsors and then include language that states: "by the request of..." (e.g., by the request of the Governor, Department of XYZ, etc.). While other entities may be listed as a requestor, only members can formally introduce legislation for consideration.

However, there is one important exception. The citizenry reserves the right to introduce legislation through the initiative process. A registered voter, or group of voters, desiring to qualify an initiative or referendum for the ballot must gather a certain number of valid signatures on petitions in order to do so. Initiatives can go directly to the people (i.e., ballot) or to the Legislature for consideration. The Legislature can enact or reject initiatives to the Legislature (as opposed to initiatives to the people). There are more details to consider through this process. However, the bottom line is that it does provide the public with the ability to directly introduce legislation.

Wisconsin Assembly. It is typical for the Governor to request legislation to be introduced, however it still must be introduced by either a member of the Assembly or by legislative committee.

Wyoming Senate. The answer for Wyoming is none with the exception of our Initiative Process which is outlined in our state statute 22-24-301.

#2
1397
2-6-17

Testimony in Support of HB 1397 by Jared D. Hendrix

It was the great political philosopher Montesquieu who most concisely established the concept of the "separation of powers" within government. In 1748, he published 'The Spirit of the Laws', which prescribed the purposes and "balance of power" between an executive branch, a legislative branch and a judicial branch. Montesquieu's view dramatically changed political philosophy and most directly informed America's founding fathers -- particularly James Madison, as he wrote the Constitution. Similarly, each individual state among the United States has been constituted according to these same principles.

This design is intended to ensure that no one division of government gains too much power over the others, thus helping to allow a society of balanced government and greater liberty.

Currently in North Dakota, this separation of powers lies in murky waters, which is what HB 1397 seeks to correct. In order to provide clarity on this subject, we must review this within its proper historical and legal context. First, we must acknowledge the philosophic precedent for the division of powers. We can such wisdom in the words of John Locke:

"The Legislative transfer the Power of Making Laws to any other hands. For it being but a delegated Power from the People, they, who have it, cannot pass it over to others. . . . And when the people have said, We will submit to rules, and be govern'd by Laws made by such Men, and in such Forms, no Body else can say other Men shall make Laws for them; nor can the people be bound by any Laws but such as are Enacted by those, whom they have Chosen, and Authorised to make Laws for them. The power of the Legislative being derived from the People by a positive voluntary Grant and Institution, can be no other, than what the positive Grant conveyed, which being only to make Laws, and not to make Legislators, the Legislative can have no power to transfer their Authority of making laws, and place it in other hands."

We can go further, to review the Original Sixteenth Amendment, which was drafted as an article but ultimately *not* included in subsequent versions of the Articles or in the final Amendments to the Constitution. *"...the powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive."*

This view contributed to the 'Nondelegation doctrine', which affirms that one branch of government cannot delegate its authority to another.

From the ND State Constitution, we must acknowledge the following: Article III, Section 1. "...the legislative power of this state shall be vested in a legislative assembly consisting of a senate

and a house of representatives..." Article IV, Section 13, states, "The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution." In order to maintain a balanced government, enacting law ought to properly and inherently encompass the *entire* process of drafting, introducing, procedurally moving and voting on a piece of legislation.

According to the National Conference of State Legislatures, North Dakota is among only three states that currently allow agencies of government -- extensions of the executive branch -- to submit requests for bills to be drafted. Legislative Council writes these bills and they are automatically assigned to a Committee and then de facto introduced by that Committee on "behalf" of such agency. This process is not prescribed in state statute or the State Constitution. It exists only in legislative rules drafted by the legislature. I believe that the redirecting of the authority for requesting drafts and introducing legislation to another branch of government to be in tenuous discord with the principle of the separation of powers.

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

Who is responsible for the bills introduced in this manner? Which representative of the people is responsible? In a democratic society, *someone* must be responsible. Is it also possible that the inherent trust of the "expertise" of agency employees inadvertently ensures less scrutiny over legislation than would otherwise exist with an individual legislator's name attached to it? How much taxpayer time and money is spent by state employees drafting agency bills instead of executing law? Why is an average citizen treated differently than a government employee? Moreover, why would we not also allow other political subdivisions to request drafts? These are important questions.

The weight of *any* bill should be carried by an individual Legislator, who introduces and sponsors it and who is accountable to it. They are responsible for both its shepherding and the results of its impact on the lives of the people. State agencies are comprised of public employees or contractors and are not directly accountable to the people. I believe it is unfair to common citizens and taxpayers that state employees are given a backdoor pass to writing law. If we were going to be consistent, we should allow all North Dakotans the ability to request drafts from Legislative Council.

