

2011 HOUSE CONSTITUTIONAL REVISION

HCR 3049

2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee
Prairie Room, State Capitol

HCR 3049
March 9, 2011
Job #15213

☐ Conference Committee

Committee Clerk Signature

May Main

Explanation or reason for introduction of bill/resolution:

A concurrent resolution for the amendment of sections 7 and 13 of article IV of the Constitution of North Dakota, relating to length of biennial legislative sessions.

Minutes:

Attached handout #1

Chairman Koppelman: We'll open the hearing for HCR 3049.

Representative S. Kelsh, District 11: (See attached handout #1) I had this before the committee last session but I think as we look at what's happening this session and what's happened in past sessions, we really need to take a hard look at this. I do think that we need time. We are struggling to set aside days to meet to deal with complex issues that are affecting our State that come down from Federal action or because of our State and economy the laws that regulate that economy have become more complicated. I passed out a 3 page handout and if you will see from the State general fund appropriation we have roughly 3.6 billion dollars that comes out of the general fund. The last time we changed the length of the legislative session was in 1976 when we went from 60 to 80 days. At that time the State budget from the '75 to '77 interim was 442.5 million dollars out of the general fund. Our budget has grown by about 6 times what it was in 1976 when we last extended our session and the role has become more complicated. The history of why we went to 80 days came out of the 1972 Constitutional Convention. At that time there was a lot of debate among the delegation who thought that 80 days would be too long and some that thought that 80 days would not be enough. They went from 60 consecutive days to 80 natural days. What the legislature used to do was count a day according to the debate during the Constitutional Convention and would cover the clock at times and a day would last up to 36 hours so they actually got around the 60 day requirement by covering the clock or doing some other kind of procedural moves that would constitute a day that would be longer than 24 hours. The natural days definition came from a day cannot be more than 24 hours. They didn't have to be consecutive which gave us weekends off. At that time there was a delegate at the Constitutional Convention who served in the 30's and early 40's in the legislative session. He said quote, "I'm a witness personally of the load that the present Legislative Assemblies in these last recent years are carrying compared to the '37, '39, and '41 sessions. The work has quadrupled and the delegates should appreciate the problem of dealing with all these measures in a short legislative period." He went on to say that he thought 80 days was a bit too short of a time. There were others there who said

that 80 days was about right. That was in 1972 and 40 years ago and I think the world has become more complicated and that in our process of trying to squeeze out the number of days that we can and set some aside, we are at times not allowing the public to weigh in on some issues because we're trying to meet deadlines. We're not doing it purposely but we are short changing the public in their ability to be here and make it to hearings and especially given the weather conditions in the last few winters. Last session we went 79 days and before that we went 78 days. We've been pushing against that 80 day limit for the last 3 to 5 sessions. I think it's time that this goes to a vote of the people in the next election. In 1976, it barely past; 60,587 to 60,145. We are doing the public a better service by being more available to them and allowing them to be more of a participant in our process. I would stand for any questions.

Representative Kasper: This does not do anything to require annual sessions? This just lengthens the session that we have every other year. Is that correct?

Representative S. Kelsh: At the time the Constitutional Convention discussed this, they left it open ended when we could meet. There was a lot of discussion that we should go in for 2 weeks immediately following the election and then adjourn for a year and have interim meetings and have committee meetings and then come back in the even numbered year and meet in the regular session. The only limitation on the legislature on the number of days is in the Constitution. The requirement that we have biennial sessions is statutory.

Representative Streyle: If it was 100 and everything was equal, being that we're such a large farm state; wouldn't that kick out dozens of legislators? They have to plant their crops and it already gets into the planting season. If it was in May, none of them would be here. Wouldn't it disenfranchise that district too?

