2023 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1285

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Pioneer Room, State Capitol

HB 1285
2/2/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies and the judicial branch.

Chairman Schauer called the meeting to order at 8:31 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider. Rep. Jeff A. Hoverson not present.

Discussion Topics:

- Interim committees
- Agencies introducing bills
- Budget-based changes

Rep. Toman introduced HB 1285, speaking in support of bill.

Chris Jones, Executive Director of the Department of Health and Human Services, opposing testimony (#18778) (#21215).

Additional written testimony:

Jared Hendrix, North Dakota citizen from Minot, supportive testimony (#18744).

Chairman Schauer adjourned the meeting at 8:59 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Pioneer Room, State Capitol

HB 1285
2/9/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies and the judicial branch.

Chairman Schauer called the meeting to order at 10:22 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider. Rep. Jeff A. Hoverson not present.

Discussion Topics:

- Amendment
- Committee action

Representative Louser moved to amend HB 1285 (Agencies can bring their budgets without a legislator to the appropriate appropriations committee)

Representative Vetter seconded motion.

Representative Louser Withdrew the motion.

Chairman Schauer adjourned the meeting at 10:34 AM

Phillip Jacobs, Committee Clerk By: Leah Kuball

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Pioneer Room, State Capitol

HB 1285
2/10/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies and the judicial branch.

Chairman Schauer called the meeting to order at 9:10 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rep. Rohr, and Mary Schneider present. Reps. Vicky Steiner and Steve Vetter not present.

Discussion Topics:

- Committee work
- Proposed Amendment

Representative Louser discussed the proposed amendment that would create a sub category 3, that would allow for a legislative management interim committee to introduce a bill with a legislator sponsor.

Chairman Schauer adjourned the meeting at 9:13 AM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Pioneer Room, State Capitol

HB 1285
2/16/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies and the judicial branch.

Chairman Schauer called the meeting to order at 10:03 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rep. Rohr, and Mary Schneider present. Reps. Vicky Steiner and Steve Vetter not present.

Discussion Topics:

- Committee work
- Amendment (23.0797.01001)
- Interim committees

Representative Louser moved to adopt the proposed amendment (23.0797.01001) # 22242.

Seconded by Vice Chairman Satrom.

Motion and second withdrawn.

Chairman Schauer adjourned the meeting at 10:18 AM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Pioneer Room, State Capitol

HB 1285
2/17/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies and the judicial branch.

Chairman Schauer called the meeting to order at 9:25 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider. All present.

Discussion Topics:

- Committee work
- Amendment (23.0797.01003)
- Interim committees

Chairman Schauer called for a discussion on HB 1285 and proposed amendment (23.0797.01003).

Representative Louser moved to adopt amendment (23.0797.01003) to HB 1285.

Seconded by Representative Steiner.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	Y
Representative Jeff A. Hoverson	AB
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	AB
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 11-0-2.

Representative Vetter moved a DO PASS as amended on HB 1285.

Seconded by Representative Schneider.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	Y
Representative Jeff A. Hoverson	AB
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	AB
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 11-0-2.

Bill carrier: Representative Louser.

Chairman Schauer adjourned the meeting at 9:39 AM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

23.0797.01003
Title.02000

Prepared by the Legislative Council staff for
Representative Louser
February 16, 2023

LA
2-17-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1285

Page 1, line 3, after "agencies" insert ", legislative interim committees,"

Page 1, line 7, after "**agencies**" insert "**, legislative interim committees,**"

Page 1, line 7, after "**and**" insert "**the**"

Page 1, line 8, after "agencies" insert ", legislative interim committees,"

Page 1, line 10, remove "or"

Page 1, line 11, remove "A legislative management committee or standing committee of the legislative"

Page 1, replace lines 12 and 13 with "The bill provides an agency appropriation for the biennium, which must be deemed introduced by the appropriate appropriations standing committee; or

3. The bill was recommended by the legislative management and has at least one individual legislator listed as a cosponsor."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1285: Government and Veterans Affairs Committee (Rep. Schauer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1285 was placed on the Sixth order on the calendar.

Page 1, line 3, after "agencies" insert ", legislative interim committees,"

Page 1, line 7, after "**agencies**" insert "**, legislative interim committees,**"

Page 1, line 7, after "**and**" insert "**the**"

Page 1, line 8, after "agencies" insert ", legislative interim committees,"

Page 1, line 10, remove "or"

Page 1, line 11, remove "A legislative management committee or standing committee of the legislative"

Page 1, replace lines 12 and 13 with "The bill provides an agency appropriation for the biennium, which must be deemed introduced by the appropriate appropriations standing committee; or

3. The bill was recommended by the legislative management and has at least one individual legislator listed as a cosponsor."

Renumber accordingly

2023 SENATE STATE AND LOCAL GOVERNMENT

HB 1285

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

HB 1285
3/24/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies, legislative interim committees, and the judicial branch.

9:25 AM Chjair Roers opened the hearing. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Agencies and legislature sponsors
- Common topics into one bill
- Interim committee bills
- Policy bills

Rep Toman, Dist 34, bill sponsor, testified in support. No written testimony.

Rep Louser, Dist 5, testified in support with no written testimony.

Rep Kathy Frelich, Dist 15 testified in support with no written testimony.

Randy Christmann, Public Service Commission, testified neutral #26537.

Chris Jones, Director Dept Health/Human Services testified opposed #26528.

Ronald Henke, Director ND Transportation testified opposed #26563.

Reice Haase, ND Industrial Commission testified opposed #26509.