Of course, many counter arguments have been offered against this bill... for example, "Well, these are benign bills, often just housekeeping..." Indeed, many legitimate issues often arise from the execution of law by the executive branch in the interim. If these issues warrant

legitimate legislation, then surely they ought to be ideas that a legislator would be eager to introduce.

In the 2015 Legislative session, approximately 12% of all bills were agency-introduced bills. These, per rules, being pre-filed before the session begins are thus prioritized by the Legislative Council. In other words, these bills come before the legislators -- the elected representatives of the people -- and *their* bills. If agency introductions were halted, Legislative Council could spend more time and energy on working with legislators on the bills that are important to them and their constituents. The number of Council employees has hovered just over 30 people for at least a decade, so lessening the workload increases the quality of the work that can be done. I was informed by the Legislative Council that it was significantly more common in the past for agencies to seek legislative sponsors, but that effort has since declined.

In a brief by the National Conference of State Legislatures (NCSL), Brenda Erickson, the Program Principal wrote that, "Generally, legislatures are stricter about who may introduce bills than who may request drafts. That is, legislative chambers are more likely to limit introduction authority to legislators or others from within the legislature. Proponents of the practice allowing only legislators to introduce bills argue that it reinforces the principles of representative democracy and separation of powers. By constitution, lawmaking is solely the function of the legislature. Therefore, only those persons who have been elected to serve in the legislature should be able to initiate the formal process."

Among the many benefits cited by NCSL for having greater respect for the separation of powers are the following:

- Reduces the number of people inside the chamber.
- Reduces the bills entering the legislative process.
- Conserves legislative support resources.
- Increases efficiency of organization, scheduling and tracking.
- Gives a member "ownership" of, responsibility for and commitment to the legislation.
- Demonstrates that there is support for the proposal.
- Increases accountability to the electorate.
- Requires outside interests to work with legislators.

You can read more here:

<http://www.ncsl.org/research/about-state-legislatures/delegation-of-legislative-power.aspx>

Any North Dakota citizen, including anyone working for an agency of government, has the right to request that their legislator draft legislation in consultation with the Legislative Council. It is important to note that nothing in this bill prohibits the influence of agencies, or state employees, on legislation. Members of the assembly are well aware of the abilities of Committees to request testimony and expertise from agency employees. No one expects Legislators to have perfect knowledge on every subject. There's nothing in current statute or in this proposed bill that would

prevent the ability of legislators to use sources or individuals outside the Legislative Council to assist them with drafting bills. This bill does nothing to affect the support system that advises Legislators and remains at their disposal.

In fact, current statute allows ample impact on Legislation by agencies. In Code section 54-35-02, the powers and duties defined to the Legislative Management include collecting information concerning the welfare of the state, studying and considering important issues of policy as well as preparing proposed bills for consideration of the succeeding legislative session. Section 54-35-08 addresses the timeframe requirements for presenting recommended legislation, which can be done so by "...any department, board, commission, agency, officer, official, or employee of the state desiring the consideration of the legislative management..." Further, committees of the Legislative Management can also include non-Legislative members, if selected. Typically, the sum of these recommendations and proposals are the results of requests by Legislative Management to an agency. HB 1442 does nothing to disallow such recommendations for bills by the Legislative Management which are thus deemed introduced as such.

My personal preference would be to amend this bill with language that insists that ALL bills (even those proposed by Legislative Management and presented to all members-elect prior to the succeeding session) require a single Legislator as a sponsor. I have taken the liberty to provide that language for you. Regardless, I would still support the bill as is, assuming the alternative would be a 'Do Not Pass' vote.

I urge you to please vote 'Do Pass' on this important bill, HB 1397. Special thanks to Rep. Nathan Toman for his work on this legislation. I thank the members of the House Judiciary Committee for their time and consideration.

Sincerely,

Jared D. Hendrix

PROPOSED REVISIONS BY JARED D. HENDRIX

HOUSE BILL NO. 1397

17.0853.01000

Sixty-fifth

Legislative Assembly of North Dakota

Introduced by Representatives Toman, Rick C. Becker, Ertelt, Johnston, Kading, B. Koppelman, Olson, Simons
Senators O. Larsen, Myrdal

A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to the introduction of bills by executive branch agencies and the judicial branch.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Introduction of bills by executive branch agencies and the judicial branch.