Representative S. Kelsh: Great point. That was another big topic 35 years ago in going to 80 days. That's why they didn't prescribe in the Constitution when we should meet or how often we should meet or whether those had to be consecutive days or not. It just said we're giving you this amount of time to meet the requirements in order to do the state's business. The allowance to go to 100 days would not affect our ability to work around that and meet since we're a part-time legislature and we all have other jobs and it would allow us to continue in that capacity.

Chairman Koppelman: Further testimony in support of HCR 3049? Opposition? Neutral? Seeing none we'll close the hearing on HCR 3049.

2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee
Prairie Room, State Capitol

HCR 3049
March 24, 2011
Job #15980

☐ Conference Committee

Committee Clerk Signature

May Main

Minutes:

Chairman Koppelman: This resolution deals with extending the length of the biennial legislative sessions from 80 to 100 days. This has the general election in the specifications.

Representative Schatz: I move a do not pass on 3049.

Representative Streyle: Second.

Chairman Koppelman: Was this recommendation made in the 1972 convention?

Vice Chairman Kretschmar: It was recommended to be more but I don't think it was 100 days. Maybe 80.

Chairman Koppelman: Wasn't there a point when it was extended?

Vice Chairman Kretschmar: The original Constitution was 60 days and I served several sessions in the 60 day timeframe but we never got done in 60 days. The Constitution was amended to make it 80 days. Since it's been 80 days, we've never gone the full 80 days. 79 is the record. Maybe we don't need another 20. I'll support the motion.

Representative Holman: I'd like to ask Representative Kretschmar, are we getting more done?

Chairman Koppelman: There is the old adage that work expands to meet the time allotted for it. We do keep a hectic pace so I understand both the reason for the resolution and the motion against it.

Representative Winrich: As one who once opposed increasing the limit to 120 days a few years ago, I'm going to resist a do not pass motion. I think we've had a lot of evidence in this session of real problems developing in conflicting committee assignments and the scheduling. I think the most serious problem that we face because of the 80 day limit is a lack of opportunity for citizens to have real input into the process. The way hearings are scheduled, the way conference committees operate, the way hog house amendments are proposed at the last minute really tends to shut the citizens out of this process in an unfortunate way I think. One of my principles is that the purpose of government is not to be

efficient, but to be representative. I think we are failing that in a lot of ways because of the 80 day limitation.

Chairman Koppelman: One of the concerns that come up is the moving of the legislature more and more toward a full time feel. I do understand Representative Winrich's point. We keep a hectic pace here.

Representative Winrich: A few years ago I was in Boston, MA and I made a visit to the Massachusetts House of Representatives and we were talking about differences. I explained that we were limited to 80 days every two years. I learned that in Massachusetts, the legislature may not adjourn for more than 4 days. They are in session constantly.

Chairman Koppelman: As chairman of the Counsel of State Governments, it was interesting for me to talk with people about the differences. When we tell them how we do things in North Dakota, they usually marvel at our efficiency, speed, and the fact that we are part time. I don't think that this would change that point. I am proud of the way we do things here; we are very efficient and effective. Further discussion? Call the roll on a do not pass recommendation on HCR 3049.

8 Yes, 2 No, 1 Absent

Do Not Pass

Carrier: Representative Louser

FISCAL NOTE
Requested by Legislative Council
03/10/2011

Bill/Resolution No.: HCR3049

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

House Concurrent Resolution No. 3049 is a proposed amendment to sections 7 and 13 of Article IV of the Constitution of North Dakota to increase the maximum number of days the Legislative Assembly may meet in regular session from 80 days to 100 days.

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

The potential fiscal impact of the constitutional amendment if approved by the voters in the November 2012 general election would be dependent upon the number of actual days the Legislative Assembly is in session. Each legislative day the Legislative Assembly is in session is estimated to cost approximately \$62,200.

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

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

N/A

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

The budget request for the Legislative Assembly for the 2011-13 biennium includes funding for a 77 legislative-day 2013 session. If the 2013 Legislative Assembly would meet for additional days, the estimated cost of these additional days would range from \$62,200 for one day to \$1,430,600 for 23 additional days, the maximum allowed under the proposed constitutional measure.