Lynn Helms, Oil and Mineral Director testified opposed. (#26646)

Additional written testimony:

Cody Schulz, ND Parks/Recreation opposed #26535.
Nathan Svihovec, Labor/Human Rights opposed #26532.
Dave Krabbenhoft, Dept of Corrections opposed#26530.
Greg Hoffman, ND Information Technology opposed #26523.
Patrick Bertagnolli, Dir ND Job Service opposed #26521.
Brandon Solberg, Supt ND Highway Patrol opposed #26520.
Jeb Williams, ND Game and Fish opposed #26518.
Lise Kruse, State Bank and State Credit Union opposed #26512.
Andrea Travnick, Dir Water Resources opposed #26510.

10:27 AM Chair Roers closed the hearing.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

HB 1285
3/24/2023

Relating to limitations on the introduction of legislative bills prepared by executive branch agencies, legislative interim committees, and the judicial branch.

11:06 Am Chair Roers opened committee work. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Committee action

Sen Braunberger moved a DO NOT PASS.

Sen Lee seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Sean Cleary	Y
Senator Judy Estenson	N
Senator Judy Lee	Y

VOTE: YES 5 NO – 1 Absent – 0 Motion PASSED

Sen Braunberger will carry the bill.

11:20 AM Chair Roers adjourned meeting.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1285, as reengrossed: State and Local Government Committee (Sen. K. Roers, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed HB 1285 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1285

Chairman Schauer
& Members of the House Government & Veterans Affairs Committee
Jared Hendrix, resident of Minot, ND. Thank you for your time and consideration on HB 1285. I write today in Favor.

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

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

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

Common Questions

What is the process for agencies to introduce bills?

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

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

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

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

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

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

Aren't agency bills just "housekeeping" bills?

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

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

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

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

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

Sincerely,
Jared D. Hendrix
libertyhendrix@gmail.com / 701-712-1487

NORTH Dakota | Health & Human Services
Be Legendary.

Testimony
House Bill No. 1285
House Government and Veterans Affair Committee
Representative Austen Schauer, Chairman
February 2, 2023

Chairman Schauer, and members of the House Government and Veterans Affair Committee, I am Chris Jones, the Executive Director of the Department of Health and Human Services (Department). The Department is providing testimony in opposition of House Bill 1285.

The Department of Health and Human Services brings legislation forward because federal requirements that change, federal laws that happen, necessary clean-up, or to proposed changes based on the Governor's recommended budget. It is the Department's responsibility to review those federal laws to determine how they impact our programs or our financing of our programs and to make sure that those things are brought forward to the Legislative Assembly so that state statute is not inconsistent with federal statutes when it is a requirement of participating in those federal programs. Many of the bills are very specific subject matter expertise type reviews and changes and often we are the only people who testify in our hearings.

In addition, the Department also needs to amend prior legislative actions, current state laws, to address inconsistencies in state law, federal law, and federal regulations.

This concludes my testimony. Thank you.

23.9354.01000

Legislative Council

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

☎701.328.2916
701.328.3615
www.ndlegis.gov
lcouncil@ndlegis.gov

August 23, 2022

TO: ALL EXECUTIVE AND JUDICIAL BRANCH AGENCY HEADS

Joint Rule 208 provides executive branch agencies and the Supreme Court may prefile bills, **other than bills making appropriations**, with the Legislative Council before a legislative session. The rule provides the bills must be prefiled by the close of business on the day after the adjournment of the organizational session. We anticipate the organizational session will adjourn on Wednesday, December 7, 2022, so the deadline for introduction of agency bills will be the close of business on Thursday, December 8, 2022. A copy of Joint Rule 208 is attached for your information. Please notice the rule extends the introduction privilege to bills only and does not include resolutions.

The filing of agency bills has proven to be an efficient and timesaving factor in assisting the Legislative Assembly in managing its workload. By directly introducing bills, agency officials do not need to spend their time or that of legislators in soliciting sponsors for agency bills. Agencies also may ask a legislator to sponsor agency bills, and the same deadline applies. The signed authorization by the legislator must accompany the bill when it is prefiled with the Legislative Council.

Legislative rules for the 2023 legislative session will be adopted at the organizational session on December 5-7, 2022. We recommend you begin planning agency legislation as soon as possible so you can comply with the December 8 introduction deadline. Anyone on your staff who will be drafting bills for the 2023 legislative session should plan to attend a legislative drafting seminar sponsored by the Legislative Council staff from 9:00 a.m. to 12:00 noon on Tuesday, October 4, 2022, in the House Chamber in the State Capitol. Attendees have the option of attending the legislative drafting seminar in person or via Microsoft Teams. You may register online at https://ndlegis.gov/2022-legislative-drafting-seminar.

If you have any comments or suggestions concerning the rules on agency bill introductions, you may wish to express your concerns to the Legislative Procedure and Arrangements Committee in care of the Legislative Council.

Sincerely,

John Bjornson
Director

JB/BM
Encs.

23.0797.01001
Title.

Prepared by the Legislative Council staff for
Representative Louser
February 8, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1285

Page 1, line 11, remove "A legislative management committee or standing committee of the legislative"

Page 1, replace lines 12 and 13 with "The bill provides an agency appropriation for the biennium, which must be deemed introduced by the ~~appropriate~~ appropriations standing committee."

Renumber accordingly

INDUSTRIAL COMMISSION OF NORTH DAKOTA

Doug Burgum
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

HB 1285
Senate State and Local Government
Testimony of Reice Haase, Deputy Executive Director
North Dakota Industrial Commission
March 24, 2023

Good morning Madam Chair Roers and members of the Committee, for the record, my name is Reice Haase, and I am the Deputy Director of the North Dakota Industrial Commission. The Industrial Commission is made up of the Governor as Chair, the Attorney General, and the Agriculture Commissioner. I am testifying today in opposition to House Bill 1285.