1. Except as otherwise provided in this section and sections 54-44.1-06, 54-44.1-06.1, and 54-44.1-07, executive branch agencies and the judicial branch may not submit legislative bills for introduction to the legislative assembly.
2. The judicial branch shall submit a bill including the budget request of the judicial branch to the legislative council within seven days after adjournment of each organizational session.
3. An executive branch agency or the judicial branch may submit a legislative bill for introduction if requested by a legislative management committee or if requested or authorized by a standing committee of the legislative assembly. In order for Any bill to be introduced under this subsection, an individual member of the legislative assembly must agree to sponsor the bill.
~~must be deemed to be introduced by the legislative management or the standing committee that requested or authorized the introduction of the bill.~~
4. ~~An executive branch agency or the judicial branch may request a member of the legislative assembly to introduce a bill on behalf of the agency or the judicial branch.~~

HOUSE JUDICIARY COMMITTEE
February 6, 2017 – Prairie Room

#3
1397
2-6-17

North Dakota Department of Transportation
Grant Levi, P.E., Director

HB 1397

Good morning Mr. Chairman and members of the committee. I'm Grant Levi, Director of the North Dakota Department of Transportation (Department). Thank you for giving me the opportunity to provide information today. The Department opposes HB 1397.

The Department of Transportation introduces bills for three main purposes:

1. Meet federal rules and requirements.
2. Provide better service to the public
3. Enable the Department to be more effective and efficient.

Federal rules and regulations - Driver's License and Motor Vehicle are two areas extensively regulated by federal rules. On occasion, bills need to be introduced to enable the Department to meet changes in federal requirements. For example, Commercial Driver's License (CDL) laws requiring changes that affect truck drivers.

- An example of a state agency bill of this type is HB 1133, introduced this session. This Bill codifies the federal rule in state statute allowing the exemption of the hazardous materials endorsement for the CDL license for transport of one thousand gallons or less of fuel. HB 1133 has passed the House.

Provide better service to the public - There are times when a change in Century Code enables the Department to improve processes and provide better service to the public.

- An example is SB 2126 introduced by DOT. This bill will provide temporary authority to sign for a minor. It establishes that a parent or legal guardian may designate an individual to sign the application for a minor. Maintains that insurance coverage for the minor continues to rest with the parent or guardian and not the designated signer. SB 2126 passed the Senate.

Enable the Department to be more effective and efficient - The Department is always looking for ways to become more effective and efficient and on occasion a state law change is required to accomplish this goal.

- For example, SB 2123, introduced this session, would allow for online renewal of the operator's license every other cycle.

In summary, the Department believes that not allowing a state agency to submit a legislative bill, as stated in HB 1397, will affect efficiency of the process for members of the legislative assembly and state agencies. With the present process, the final decision still ultimately lies within the legislative body.

The Department would ask for a Do Not Pass recommendation on HB 1397. This concludes my testimony and I'm available to answer questions the committee may have. Thank You.

#4
1399
2-6-17

WHO MAY SPONSOR LEGISLATION?

By Brenda Erickson

The lawmaking process begins with an idea to create a new law or revise an existing statute. The idea may come from a legislator, legislative committee, court decision, state department or agency, political subdivision, individual citizen, business or special interest group, news media investigation or national organization. However, that person or group may not be allowed to initiate the formal legislative process.

This report investigates who has the authority to directly request legislation to be drafted and introduce a bill. It also looks at the rationales for various practices.

Requesting bill drafts. Every legislature allows its members to directly request legislation to be drafted by the body's drafting agency. But is anyone else permitted to do so? The answers to this question generally fall into four categories:

1. Legislators are the *only* ones permitted to ask for bill drafts.
2. A chamber allows bill draft requests from others within the legislature--that is, a standing or interim committee, a caucus, a legislative staff agency or an individual staff person.
3. A chamber lets bill draft requests come from individuals or groups that are outside the legislature--such as the governor, lieutenant governor, an executive branch agency, a state board or commission, a judicial branch court or agency, a local government entity, a lobbyist or any state resident.
4. A chamber may give special authority to individuals or groups to request bills. For example, in Alabama, a legislator, the governor or the lieutenant governor may grant this authority to any person. Any person acting on behalf of an Arkansas senator may ask for legislation to be prepared. In the Louisiana Senate, the governor, lieutenant governor, executive branch agency, state board or commission and judicial branch court or agency may ask for bill drafts only if they are given "blanket approval" by the floor leader.