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

Name:	Allen H. Knudson	Agency:	Legislative Council
Phone Number:	328-2916	Date Prepared:	03/10/2011

Date: March 24 2011
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3049

House Constitutional Revision Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Schatz Seconded By Rep. Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conklin		✓
Vice Chairman Kretschmar	✓		Representative Holman	✓	
Representative Kasper	✓		Representative Winrich		✓
Representative Louser	✓				
Representative Meier	✓				
Representative Owens	AB				
Representative Schatz	✓				
Representative Streyle	✓				

Total (Yes) 8 No 2

Absent 1

Floor Assignment Representative Louser

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

REPORT OF STANDING COMMITTEE

HCR 3049: Constitutional Revision Committee (Rep. Koppelman, Chairman)
recommends **DO NOT PASS** (8 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
HCR 3049 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HCR 3049

PLACED ON BALLOT

CONSTITUTIONAL AMENDMENTS, APPROVED

1374

PLACED

CONSTITUTIONAL AMENDMENTS, APPROVED

CHAPTER 596

PRIATION

LEGISLATIVE SESSIONS AND TERMS

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Senate Concurrent Resolution No. 4023, chapter 611, 1975 Session Laws, proposed by the Forty-fourth Legislative Assembly of the State of North Dakota, providing for the amendment of sections 53 and 56, and the repeal of section 55, of the Constitution of the State of North Dakota, relating to commencement of the terms of office of legislators, and to the length and status of legislative sessions, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 53 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 53. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve o'clock noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

SECTION 2. AMENDMENT.) Section 56 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 56. Each regular session of the legislative assembly shall not exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such eighty natural days, nor shall days spent in session at the call of the governor pursuant to section 75, or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

SECTION 3. REPEAL.) Section 55 of the Constitution of the State of North Dakota is hereby repealed.

Approved September 7, 1976

60,587 to 60,145

NOTE: This was constitutional measure No. 2 on the primary election ballot.

Prepared by the North Dakota Legislative Council
staff

March 4, 2011

**2011-13 BUDGET STATUS SUMMARY
AS OF MARCH 3, 2011****Beginning Balance and Revenues**

Legislative budget estimate of unobligated general fund cash balance - July 1, 2011	\$65,000,000 ¹
Add 2011-13 estimated revenues	
Proposed executive budget general fund revenues	<u>\$3,271,678,675</u>
Legislative revenue changes	
Major increases	
February 2011 revenue forecast revision	\$4,222,000
HB 1012 - Deposits all motor vehicle excise taxes in general fund rather than 75 percent	45,767,667
HB 1047 - Transfers from the permanent oil tax trust fund and the property tax relief sustainability fund	341,790,000
SB 2180 - Removes sales tax exemption for hotel room rental for 30 or more consecutive days	1,610,000
Major decreases	
HB 1189 - Provides corporate income tax exemption and lowers corporate rate	(50,000,000)
HB 1289 - Reduces individual income tax rates by 15 percent (amount is in addition to executive recommendation)	(49,154,000)
SB 2015 - Removes transfer from Bank of North Dakota	(60,000,000)
SB 2042 - Reduces gaming and excise taxes paid by charitable gaming organizations	(10,800,000)
SB 2055 - Creates income tax credits for purchases relating to automating and lean manufacturing	(8,000,000)
SB 2137 - Creates sales tax exemption for sales made by nonprofit used merchandise stores	(948,000)
SB 2171 - Provides sales and use tax exemption for telecommunications equipment	(3,551,000)
SB 2218 - Increases ceiling on tax credits allowed for investments in renaissance fund organizations	(1,000,000)
SB 2238 - Expands compensation allowed to permitholders collecting and remitting sales and use tax	(1,003,000)
SB 2329 - Creates income tax credit for new or expanding retail businesses in qualifying cities	(5,000,000)
Other increases (decreases)	<u>(1,160,400)</u>
Total legislative changes affecting revenues	<u>\$202,773,267</u>
Total estimated general fund revenues and beginning balance - 2011-13	<u>\$3,539,451,942</u>