At its March 6th, 2023 meeting, the Industrial Commission took a position of opposition against HB 1285. The rationale for the opposition is as follows:

HB 1285 would reduce productivity and efficiency for both Legislative and Executive branches

- Filing of agency bills saves time for both agencies and the Legislature
- Agencies, as the experts in their respective fields, are resources for the Legislature
- Many pre-filed bills are red-tape reductions that lead to increased efficiencies for state government. For example:
    - 21 Industrial Commission pre-filed bills since 2013
    - 12 were red-tape reduction bills, 9 were general policy or cleanup bills
    - Only 3 of the bills were defeated
    - Average affirmative vote by the legislative body exceeding 94%

HB 1285 could jeopardize state primacy

- North Dakota has primacy over many natural resource-related programs related to air quality, water quality, and numerous permitting programs
- In particular, North Dakota was the first state to achieve primacy over EPA's Class VI underground injection program, which is managed by the Commission's Department of Mineral Resources
- Maintaining state primacy over these programs is vital for our Agriculture and Energy industries
- By regulating these programs locally vs. federally, we are able to maintain a stable regulatory environment and increase responsiveness to North Dakota citizens
- To maintain primacy, state agencies occasionally need to update definitions and rules, much of which is accomplished with agency pre-filed bills
- If an agency were unable to solicit a legislative sponsor in time for such a policy change, our State's primacy over that program could be jeopardized
- The Industrial Commission is currently tracking an alarming number of risks to our state, some of which include:
    - WOTUS, which is a major risk to all of North Dakota's industries

    - Regional Haze, Coal Combustion Residuals, and Minnesota's bill related to interstate electricity sales, which could lead to premature retirements of our baseload power plants and hinder our efforts for implementing carbon capture
        - Risk to valuable baseload at a time of alarming rates of retirements (over 100 GW by 2039)
    - DOI's reduction in mineral lease sales, BLM's Resource Management Plan, BLM's Venting and Flaring Rule, EPA's Climate Proposal, and the Corps of Engineers' Draft Environmental Impact Statement related to DAPL, all of which could jeopardize future oil and gas production
        - Direct financial risk to over 52% of state revenues
- At a time of federal policy shifts that are contrary to North Dakota's interests, we cannot afford any threat to our state primacy

HB 1285 would not reaffirm separation of powers

- Joint Rule 208 allows executive branch agencies and the Supreme Court to prefile policy bills only, not appropriations or resolutions
- Bills must be pre-filed by the close of business on the day after the adjournment of the legislative organizational session, bills by agencies may not be filed after this date
- The legislature still votes on agency pre-filed bills, and can still vote against any bill it sees fit
- The current rule does not preclude legislative involvement in drafting of the bills, agencies may still seek legislative sponsors and many do
- HB 1285 would restrict legislative authority by codifying a requirement that would restrict its rulemaking authority

Testimony
HB 1285—Department of Water Resources
Senate State and Local Government
Senator Kristin Roers, Chair
March 24, 2023

Chair Roers, and members of the Senate State and Local Government Committee—I am Andrea Travnicek, the Director of the Department of Water Resources (Department). I am here today to provide testimony in opposition to House Bill 1285.

The Department is the technical expert for managing water resources in the state. The Department additionally has the responsibility to work with the public, elected officials, and affected stakeholders on a daily basis to carry out our mission. Since the Department has daily interactions with all stakeholders in executing North Dakota Century Code (N.D.C.C.), we are uniquely able to identify areas within the code for inconsistencies, potential efficiencies, obsolete language, and opportunities for discussion.

Through the Governor's Red Tape Reduction initiative this past year, the Department identified efficiencies and reduced regulatory burdens in several of our Divisions' operational processes. All five Red Tape Reduction bills introduced were able to be drafted and submitted by the Department and have passed through both chambers with an overwhelming majority (HB 1072, HB 1073, HB 1074, HB 1075, and HB 1076).

The Department also has the responsibility for staying up to date on federal government and judicial system decisions. The Department reviews these decisions and how they may impact the operations of the Department and overall management of water resources in the state.

Beyond responding to federal or judicial changes, the Department also reviews N.D.C.C. and existing federal programs for opportunities to ensure the state remains an equal partner on any federally-driven water resource management decisions

within the state. This session alone, the Department submitted two bills for consideration that included new sections of N.D.C.C. that required the federal government to notify the Department and other affected agencies on discussions related to water storage agreements (HB 1077) and wild and scenic rivers (SB 2097). Federal decisions related to these initiatives could have consequences on how water is managed in the state and no other entity or legislative district may be aware of these conversations taking place at the national level. With the Department having an awareness of these discussions, the Department can bring forward potential N.D.C.C. changes for legislative consideration.

Limiting the Department's ability to independently develop and submit N.D.C.C. changes, would limit opportunities for efficiencies, regulatory reduction, transparency, and responsiveness improvements. This scenario would also change the state's ability to nimbly take measures to ensure administration of the state's water resources is completed from a North Dakota perspective. The legislature is still the ultimate arbiter of N.D.C.C. enhancements and has the ability and responsibility to provide input and amendments on all Department-initiated bills through the normal legislative process without any deference to the Department.

The Department also typically engages with legislative assembly partners to gain support and receive constructive feedback on any Department-initiated bills that have broad policy implications. This collaborative outreach has led to Department-initiated bills receiving legislative assembly sponsors, as is evidenced by this session's HB 1218 relating the creation of a Northwest Area Water Supply Authority and SB 2196 relating to the Western Area Water Supply oversight and debt.

Thank you for the opportunity to comment, and I'm happy to stand for any questions.

NORTH Dakota | Financial Institutions
Be Legendary.™

MEMORANDUM

DATE: March 24, 2023
TO: Senate State and Local Government Committee
FROM: Lise Kruse, Commissioner, Chair of the State Banking Board and State Credit Union Board
SUBJECT: Testimony in Opposition of House Bill No. 1285

The Department of Financial Institutions (DFI) is tasked with the oversight of banks, credit unions and several nonbank entities that provide financial services in North Dakota. The non-depository institutions include trust companies, collection agencies, payday lenders, money transmitters, debt settlement service providers, and all nonbank lenders (money brokers), and mortgage loan originators.