Why do some legislatures choose to limit access to bill drafting while others have expanded it? Drafting a bill is a difficult and time-consuming task. By allowing *only* legislators to request bill drafts, legislative employees are able to adequately serve the duly elected representatives of the people. Opening this service to non-legislators places a additional demand on staff time. In addition, a limitation on who may request bill drafts:

- Provides a filtering process, ensuring uniformity in bill drafting and controlling the quantity and quality of legislation.
- Reduces legislative costs by avoiding unnecessary drafting.
- Identifies members as the primary clients of the bill drafting agency and keeps staff focused on their mission of *legislative* support, thereby maintaining staff allegiance and responsibility to legislators.
- Helps the drafting agency maintain required confidentiality.
- Requires one person to make the policy decisions inherent to the draft, resulting in a single set of instructions.
- Increases efficiency of organization, scheduling and tracking.
- Compels interests outside the legislature to work with a legislator, ensuring communication between the interested party and a member regarding the issue addressed in the bill.

However, some believe that there are benefits in allowing other individuals or groups to request bill drafts. Expanding the pool of bill requesters:

- Offers a broader base of thoughts and ideas.
- Allows creative ideas to move forward.
- Gives citizens a greater sense of participation in the legislative process.
- Promotes flexibility in the legislative institution.
- Alerts legislators and staff to issues that are of current public interest.
- Speeds the process because the drafter can get input from the original source of an idea.
- Produces the best product for the member when the most knowledgeable person provides information for the bill draft.
- Provides the drafting bureau an opportunity to examine an issue before it is presented to a legislator.
- Allows creation of a final document to show legislators when soliciting support.

Introducing bills. Generally, legislatures are stricter about who may introduce bills than who may request drafts. That is, legislative chambers are more likely to limit introduction authority to legislators or others from within the legislature.

Proponents of the practice allowing *only* legislators to introduce bills argue that it reinforces the principles of representative democracy and separation of powers. By constitution, lawmaking is solely the function of the legislature. Therefore, only those persons who have been elected to serve in the legislature should be able to initiate the formal process. Also, a strict limitation on who may sponsor legislation:

- Reduces the number of people inside the chamber.
- Reduces the bills entering the legislative process.
- Conserves legislative support resources.
- Increases efficiency of organization, scheduling and tracking.
- Gives a member "ownership" of, responsibility for and commitment to the legislation.
- Demonstrates that there is support for the proposal.
- Increases accountability to the electorate.
- Requires outside interests to work with legislators.

Chambers often permit other individuals or groups from within the legislature--especially committees--to introduce bills. Supporters of this practice argue that it:

- Reduces the bills entering the legislative process.
- Demonstrates that a proposal has support beyond a single individual.
- Strengthens the committee system.
- Illustrates that the consensus-building process has begun, because a measure introduced by a committee or caucus probably already reflects initial compromises.
- Increases efficiency.

Occasionally, chambers allow individuals outside the legislative arena--typically, the governor--to directly introduce legislation. More often, a legislator must be convinced to sponsor the bill "by request of" or "on behalf of" the person or group. However, in Massachusetts, any state resident may be a bill author.

Contact for More Information

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17.0853.01001
Title.

Prepared by the Legislative Council staff for
Representative K. Koppelman
February 6, 2017

#1
1397
2-13-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1397

Page 1, line 21, after the underscored period insert "A bill introduced under this subsection by a member of the legislative assembly also must specify the name of the requesting entity."

Renumber accordingly

17.0853.01001
Title.

Prepared by the Legislative Council staff for
Representative K. Koppelman
February 6, 2017

#1
1397
2-14-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1397

Page 1, line 21, after the underscored period insert "A bill introduced under this subsection by a member of the legislative assembly also must specify the name of the requesting entity."

Renumber accordingly

SENATE GOVERNMENT AND VETERANS AFFAIRS
March 16, 2017 – Sheyenne River Room
11:00 a.m.

North Dakota Department of Transportation
Grant Levi, P.E., Director

HB 1397

Good morning Madam Chair and members of the committee. I'm Grant Levi, Director of the North Dakota Department of Transportation (Department). Thank you for giving me the opportunity to provide information today. The Department opposes HB 1397.

The Department of Transportation introduces bills for three main purposes:

1. Meet federal rules and requirements.
2. Provide better service to the public
3. Enable the Department to be more effective and efficient.

Federal rules and regulations - Driver's License and Motor Vehicle are two areas extensively regulated by federal rules. On occasion, bills need to be introduced to enable the Department to meet changes in federal requirements. For example, Commercial Driver's License (CDL) laws requiring changes that affect truck drivers.

