

2017 HOUSE APPROPRIATIONS

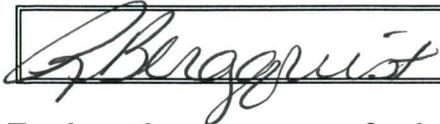
HB 1029

2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1029
1/17/2017
27016

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to acceptance of federal funds; and to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

Minutes:



Representative Monson Called meeting to order

0:45 - 3:30 Chairman Delzer Testifying HB 1029

: This came out of a government finance committee that I had the duty of chairing, the study we had before us was basically what is listed in section 2 of the bill, we took mostly into account the grants that went to DPI, and corrections. We had the discussion afterwards about how often grants tie the legislative body to duties that we don't know that we want to have. Section 1 of the bill says there's 3 things that an agency should do and had on hand before they except federal funds.

This is basically meant to be a cost benefit analyses, it should be done and on record so if someone is wondering why a grant was gone after. This may make some agencies put things on paper that they normally wouldn't put on paper.

Representative **Monson**: Any other testimony?

4:20-10:26 Nick Archuleta, President of ND United

It's on our higher education members that I am going to express some reservation on this bill.

Our opposition in centered on section 1 of HB 1029, it requires three new requirements on state agencies. We are fine with the first requirement; the second and third are more problematic for us. Second requirement, this is very difficult to determine, at what point are they undue?

3rd requirement is equally concerning. This is very difficult, it's unfair to ask the higher education faculty to ascertain legislative intent. There is no road map to make this determining intent possible or even likely.

One other thing, there's a feeling like this will open up the door for micro management for research, we need the academic freedom.

Chairman Delzer: What do they do now? Part of the reason for this is because there's so many grants gone after only because the grant is out there? We want to make sure that we are only going after grants that are good for the state of ND. They are still employees of the state.

Mr. Archuleta: I agree but a lot of these have wider applications than just ND, if you look at avionics at University of North Dakota, that has an application for the entire country. Seed development, that too has a broader application. Justifying those takes a lot of time.

Chairman Delzer: It takes a lot of time to apply shouldn't they do the justification while they are doing the application?

Mr. Archuleta: How do we determine what would be offends legislative intent?

10:55 Alex Cronquist Fiscal Analyst Legislative Council: Neutral testimony

I was the staff member assigned to this the government finance committee this last intern so I am just here to answer any questions you may have about this bill. Chairman Delzer did a good job explaining this bill, yes, section two is the same language as before.

Chairman Delzer: Is there anything worded in this bill that could stop a grant?

Mr. Cronquist: Not in the bill, I suppose a legislator could request the analyst and then based on that could seek thought through the budget section or the legislative process.

Chairman Delzer: Higher education issue wasn't ever discussed.

Representative Monson: Where you trying excluded higher education or it just didn't come up? Could we exclude them?

Chairman Delzer: We can defiantly talk about that in committee work.

2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB1029
1/26/2017
27510

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

A Bill for an Act to create and enact a new section under chapter 54-27 of the North Dakota Century Code, relating to acceptance of federal funds; and to provide for legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by the United State government agencies.

Minutes:

HB 1029 11:45

Amendments for HB 1029

Chairman Delzer: This bill came out of government finance it was discussed there, we had a study, it was actually the same working as section 2 of the bill, it was on federal grants, whether they putting undue burdens on the state or driving excessive direct or indirect cost. We talked about trying to have in place something so they at least have to have a cost benefit analysis of the grant before they take it. This isn't reported to anybody, there is current language that anything over 25 thousand is to be reported to OMB and they will report to the budget section. We talked some about higher Ed, it would be a little tougher to find. So there is an exception for higher Ed on the amendment.

Representative Monson: Would research and extension be part of the higher Ed?

Chairman Delzer: I would guess that they will be part of higher Ed.

Representative Monson Move to amend it with 17.0196.01001 HB 1029

Second Representative Sanford

Discussion?

Representative Brandenburg: I'm going to resist that; restrictions should apply to all of them not some.

Chairman Delzer: This bill was meant to have the agencies know what they are looking for, you would think they would do it either way.

Voice vote, All in Favor, Motion carries

Representative Kempenich makes motion to Do Pass as Amended

Representative Pollert I will second that motion

A Roll Call vote was taken. Yea: 17 Nay: 2 Absent: 2

Representative Kempenich will carry the bill

1/27/17 DR

17.0196.01001
Title.02000

Prepared by the Legislative Council staff for
Representative Delzer
January 27, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1029

Page 1, line 9, after the first underscored comma insert "excluding entities under the control of the state board of higher education."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment excludes the North Dakota University System from the requirement to complete an analysis prior to applying for or accepting federal funds.