DFI has long enjoyed an excellent working relationship and partnership with the ND legislature. As the DFI has spent the last few legislative sessions introducing bills removing red tape negatively affecting the industries we regulate, and introducing updated language and new additions to law to accommodate new financial product offerings, the legislative body has overwhelmingly voted in favor of anything we have proposed. Oversight of the financial services industry is either conducted by state or federal regulators. In order to withstand federal pre-emption and overreach, it is important state laws and regulations are up to date. This bill adds additional steps to the process which discourages agencies from seeking updates or changes which reduce bureaucratic red tape. The current process ensures that our state-chartered financial institutions can remain competitive, limits the risk of federal preemption, and also ensures that we are on the forefront of protecting citizens from financial fraud.

The current structure is effective. DFI always seeks industry input before introducing any bills, and works with legislators to ensure all bills are sound legislation that addresses the concerns of all stakeholders. Although there is an opportunity to have a legislator introduce DFI bills, DFI recognizes that financial regulations are often highly technical and may cover topics that legislators may not want to attach their name to. For example, last session, the law related to bank failures was revised. It is a necessary function for the state to retain in order to not give that authority to the federal government, however, many legislators may be hesitant to attach their name to a bill that could have a “negative” connotation.

Our department has always viewed legislators as partners. You are our elected officials, representing the will of the people. DFI is here to assist within our field of expertise. While you have allowed us to introduce bills, you pass the laws, and we execute these laws on your behalf. And then the third branch of government is there to make sure everything is done legally. This structure is effective, working together in such a manner ensures that we can do the best for our citizens. Limiting the introduction of law as outlined in HB 1285 is inefficient, has the real potential of making our laws antiquated and obsolete, and puts additional burdens and pressure on our legislators. Appreciating the current framework of partnership, DFI respectfully opposes HB 1285.

House Energy and Natural Resources Committee
Testimony on HB 1285

North Dakota Game and Fish Department
Jeb Williams, Director
March 23, 2023

Chairman Schauer, and members of the House Government and Veterans Affairs Committee. I am Jeb Williams, Director for the North Dakota Game and Fish Department. I would like to provide a brief testimony in opposition to HB 1285.

The North Dakota Game and Fish Department (Department) greatly values the importance of having the ability to bring forth proposed legislation. We utilize this option primarily for cleanup of language or to simplify logistics of process, which serves to enhance our responsibility to the general public in fulfilling our mission to *protect, conserve and enhance fish and wildlife populations and their habitat for sustained public consumptive and nonconsumptive use*; something we strive to achieve for today and for future generations.

With this in mind, I respectfully oppose HB 1285.

NORTH Dakota | Highway Patrol
Be Legendary.

68th Legislative Assembly
Written Testimony in **Opposition** of
House Bill No. 1285
Senate State & Local Government Committee
March 24, 2023

WRITTEN TESTIMONY OF
Colonel Brandon Solberg, Superintendent

Chair Roers and members of the Senate State and Local Government Committee, my name is Brandon Solberg, and I serve as the superintendent of the North Dakota Highway Patrol. I am opposed to House Bill 1285 which would eliminate an executive branch agency's ability to submit a legislative bill without a sponsor from the legislative assembly.

The highway patrol does work with members of the legislative assembly to sponsor and introduce bills, and we value those partnerships and relationships. But we also submit bills directly when the intent is to clean up specific areas of the North Dakota Century Code that impact the agency. Three examples from the current session are below:

- HB 1060 – added additional options for commercial motor vehicle permits
  - Passed the House 90-0
  - Passed the Senate 45-0
- SB 2053 – changes "patrolman" to "trooper" and "accident" to "crash"
  - Passed the Senate 47-0
  - Pending amendments for insurance sections in the House
- SB 2054 – clarifies the highway patrol's dignitary protection and door security responsibilities
  - Passed the Senate 47-0
  - Passed the House 84-0

The ability for state agencies to submit bills directly, especially bills that have a minor impact, creates efficiencies for the agency and members of the legislative assembly. Efforts such as locating a potential sponsor, connecting with the legislator to explain why a change is needed, preparing and reviewing draft bills for submission, and participating in each step of the legislative session all take up valuable time.

Ultimately, the legislative assembly retains the ability to vote down any bill that is introduced. I would urge the committee to consider a "do not pass" recommendation on HB 1285.

NORTH Dakota | Job Service
Be Legendary.

Senate State and Local Government Committee
HB 1285
March 24, 2023

Chair Roers and members and of the Senate State and Local Government Committee, my name is Patrick Bertagnolli, and I am the Executive Director for Job Service North Dakota. I am submitting testimony in opposition of HB 1285.

Job Service believes that this bill will create significant additional work to both the agency and to members of the legislative body, without providing any positive outcomes. HB 1285 does not change the process for passing a bill. Bills that are introduced, whether from an agency or from another source must stand on their own merits and follow the same process. Agencies provide testimony, interested parties provide supporting and opposition testimony, and legislators ask questions necessary to deliberate the value of each bill to North Dakota. There is not a short cut for passing a bill. Importantly, agency bills do not get an automatic pass by having the ability to introduce bills.

The ability to submit bills and the time it allows agencies to continually refine the content for submission is extremely important to us. We feel that the changes proposed in HB 1285 create hurdles that ultimately could prevent good legislation from being heard by the legislative body as a whole. For example, Job Service has an Unemployment Insurance Advisory Council made up of members of the employer community, labor community, and legislative community. Given this arrangement, it would seem logical that we would attempt to utilize our legislative members as our bill sponsors. However, there are times when an individual legislative member may not be in agreement with the direction of the majority of the Advisory Council and subsequently not feel comfortable sponsoring a particular bill, causing us to search out another legislative sponsor. As the search occurs, we expect that there could be reluctance in sponsoring a bill that the legislative representative of the Advisory Council will not sponsor. This could result in good or even required legislation never being heard.