- An example of a state agency bill of this type is HB 1133, introduced this session. This Bill codifies the federal rule in state statute allowing the exemption of the hazardous materials endorsement for the CDL license for transport of one thousand gallons or less of fuel. The Governor has signed HB 1133.

Provide better service to the public - There are times when a change in Century Code enables the Department to improve processes and provide better service to the public.

- An example is SB 2126 introduced by DOT. This bill will provide temporary authority to sign for a minor. It establishes that a parent or legal guardian may designate an individual to sign the application for a minor. Maintains that insurance coverage for the minor continues to rest with the parent or guardian and not the designated signer. The Governor has signed SB 2126.

Enable the Department to be more effective and efficient - The Department is always looking for ways to become more effective and efficient and on occasion a state law change is required to accomplish this goal.

- For example, SB 2123, introduced this session, would allow for online renewal of the operator's license every other cycle. SB 2123 passed the Senate and is being discussed by the House.

In summary, the Department believes that not allowing a state agency to submit a legislative bill, as stated in HB 1397, will affect efficiency of the process for members of the legislative assembly and state agencies. With the present process, the final decision still ultimately lies within the legislative body.

The Department would ask for a Do Not Pass recommendation on HB 1397. This concludes my testimony and I'm available to answer questions the committee may have. Thank You.

North Dakota Department of Human Services (DHS)
2017 House Bill 1397
Examples of Agency (DHS) Legislation

HB 1397 3-16-17

#2
pg 1

Bill No.	Description	Details
HB 1116	Relating to the structure of the department of human services and changes in terminology.	There are four changes in this Bill: (1) Changes The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to The Joint Commission as the Commission was renamed; (2) changes mental health services to behavioral health; and (3) with DHS centralizing fiscal functions, the Bill removes the specific reference to fiscal staff from the ND State Hospital to reference the broader DHS fiscal administration; and (4) changes "Health Care Finance Administration" to "Centers for Medicare and Medicaid Services" as the federal agency name changed some time ago. The Amendments adopted were at the request of the Department.
HB 1117	Relating to changes in terminology with respect to substance abuse and behavioral health.	he proposed changes would update language to be consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorder, for example "substance use disorder" instead of "drug abuse" or "alcoholism." The proposed changes also update the "Division of Mental Health and Substance Abuse" to the "Behavioral Health Division" – a change initiated by the Department in May 2015. The proposed changes also utilize person-first language. The bill proposes to change "chronically mentally ill individuals" to "individuals with a serious mental illness." There were no amendments to this bill.
HB 1118	Relating to the definition of eligible beneficiary for the aid to aged, blind, and disabled persons.	Amends North Dakota Century Code Section 50-24.5-01, relating to Basic Care Assistance Program (BCAP) eligibility. The proposed changes remove language that is no longer applicable to BCAP program. The language should have been removed with the revisions to this section in the 2013 Legislative session at which time Expanded Service Payments for Elderly and Disabled Chapter 50-24.7 was created and removed from this section of North Dakota Century Code. There were no amendments to this bill.
HB 1119	Relating to collection of overpayments for service payments for elderly and disabled program and expanded service payments for elderly and disabled program.	The change will provide authority for the Department to collect overpayments for the Service Payments for the Elderly and Disabled (SPED) program and the Expanded Service Payments for the Elderly and Disabled (Ex-SPED) program when a recipient or legal representative of the recipient provides inaccurate information for the purpose of obtaining benefits. (In order to qualify for SPED or Ex-SPED services, an individual or their legal representative must provide sufficient information to determine their functional and financial eligibility for the service.) If an individual or legal representative provides inaccurate or false information about finances, health status, or ability to complete everyday tasks, the Department currently lacks the authority to recoup the funds that were paid for the services received when the individual was not eligible. This authority currently exists for home and community based services (HCBS) that are Medicaid-funded, but does not exist for SPED and Ex-SPED, which are funded through State general fund. The Amendments adopted were at the request of the Department.