Appropriations

Executive budget general fund appropriations - 2011-13	\$3,295,569,541
Legislative appropriations changes	
Major increases	
HB 1047 - Property tax relief	\$341,790,000
HB 1012 - Transportation funding distributions to counties, cities, and townships	25,000,000
SB 2057 - Various Department of Commerce programs	20,000,000
SB 2012 - Department of Human Services	5,740,696
HB 1020 - Agricultural Experiment Station and branch research centers	2,310,000
HB 1044 - Emergency medical services grants	2,000,000
HB 1152 - Supplemental Medicaid payments to critical access hospitals	1,527,802
SB 2015 - Office of Management and Budget	1,500,000
HB 1373 - Head Start program grants	1,000,000
Major decreases	
HB 1003 - North Dakota University System	(32,816,163)
HB 1018 - Department of Commerce	(8,459,691)
HB 1011 - Highway Patrol	(4,623,459)
HB 1015 - Department of Corrections and Rehabilitation	(2,431,518)
HB 1014 - Industrial Commission	(1,434,930)
HB 1002 - Judicial branch	(1,180,953)
Other increases (decreases) net	<u>(331,652)</u>
Total legislative changes affecting appropriations	<u>\$349,590,132</u>
Total 2011-13 general fund appropriations	<u>\$3,645,159,673 ²</u>
Estimated Ending Balance	
Estimated budget status general fund balance - June 30, 2013	<u><u>(\$105,707,731) ^a</u></u>

**COMPARISON OF EXECUTIVE BUDGET RECOMMENDATIONS TO FINAL BUDGETS
APPROVED BY THE LEGISLATIVE ASSEMBLY FOR THE 1967-69 TROUGH 2009-11 BIENNIIUMS¹**

	General Fund Appropriations	Special Funds Appropriations	Total All Appropriations	General Fund Revenues ²
1967-69				
Executive budget	\$132,496,141	\$204,346,811	\$336,842,952	\$148,269,822
Legislative increase (decrease)	13,142,530	1,004,394	14,146,924	16,980,000
Legislative budget	\$145,638,671	\$205,351,205	\$350,989,876	\$165,249,822
1969-71				
Executive budget	\$166,602,105	\$216,086,092	\$382,688,197	\$181,000,000
Legislative increase (decrease)	17,084,026	45,659,367	62,743,393	22,092,623
Legislative budget	\$183,686,131	\$261,745,459	\$445,431,590	\$203,092,623
1971-73				
Executive budget	\$226,640,383	\$257,317,128	\$483,957,511	\$241,840,000
Legislative increase (decrease)	(384,651)	10,528,371	10,143,720	1,769,348
Legislative budget	\$226,255,732	\$267,845,499	\$494,101,231	\$243,609,348
1973-75				
Executive budget	\$267,951,706	\$314,124,492	\$582,076,198	\$307,075,000
Legislative increase (decrease)	6,733,531	38,835,098	45,568,629	(5,705,492)
Legislative budget	\$274,685,237	\$352,959,590	\$627,644,827	\$301,369,508
Add				
Deficiency appropriations provided by the 1975 Legislative Assembly	23,135,698	3,168,074	26,303,772	
Legislative budget as restated	\$297,820,935	\$356,127,664	\$653,948,599	\$301,369,508
1975-77				
Executive budget	\$438,882,752	\$394,903,834	\$833,786,586	\$530,645,000
Legislative increase (decrease)	3,646,809	41,277,918	44,924,727	5,461,978
Reduction to June 30, 1975, general fund balance for deficiency appropriations for 1973-75				(23,135,698)
Legislative budget	\$442,529,561	\$436,181,752	\$878,711,313	\$512,971,280