Although it is new to all of us, we are also concerned with the complexities this format will provide given term limits. The timing of elections, along with the consistent change in the makeup of the legislative body will provide a much more challenging environment in identifying and educating a legislative sponsor.

Job Service does not take the legislative process lightly, and we are very selective in submitting bills. We have worked to build the trust of the legislative body and to not abuse the privileges provided to us. It is difficult to imagine all of the unintended consequences of this legislation, but we truly believe that the proposed bill will add additional work and duties to an already over-worked legislative assembly and to the agencies supporting the citizens of the state.

We appreciate the opportunity to provide written testimony and would be happy to discuss with any of you the impacts and potential problems HB 1285 raises. Thank you for your time.

NORTH Dakota | Information Technology
Be Legendary.

Testimony

House Bill No. 1285

Senate State and Local Government Committee

March 24th, 2023

Madam Chair Roers and committee members, my name is Greg Hoffman and I serve as the Deputy CIO for ND Information Technology. I am submitting testimony in opposition to House Bill 1285.

ND Information Technology, like most agencies of the Executive Branch are specialized entities responsible for carrying out specific functions or delivery of specific services to the citizens of North Dakota. The expert knowledge and experience in these respective fields uniquely position the agency to identify issues and propose potential solutions that may require legislative action.

By allowing agencies like Information Technology to introduce bills, the legislative body takes advantage of the in-house subject matter experts that will present well-informed and practical solutions. This can save legislators time and resources during the legislative process not having to research possible legislative changes on their own.

Allowing agencies to submit bills emphasizes the accountability agencies have to the citizens they serve and can provide a direct avenue for agencies to address concerns and improve services. Since the legislative body has similar responsibilities to the citizens of North Dakota, they can leverage the work done by agencies to enhance their responsiveness to the needs of the citizens.

This concludes my testimony, thank you committee members.

NORTH Dakota | Health & Human Services
Be Legendary.

Testimony
Engrossed House Bill No. 1285
Senate State and Local Government Committee
Senator Kristin Roers, Chairman
March 24, 2023

Chairman Roers, and members of the Senate State and Local Government Committee, I am Chris Jones, the Executive Director of the Department of Health and Human Services (Department). The Department is providing testimony in opposition of Engrossed House Bill 1285.

The Department predominately brings legislation forward because of federal requirement changes, federal law updates, necessary clean-up, or to propose changes based on recommendations of work groups and constituents or the Governor's recommended budget. It is the Department's responsibility to review federal laws and regulations to determine how they impact our programs or the financing of our programs, and to make sure that items are brought forward to the Legislative Assembly so state statute is consistent with federal statutes or regulations when it is a requirement of participating in those federal programs. Many of the bills have very specific subject matter expertise type reviews and changes, and frequently we are the only people who testify in our hearings.

In addition, the Department also needs to amend prior legislative actions, current state laws, to address inconsistencies in state law, federal law, and federal regulations.

The filing of agency bills saves time for the Department and legislators.

This concludes my testimony. Thank you.

Testimony
HB 1285—Department of Corrections and Rehabilitation
Senate State and Local Government
Senator Kristin Roers, Chair
March 24, 2023

Chair Roers, and members of the Senate State and Local Government Committee—I am Dave Krabbenhoft, the Director of the Department of Corrections and Rehabilitation (DOCR) and I am submitting testimony in opposition to House Bill 1285.

The DOCR is responsible for the direction and general administrative supervision, guidance, and planning of adult and juvenile correctional facilities and programs within the state. As noted in NDCC 54-23.3-02, the purpose of the DOCR is to:

1. To develop a statewide correctional philosophy that will provide direction, goals, and standards for corrections.
2. To provide for the care, custody, discipline, training, and treatment of persons committed to state correctional facilities and programs.
3. To coordinate and provide a continuum of correctional services to both adult and juvenile clients.
4. To promote and develop close communication and mutual understanding of corrections issues and concerns between the courts and the department.
5. To provide joint training of staff and career opportunities for corrections staff.
6. To work with local and state entities to develop alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community-based facilities and programs.

This responsibility and purpose places the DOCR in the unique position to identify areas of inconsistency and obsolescence, and to suggest areas of potential improvement and coordination within the Century Code. Limiting the DOCR's ability to independently develop and submit proposed changes to the Century Code, would negatively impact its ability to incorporate efficiencies and to implement improvements to State's correctional system.

Thank you for the opportunity to comment.

68th Legislative Assembly
Regular Session (2023)

H.B. 1285

Senate State and Local Government Committee
Kristin Roers, Chairman
Jeff Barta, Vice Chairman

Testimony of Nathan Svihovec
Commissioner of Labor
N.D. Department of Labor and Human Rights

OPPOSITION

March 24, 2023

NORTH Dakota Be Legendary.™ | Labor and Human Rights

I. Introductory Summary

Chairman Roers, Vice Chairman Barta, and members of the Senate State and Local Government Committee, my name is Nathan Svihovec and I was appointed as the North Dakota Department of Labor and Human Rights Commissioner beginning December 2022. I am a licensed attorney in the State and prior to my appointment, primarily practiced in labor and employment law as well as other civil litigation areas. I have been fortunate to formerly represent the Department as an Assistant Attorney General and to represent private businesses and individuals before the Department while I was in private practice.

Chapter (Ch.) 34-05 of the North Dakota Century Code (N.D.C.C.) created the North Dakota Department of Labor and Human Rights and prescribes the powers and duties of the Commissioner of Labor (Labor Commissioner). The Department's statutory duties can be most concisely summarized as ensuring citizens can live, work, and prosper in North Dakota. It is my deeply held belief that the mission of the Department is an essential service to the public.