North Dakota Department of Human Services (DHS)
2017 House Bill 1397
Examples of Agency (DHS) Legislation

HB 1397 3-16-17 #2
pg 2

HB 1120	Relating to the prior authorization program.	This bill proposed three items for the Medicaid Pharmacy Benefit: 1. Allow the Department to Prior Authorize generic drugs when the brands are less expensive; 2. Allow the Department to prior authorize stimulants for adults 21 years of age and older; and 3. Allow the Department to utilize a medication review approach used in other states to validate the appropriate use of five or more psychotropic medications for children. The House and Senate adopted amendments.
HB 1135	Relating to consolidating the committee on employment of people with disabilities into the state rehabilitation council and updating the categories of positions in the state service.	This bill consolidates committees and creates efficiencies: Specifically the committee on employment of people with disabilities into the state rehabilitation council, renaming the employment of disabilities fund to allow the Council to access the funds, and "updating the categories of positions in the state service." This efficiency will serve to expand employment opportunities for people of all ages with disabilities by identifying and reducing barriers to competitive and integrated employment for persons with disabilities. The Council is a Governor-appointed council, mandated since 1992 by federal regulation for a state to receive federal VR funds. The Council is a group of North Dakota residents, more than 50% of the membership are persons with disabilities, who are appointed by the Governor to advise the VR agency on issues related to the competitive and integrated employment of persons with disabilities. Membership is defined in federal regulation and provides states the flexibility to add additional members. Through the proposed consolidation of the committees, the council will offer recommendations to the Governor to add the Department's Developmental Disabilities Division Director and the Executive Director of the North Dakota Association of Community Providers to SRC's membership. There were no amendments to this bill.

North Dakota Department of Human Services (DHS)
2017 House Bill 1397
Examples of Agency (DHS) Legislation

HB 1397 3-16-17 #2
pg 3

HB 1136	Relating to substance use disorder treatment voucher system; to amend and reenact subsections 4 and 5 of section 50-01.2-03, subsection 1 of section 50-06-01.4, sections 50-06-05.1 and 50-06-05.2, subsection 1 of section 50-06-05.3, sections 50-06-05.5 and 50-06-06.6, subsection 1 of section 50-06-20, sections 50-06-23, 50-06-24, and 50-06-29, and subsection 1 of section 50-06-34 of the North Dakota Century Code, relating to departmental updates for statutory consistency, technical corrections, powers and duties of the department, department structure, program activities, regional human service centers, leases, and aging and disability resource center funding; and to repeal sections 50-06-01.5, 50-06-36, 50-06-39, and 50-08.1-01 of the North Dakota Century Code, relating to office and office equipment, developmental disability provider review, expedited ratesetting process, and coordinating services for pregnant women; and to declare an emergency.	This bill represents a comprehensive review of Chapter 50-06. DHS initiated this review after the last session and updated the entire chapter to remove obsolete references and update code with practice. The Amendments adopted were at the request of the Department.
SB 2115	Relating to the members of the autism spectrum disorder task force.	This bill requests the addition of members of the Autism Spectrum Disorder Task Force, as requested by the Task Force. The Department chairs the Task Force.

SB 2117	Relating to criminal history record checks for medicaid services applicants, providers, and staff members; to amend and reenact section 50-06-01.9 of the North Dakota Century Code, relating to criminal history record checks for job applicants, department staff, county employees, contractors, and medicaid services applicants, providers, and staff members; to provide an effective date; and to declare an emergency.	This bill provides authority to the Department to conduct fingerprint-based criminal background checks, which are required by Federal Law.
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2017 Engrossed House Bill No. 1397
Testimony before the Senate Government and Veterans Affairs Committee
Presented by Bryan Klipfel, Director
Workforce Safety & Insurance
March 16, 2017

Madame Chairman, Members of the Committee:

My name is Bryan Klipfel, Director of Workforce Safety and Insurance (WSI). I am here today to provide information on why Engrossed House Bill 1397 may not be needed.

The current process which allows agencies to introduce legislation is an efficient process for both administrative agencies and the Legislative Assembly. Agencies can avoid the added burden that bill sponsorship imposes, especially in instances in which the proposed changes are nominal. Many of WSI's legislative initiatives are technical changes that can be introduced into the legislative process without troubling a legislator.

Further, pre-filing of agency bills assists with keeping committee work steady as agency bills can be immediately scheduled for hearing once the Legislative Assembly convenes. In fact, several of WSI's proposed bills were scheduled for committee hearings on January 4, 2017, the second day of session.

The ability to propose legislation is a privilege we do not take lightly. WSI legislation progresses through a lengthy internal and external review process prior to filing. We are mindful of the resources involved in the legislative process and seek to only introduce legislation deemed necessary. We have received no indication this privilege has been abused.

WSI has no problem with continuing to work with individual legislators and interim committees on proposed legislation. These alternatives have their place, and have worked well. In addition, agency proposed legislation provides efficiencies to both the agency and legislators and should be continued.

This concludes my testimony. I'd be happy to answer any questions you may have.