Date: 1/26/2017
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1029**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: To make the exception for Higher Ed

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 Representative Monson Seconded By Representative Sanford

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich			Representative Streyle		
Representative: Boehning			Representative Vigesaa		
Representative: Brabandt					
Representative Brandenburg					
Representative Kading			Representative Boe		
Representative Kreidt			Representative Delmore		
Representative Martinson			Representative Holman		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Pollert					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1/26/2017
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1029**

House Appropriations 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 Representative Kempenich Seconded By Representative Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	X		Representative Streyle	X	
Representative: Boehning	X		Representative Vigesaa	X	
Representative: Brabandt	X				
Representative Brandenburg	X				
Representative Kading	X		Representative Boe		X
Representative Kreidt	X		Representative Delmore	A	
Representative Martinson	X		Representative Holman	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	A				
Representative Pollert	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt		X			

Total (Yes) 17 No 2

Absent 2

Floor Assignment Representative Kempenich

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

REPORT OF STANDING COMMITTEE

HB 1029: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1029 was placed on the Sixth order on the calendar.

Page 1, line 9, after the first underscored comma insert "excluding entities under the control of the state board of higher education."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT

This amendment excludes the North Dakota University System from the requirement to complete an analysis prior to applying for or accepting federal funds.

2017 SENATE APPROPRIATIONS

HB 1029

2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

HB 1029
3/20/2017
Job # 29453

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Monson for Rose Lanning

Explanation or reason for introduction of bill/resolution:

Relating to acceptance of federal funds; and to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

Minutes:

Legislative Council: Alex Cronquist
OMB: Sheila Peterson

Chairman Holmberg called the committee to order on HB 1029.

Representative Jeff Delzer, District 8, Chairman of the interim Government Finance Committee

Testified in favor of HB 1029. No written testimony. The committee looked at all the different federal funds that come through DPI and Corrections and thought they should go ahead and have the study renewed if the legislative management so desires to choose it for the next interim to continue looking at some of those. They also felt some language should be put in that deals with having agencies look at a cost benefit analysis. When they passed it out of committee there was a small discussion about higher ed but they did not exclude higher ed at that point. When the bill was in House Appropriations there were a lot of questions brought up about higher ed and legislative intent so it was excluded.

Senator Mathern: It seems like agencies already do these things 1-3.

Rep. Delzer: We hope so, but it's not in code. We'd like to put it in code so if anyone calls them and asks for their cost benefit analysis, it would be readily available.

Senator Mathern: So they would be required to prepare a report?

Rep. Delzer: Essentially, yes. They should be able to tell you why they went after the federal funds and if it's in legislative intent.

Senator Dever: Asked for clarification as to when agencies need spending authority or not.

Rep. Delzer: They have to have appropriation authority to spend anything they get. Any new grants must come thru the emergency commission, be approved, and then if there isn't spending authority or if it's over \$50,000, it has to go thru the budget section as well.

Senator Dever: Then these considerations would be in addition to having legislative authority.

Rep. Delzer: Yes, but they should be doing it. We just want to be sure they understand they should be able to answer a cost benefit analysis situation when asked.

(05:20) Chairman Holmberg: One of the big agencies that gets federal money is DPI. We give them the authority to accept up to \$105M or whatever it is from the federal government. If they get another one for school safety for \$2M they still need approval from the budget section and the emergency commission. This supposedly sets out that they need to know beforehand what they're asking for and if it falls into legislative intent and what the cost benefit of it is. That was the purpose of the interim committee.

Rep. Delzer: Part of why this came out was that when we did the DPI they had to dig pretty deep to get some of the answers to questions they were being asked dealing with the cost benefit analysis. It is pretty broad and could be covered pretty easy.

Senator Hogue: Can you expand on the definition grant funds?

Rep. Delzer: Any kind of federal funds that an agency puts in and requests a grant for. They get reports from the federal government of which grants are available and decide which they want to put in for. The hope is that they do a good cost benefit analysis before they do that.

Senator Hogue: Would it exclude programs or applications where the federal grant requires a match from the state?

(08:30) Rep. Delzer: The exemption, as stated, is entities under the control of the State Board of Higher Ed. I don't know if it excludes, but they'd have to know and decide whether or not it's worth going after. If it's against legislative intent that they could tell, then they should not apply for it.