II. Efficiencies

There are many fundamental benefits to the Legislative Assembly permitting state agencies to introduce their own legislation. Primarily, specialized knowledge and history of an agency are driving motivations for such flexibility. For example, my prior experience representing the Department, as well as representing clients before the Department, helped me identify several areas of our laws that need to be amended to provide clarity or prevent conflicts. These amendments would provide clarity to the public and resolve certain ambiguities currently in existence.

I started this position with only one month before the current Legislation Session began. Consequently, I had many other priorities before a comprehensive statutory clean-up. I will therefore need to address the statutory issues next Session. Although I could likely find a legislator to sponsor a clean-up bill, there are nuances in employment law, housing discrimination, wage collection, and the various other areas the Department provides services. It is unrealistic to expect a sponsor to have the adequate historical and technical understanding of the areas the Department administers.

Moreover, in my first Session it is readily apparent that Legislators are already spread quite thin with other bills for which they sponsor. By allowing the Department – and other state agencies – to introduce their own legislation, it frees Legislators' time and resources to reduce the burden on them during Session. Furthermore, while the legislative functions are Constitutionally reserved to the Legislative Assembly, the simple act of introducing legislation does nothing to strip the Legislature of its Constitutional authority to determine which bills become North Dakota law. Accordingly, the separation of powers is maintained while increasing efficiencies and reducing burdens on the Legislative Branch.

I respectfully request the Committee vote for a DO NOT PASS on H.B. 1285. Thank you for your time and service to North Dakota.

Testimony – HB 1285
Senate State and Local Government Committee
March 24, 2023
By Cody Schulz
Director, ND Parks and Recreation

Chairman Roers and members of the Senate State and Local Government Committee, my name is Cody Schulz. I am the Director of the North Dakota Parks and Recreation Department and I offer this testimony in opposition to HB 1285.

North Dakota Parks and Recreation is one of the many agencies that has benefited from Joint Rule 208 that has allowed us to pre-file agency bills in advance of legislative session. Like many other agencies, the North Dakota Parks and Recreation department finds itself especially busy during legislative session and passage of HB 1285 would result in our department dedicating more time and resources to the legislative process, time that could be better spent focused on operations and enhancing the value of our offerings to the citizens of our great state. North Dakota Parks and Recreation's agency bills are often technical in nature and require a great deal of institutional knowledge and we spend significant time and effort explaining bill content and outcomes to the respective committees to which our bills are assigned. If passed, HB 1285 will require agencies to "double up" on these efforts, both explaining the bills during the sponsor solicitation process, and in committee. Executive branch agencies currently have the option to solicit legislative sponsorship, and frequently use that option. I have great respect for the duties, responsibilities and powers of the legislative branch, and no matter how a bill is introduced the legislative assembly has ultimate power and authority to pass or defeat any bill that comes before it.

In conclusion, the current process and requirements have proven to be an effective and efficient measure for state agencies, the legislative body, and legislative council. Removing this process through HB 1285 will create more red tape for State Agencies participating in the legislative process.

On behalf of North Dakota Parks and Recreation, I respectfully recommend HB 1285 receive a Do Not Pass.

Thank you for your time; I am happy to stand for any questions you may have.

House Bill 1285

Presented by: **Randy Christmann, Chair**
Public Service Commission

Before: **Senate State and Local Government Committee**
Honorable Kristin Roers, Chair

Date: **March 24, 2023**

TESTIMONY

Madam Chair and members of the committee, I'm Randy Christmann, Chair of the Public Service Commission, here to testify on HB 1285. I am testifying on my own behalf. To be clear, from my current position at the PSC I have a completely neutral position regarding your decision on passage of this bill. We submitted five policy bills this session and all have passed both Houses unanimously. The Commissions had another one that was not ready by our early December deadline and we found Legislative sponsors and it has also passed both Houses. So passage of HB 1285 would not be problematic for the PSC at all. I do have some other history on this topic though that I think should be shared.

In the 1990's, I would have signed on as a cosponsor of this legislation had it been proposed. I had a firm belief that agencies should find legislators to sponsor their bills rather than proposing them on their own. Instead of legislation to require this, there was a Governor's directive urging executive agencies to obtain legislative sponsors.

After trying this for a couple of sessions the Legislature took the opposite position. The Legislative Council, which is what we called Legislative Management in those days, finally sent a letter to executive branch agencies and the Supreme Court urging them to use the agency introduction privilege rather that asking individual legislators to introduce

agency bills. Please read the “Executive Agency and Supreme Court Bills” section of the 1999 Legislative Council report for yourselves for the most accurate explanation of the reasons Legislative Council took this action. I am confident that with the new ideas presented in favor of this change and this historical context you will provide good guidance for how you want us to submit our legislation in the future.

This concludes my testimony. Thank you for your time and I am available for questions.

REPORT

OF THE

NORTH DAKOTA LEGISLATIVE COUNCIL

Pursuant to Chapter 54-35 of the North Dakota Century Code

FIFTY-SIXTH LEGISLATIVE ASSEMBLY
1999

sponsors could be changed after approval of the Delayed Bills Committee or otherwise. The Senate also approved deleting this word, but it was retained through a clerical error in 1995 and 1997.

The committee recommends amendment of Senate Rule 403 to delete reference to the "original" sponsor's name and thus reaffirm the change first approved in 1994.

Bill Introduction Deadlines

Traditionally, bill introduction deadlines fall on the 5th, 10th, and 15th legislative days—Mondays—when the Legislative Assembly convenes on Tuesday. The 55th Legislative Assembly convened on Monday, January 6, 1997, rather than the traditional Tuesday. For the 1997 session, the bill introduction deadlines were changed to the 6th, 11th, and 16th legislative days so the various bill introduction deadlines would continue to fall on Mondays.

The committee recommends amendment of Senate and House Rules 402 to change the bill introduction deadlines from the 6th, 11th, and 16th legislative days to the 5th, 10th, and 15th legislative days. The 56th Legislative Assembly will convene on Tuesday, January 5, 1999, and this recommendation is made to ensure that each bill introduction deadline will continue to fall on Monday.

Divided Committee Reports

The committee discussed the use of divided committee reports. Senate and House Rules 602 provide that in case all the members of any committee cannot agree upon any report, the majority and minority may each make a report and any member dissenting from both the majority and minority may also present a report. Committee members discussed the effect of allowing one member to make a report, regardless of the practicality of the success of that report on the floor of the chamber. The committee determined that more than one member should be required for a report so as to reduce the possibility of frivolous reports.

The committee recommends amendment of Senate and House Rules 602 and House Rule 601(1) to provide that in case all the members of any committee cannot agree upon any report, the majority and minority may each make a report, and the minority report must be signed by at least two members of the Senate committee or three members of the Senate Appropriations Committee, or three members of the House committee or four members of the House Appropriations Committee, who voted against the majority report.

Resolutions Crossover Day

Joint Rule 203 provides a bill that has passed one house may not be sent to the other house for concurrence after the 34th legislative day, and a resolution requesting a Legislative Council study may not be sent to the other house for concurrence after the 40th legislative day. The committee discussed whether there should be a deadline for sending any type of resolution to the other house for concurrence. No reason was advanced to continue to exclude certain resolutions from a crossover deadline. A reason for establishing a deadline is to reduce the volume of proposals scheduled on the calendar late in the session.

The committee recommends amendment of Joint Rule 203 to provide that a resolution that has passed one house may not be sent to the other house for concurrence after the 40th legislative day, except a resolution approved for introduction after the deadline for introduction of that type of resolution. This deadline would depend on the type of resolution, e.g., a general resolution may not be introduced after the 18th legislative day and a resolution requesting a Legislative Council study or proposing amendment of the United States Constitution may not be introduced after the 31st legislative day.

Executive Agency and Supreme Court Bills

The committee discussed the effect of agencies requesting legislators to be listed as sponsors of agency bills. The committee reviewed statistics on the number of bills introduced beginning with the 1993 session (before the rules change) through the 1997 session. There has been a reduction of 17 percent in the number of bills introduced from 1993 through 1997, and the reduction in the number of agency bills introduced has been 61 percent. Of 193 agency bills introduced in 1995, 33 were sponsored by legislators, and of the 121 agency bills introduced in 1997, 18 were sponsored by legislators. Only two percent of all bills introduced were agency bills with individual sponsorship.

Committee members expressed concern, however, over another practice the statistics revealed. The number of bills prefiled for early introduction has gone down by 22 percent for the House and 43 percent for the Senate. Thus, the decrease in the number of prefiled bills is disproportionately greater than the general reduction in the total number of bills introduced. Of concern, however, is the fact that although the number of prefiled bills has gone down, the number of House bills introduced by the first introduction deadline has increased by 23 percent and the number of Senate bills introduced by the first introduction deadline has decreased by only 11 percent. Agencies appear to present their proposals to individual legislators for individual sponsorship rather than prefile those proposals for introduction, e.g., an agency requests a legislator to sponsor a bill and provides that bill to the legislator, and that legislator introduces that bill usually during the time period in which legislators may sponsor an unlimited number of bills (before the 6th legislative day in the House and the 11th legislative day in the Senate).

This practice results in agencies determining the house of introduction by contacting legislators from the

preferred house and could lead to an overbalance of bills in one house because agencies are not responsible for balancing the workload of both houses. Also, fewer bills are available for being scheduled for hearing during the first two weeks of the session which results in more bills having to be scheduled for hearing during the remaining time before crossover. Committee members also discussed the purposes of the agency introduction privilege—spacing legislative workload and reducing the need for legislators to miss committee hearings to testify before other committees with respect to agency proposals. Also discussed was the effect of the Governor's 1994 directive to executive agencies to obtain individual sponsors of their proposals.

In response to these statistics and the committee's concerns, a letter was sent to executive branch agencies and the Supreme Court urging the agencies to use the agency introduction privilege rather than asking individual legislators to introduce agency bills after the prefiling deadline. A letter was also sent to the Governor pointing out the statistics showing that agencies going to individual legislators to introduce bills has affected the ability of the Legislative Assembly to schedule bills early in the session and requesting the Governor to encourage agencies to use the agency introduction privilege rather than burdening legislators with the responsibility of appearing before committees solely to defer to agency representatives.

Printing of Measures

The committee reviewed Joint Rule 603, which provides for 500 copies of each bill and 400 copies of each resolution to be printed. The employees in the bill and journal room during the 1997 session suggested that the number of printed resolutions be increased to equal the number of printed bills because of the demand for each.

The committee recommends amendment of Joint Rule 603 to provide for 500, rather than 400, copies of resolutions to be printed. This should reduce the need for special orders to print resolutions on a regular basis.

Use of Committee Rooms

The committee was informed of requests by legislators to reserve legislative committee rooms for scheduled use by private groups. Joint Rule 803 provides that during a legislative session committee rooms may be used only for functions and activities of the legislative branch, but a state agency may be granted permission by the Secretary of the Senate or the Chief Clerk of the House to use a room at times and under conditions not interfering with the use of the room by the legislative branch. With respect to use during the interim, NDCC Section 48-08-04 applies and provides that committee rooms may not be used without authorization of the Legislative Council, or its designee.

The committee discussed the difficulty of bringing every request to the Legislative Council or applying unwritten policies. Under current practice, the Legislative Council retains jurisdiction over the Harvest Room and the Roughrider Room and responsibility for use of the other committee rooms is transferred to the Office of Management and Budget (Facility Management Division). A written policy would provide notice regarding permitted uses and would provide guidelines for the Legislative Council staff and the Facility Management Division in managing use of committee rooms.