Chairman Holmberg: There are two streams here: There is an agency applying for a federal grant or accepting the money because, sometimes, the money just arrives. They could be eligible but they still have to go through the process and alert the emergency commission and budget section that they have this money. Then they have to be aware of whether it meets legislative intent.

Senator Bowman: When you do the cost benefit analysis of what the grant is going to be used for and if it is beneficial to the state, who makes the final determination of whether they can go for the grant or not.

Rep. Delzer: In this bill as it currently exists it's whether OMB approves it or the agency head themselves whether they want to go after it. They might not even need OMB approval.

Senator Bowman: Then the money has to go thru appropriations to be spent?

Rep. Delzer: If it hasn't gone through the appropriations bill, it has to go to the emergency commission to be accepted and then it has to go through budget section to be appropriated.

Chairman Holmberg: Closed the hearing on HB 1029.

2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

HB 1029
3/20/2017
Job # 29459

- Subcommittee
 Conference Committee

Committee Clerk Signature

removal for Rose Taring

Explanation or reason for introduction of bill/resolution:

Relating to acceptance of federal funds; and to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

Minutes:

Senator Wanzek: Moved a Do Pass on HB 1029.

Senator Dever: Seconded the motion.

Senator Sorvaag: The intent of the committee was that, "Do we get ourselves into something to accept these federal dollars and in the long run it actually costs us more money than if we would have refused them?"

Alex Cronquist: It doesn't specifically require a cost benefit analysis. It's simply an analysis where they have to consider the federal requirements and determine those two items.

Senator Mathern: The testimony was that this bill requires a cost benefit analysis. That is a specific accounting practice in the industry and it's not in the bill. I hope we aren't misleading people here.

Chairman Holmberg: The bill, itself, is not ambiguous. Therefore, discussion in the committee is never looked at when someone is concerned about legislative intent. They don't look at the record unless there is a question about what the legislature meant.

Senator Kilzer: Is cost benefit analysis mentioned in Chapter 54-27.

Alex Cronquist: There is no mention of cost benefit analysis in Chapter 54-27.

Senator Hogue asked if there has ever been a state agency that applied for a grant, received the grant and then was told by the legislature that they couldn't spend the money.

Chairman Holmberg couldn't recall that ever happening but said it was possible.

Alex Cronquist wasn't aware of anytime that happened.

Senator Dever: Following the passage of the Affordable Care Act there was a grant offered to the Department of Health. The Legislature refused to give them the authority to spend it. He thought the federal government, instead, gave it to Childhood Abuse North Dakota.

Senator Sorvaag: SHOULD we start rejecting some federal dollars? Is it causing us to spend more money in the long run? Are we getting into things that we shouldn't be getting into? There are concerns especially with some of the DPI federal funds. That was the discussions of interim committee.

Senator Robinson: We tend to look at grant dollars as automatic. The last two years I've sat through our challenge grant committee which has denied requests because they didn't strictly adhere to the criteria of the grant. Some committees say the money is there, so we have to get it. I appreciate the committee being pretty tough on qualifying and meeting the criteria.

Senator Bowman: There are three duties before they can accept money: (06:00) consider the federal requirement, determine the acceptance of the federal funds, or determine that the federal requirements are not in conflict with the legislature. The state agency analysis is to go through that procedure to see if there is a conflict. Can't read anymore into it than that. It looks like it's fairly clear.

Senator Mathern: I'm saying that it's different than cost benefit analysis and the testimony was that it was cost benefit analysis. Getting to the three points that are in there, my concern is that we are a citizen legislature that only meets every two years. It hampers the executive branch of government. (07:15)

Chairman Holmberg: Does it send a clear message to the agencies on the kinds of steps they should go through so the legislature doesn't have to second guess them? Have they, as an agency, considered the requirements that the state has to comply with? Has the agency determined that the acceptance doesn't subject the state to undue oversight of regulation and do they determine that the requirements are not in conflict with legislative intent? (8:50)

A Roll Call Vote was taken: 12 yeas, 2 nays, 0 absent.

Senator Sorvaag will carry the bill.

Date: 3-20-17

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1029

Senate Appropriations 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 Wanzek Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern		✓
Vice Chair Krebsbach	✓		Senator Grabinger		✓
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Sorvaag

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

REPORT OF STANDING COMMITTEE

HB 1029, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1029 was placed on the Fourteenth order on the calendar.