The committee recommends a policy governing approval of use of committee rooms during the interim similar to that governing use of the chambers. The first priority is for the legislative branch. A state agency may use committee rooms for official purposes of the agency. Any other group or organization may use committee rooms as necessary for educational and informational meetings that have a reasonable relationship to the legislative process only if the group or organization arranges for security, janitorial, and other services with the Office of Management and Budget and either is sponsored by a state agency or signs a facilities use agreement as required under the guidelines for use of legislative chambers and displays in Memorial Hall. Committee rooms may not be provided for use by a group or organization if the planned function would interfere with the business or activities of the legislative branch, if the purpose of the meeting is to advocate the introduction of legislation or to encourage or oppose the enactment of legislation or any decision on a matter before the Legislative Assembly or Legislative Council or any legislative committee, or if there are other suitable facilities on the Capitol grounds or in a privately operated facility that may or may not charge a fee for that use. The Legislative Council staff may arrange with the Office of Management and Budget to manage the scheduling of committee rooms. Any use contrary to the policy is subject to prior approval from the Legislative Management Committee.

Legislative Rules Book

The committee approved a proposal to reprint the Legislative Rules Book and incorporate rules changes approved at the organizational session, with appropriate grammatical, style, obsolete reference, and numbering changes to integrate new rules; reorder and renumber rules as appropriate; and reflect current procedures.

Other Rules Proposals Considered

The committee reviewed several other proposed rules amendments. These included (1) amendment of Senate and House Rules 347 to require the title of a bill or resolution to be summarized when a motion to reconsider is made with respect to a bill or resolution (to give notice to members and allow time to search voting records and to respond); (2) amendment of Senate and House Rules 329 to provide for automatic referral to the Appropriations Committee of a bill or resolution that

NORTH Dakota | Transportation
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House Bill No. 1285
Senate State and Local Government Committee
Room 216 | March 24, 2023, 9:20 a.m.
Ronald J. Henke, Director

Good morning, Madam Chair and members of the committee. I'm Ron Henke, Director of the North Dakota Department of Transportation (DOT). I'm here to provide testimony in opposition to House Bill 1285.

House Bill 1285 essentially limits the executive branch from introducing agency specific legislation by requiring the agency to identify at least one member of the legislative assembly to be the primary sponsor of any such legislation.

Executive Branch agencies, such as the NDDOT, introduces legislation each session for many reasons. This session the NDDOT was required to introduce several pieces of legislation due to changes at the federal level following the passage of the Infrastructure Investment and Jobs Act (IIJA). It is the responsibility of the NDDOT to review all changes at the federal level related to transportation infrastructure and funding. This is necessary to ensure that North Dakota has access to all funding and services it is entitled to. Updates to current North Dakota Century Code (NDCC) are often required for continued participation in federal programs and to take advantage of new federal programs which may be created. The NDDOT must also be responsive to the citizens of North Dakota by being adaptable and flexible enough to meet their changing needs. Agency sponsored legislation can be a critical part of this process, ensuring needed authority and resources are available.

The current process which allows executive branch agencies to introduce legislation has proved to both be efficient and time saving, allowing the legislative assembly to effectively manage their workload. Adding the additional step which requires an agency to secure a legislative sponsor simply adds complexity to the current process which is unnecessary. The legislature already has significant oversight over legislation introduced by agencies, which ensures that legislative intent is heard and incorporated. Members of the legislative assembly vote on agency sponsored legislation both in committee and on the floor in both the House and the Senate. Members of the legislative assembly can also introduce amendments to agency sponsored legislation. The current process allows all parties to the legislative process to successfully fulfill their responsibilities to the citizens of North Dakota.

This concludes my testimony. Thank You.

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North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

☎701.328.2916
🖷701.328.3615
www.ndlegis.gov
lcouncil@ndlegis.gov

Legislative Council

August 23, 2022

TO: ALL EXECUTIVE AND JUDICIAL BRANCH AGENCY HEADS

Joint Rule 208 provides executive branch agencies and the Supreme Court may prefile bills, **other than bills making appropriations**, with the Legislative Council before a legislative session. The rule provides the bills must be prefiled by the close of business on the day after the adjournment of the organizational session. We anticipate the organizational session will adjourn on Wednesday, December 7, 2022, so the deadline for introduction of agency bills will be the close of business on Thursday, December 8, 2022. A copy of Joint Rule 208 is attached for your information. Please notice the rule extends the introduction privilege to bills only and does not include resolutions.

The filing of agency bills has proven to be an efficient and timesaving factor in assisting the Legislative Assembly in managing its workload. By directly introducing bills, agency officials do not need to spend their time or that of legislators in soliciting sponsors for agency bills. Agencies also may ask a legislator to sponsor agency bills, and the same deadline applies. The signed authorization by the legislator must accompany the bill when it is prefiled with the Legislative Council.

Legislative rules for the 2023 legislative session will be adopted at the organizational session on December 5-7, 2022. We recommend you begin planning agency legislation as soon as possible so you can comply with the December 8 introduction deadline. Anyone on your staff who will be drafting bills for the 2023 legislative session should plan to attend a legislative drafting seminar sponsored by the Legislative Council staff from 9:00 a.m. to 12:00 noon on Tuesday, October 4, 2022, in the House Chamber in the State Capitol. Attendees have the option of attending the legislative drafting seminar in person or via Microsoft Teams. You may register online at https://ndlegis.gov/2022-legislative-drafting-seminar.

If you have any comments or suggestions concerning the rules on agency bill introductions, you may wish to express your concerns to the Legislative Procedure and Arrangements Committee in care of the Legislative Council.

Sincerely,

John Bjornson
Director

JB/BM
Encs.