

FISCAL NOTE
Requested by Legislative Council
01/14/2019

Bill/Resolution No.: HB 1398

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$(495,000)		\$1,075,000	
Appropriations			\$(495,000)		\$1,075,000	

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The bill provides for annual legislative sessions.

- 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 bill provides that the Legislative Assembly meet for up to 65 days in odd-numbered years and no less than 15 days in even-numbered years. The bill requires the Legislative Assembly to not meet for at least 6 days during the 65 day session and not meet for at least 4 days during the 15 day session to allow legislators to communicate with constituents regarding legislative matters. The bill would become effective on August 1, 2019. Unless the 2019 Legislative Assembly meets for 65 or fewer days, the Legislative Assembly would not meet in 2020. Annual sessions would, therefore, begin in 2021.

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.*

- 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.*

Estimated expenditures for the 2019-21 biennium would decrease because the Legislative Assembly would meet for an estimated 65 days rather than the budgeted number of 77 in 2021. Estimated expenditures would increase during the 2021-23 biennium because the Legislative Assembly would meet for up to 15 days in 2022 and up to 65 days in 2023. Expenditures reflect additional costs in the 2021-23 biennium because under provisions of the bill, the Legislative Assembly must recess for 6 days during the 65 day session and 4 days during the 15 day session. In addition, costs are added due to training for temporary legislative staff and additional travel days associated with the reconvened session and due to paying lodging costs on a daily basis rather than monthly basis for the reconvened session. These estimates are based on current legislative compensation rates and mileage and lodging reimbursement rates.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Appropriation amounts would need to be adjusted to reflect the estimated expenditure amounts shown above.

Name: Allen Knudson

Agency: Legislative Council

Telephone: 328-2916

Date Prepared: 01/21/2019

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

HB 1398

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1398
1/24/2019
31403

- Subcommittee
 Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to annually reconvened sessions of the legislative assembly

Minutes:

Attachment 1

Chairman Kasper opened the hearing on HB 1398.

Rep. Karla Rose Hanson appeared in support of HB 1398. Attachment 1. (:03-:11:27)

Rep. Hoverson: The nature of the government is to grow. If you give the government more time, it is going to continue to grow. Is it really more of a sign that the government is too big, and we need to limit its shelves, not add more shelves so to speak?

Rep. Hanson: Our government should be responsive, and I think we can design the model so we are responsive but not burdening the public with more laws.

Rep. Schauer: You are basically going 65 and 15. During that 15-day period you talked about passing urgent policy. What do you mean by urgent policy?

Rep. Hanson: Often things are studied during the interim and could be brought to the legislature for consideration as soon as we start that short session. There are also urgent needs such as the opioid crisis. We might need to respond to a federal law change at the state level such as tax policy or healthcare policy.

Rep. Schauer: Why didn't you go with South Dakota's model which is 38-40 days each year?

Rep. Hanson: I believe South Dakota might have less authority over their budget than North Dakota likes to have. It is my understanding that they tend to use the governor's budget as their template. Additional days during the odd numbered year would help us develop our own budget independent of the executive branch.

Rep. C. Johnson: My concern is on the number of bills introduced. How are you going to handle a huge number of bills?

Rep. Hanson: Sometimes we see a large number of bills during our current sessions because we know we are not going to be able to introduce a bill for another two years.

Rep. Laning: Keep in mind each chamber has to see this bills, so in a 15-day session, you are looking at 7 days of one chamber handling all the bills on their side. Do you still think that is an adequate amount of time to accomplish anything?

Rep. Hanson: Perhaps with a limited number of bills legislators can introduce, the even year session could truly be focused on the most urgent of changes that are needed.

Rep. Rohr: What about the people that would be interested in serving in the legislature if they have to come every year?

Rep. Hanson: I would be very interested to see the impact on who the candidates are if we should move to an annual session. I think it could attract different types of people to run for office. Being away for two short sessions might be more achievable for certain professions or for personal reasons.

Rep. Rohr: Did you find any data that suggested that occurred?

Rep. Hanson: I did not see any research on the impact that an annual model would have on who runs, but I would note that 46 states do have this model today.

Rep. Vetter: One of things we like about North Dakota is that we are unique. How would you counter that argument?

Rep. Hanson: I think the primary benefit is being responsive. Our government should be responsive on policy and have the ability to make adjustments to our budget as needed. We have the second most volatile revenue in the country after Alaska.

Rep. Vetter: Are you envisioning the shorter session would be more of a budget type thing?

Rep. Hanson: I see the even year session as an opportunity to do a budget review as the primary purpose and an opportunity to pass urgent policy. As I mentioned, legislative management could pass rules to limit the number of bill in that year to keep it focused.

Rep. B. Koppelman: If we are not careful this could actually lead into two 80-day sessions the way we count the legislative days by not gaveling in some days. Would it be prudent to put in some calendar restrictions?

Rep. Hanson: You bring up a very good idea to provide some limits on calendar days, not just legislative days. It is a good idea to provide some guard rails on the financial impact.

Chairman Kasper: Legislators could still introduce bills in the shorter session. When would the legislators get their bills drafted?

Rep. Hanson: A lot of the process we use today could still be in place. A lot of us have legislative council draft our bills before we get here on day one. The bill deadline could be

similar to what it is today, but if you as a committee felt it should be adjusted and we should do more pre filing, that would be an idea you could discuss.

Chairman Kasper mentioned the several day process of filing a bill now. How do you see that we would possibly get the shorter session done with these parameters?

Rep. Hanson: I believe that the idea of having committees meet or having us be here without the full body gaveling in is a way to work around that concern around the practicality.

Chairman Kasper: To me it won't work with the hearings, floor action, and crossover, and start it over again in 15 days, and the conference committees. Have you ever gone to a state and been there when they have had annual sessions such as South Dakota?

Rep. Hanson: I have visited several capitals but have not been there throughout their entire sessions. Forty-six other states meet annually and have figured this out, so I don't think these problems are impossible to overcome.

Chairman Kasper: Last January I became a lobbyist at a session of South Dakota and worked with a representative and their legislative council to get a bill drafted and introduced. He shared his experience and then stated his reasons why annual sessions won't work. (28:10-31:35) Please respond.

Rep. Hanson: We need to weigh the benefits of being more responsive as a government, to be able to make adjustments, and to assert our authority as a legislative branch or the budgeting process.

Chas Neff, former McKenzie County States Attorney, appeared as a private citizen in support. There are instances where we need more responsive government in regard to corrective type of method that this legislature can take and changes by another branch of the government impact our laws and require that the legislature respond. In the corrective, an example given was the bill passed in 2017 about carrying a loaded firearm which was never amended and did receive an attorney general's opinion. Other examples of changes by another branch were given. (34:36-38:00)

Neutral

Josh Gallion, State Auditor, appeared in a neutral position. It would have an impact to the auditor's office. Right now we are one of two states in the nation that have a biennial single audit. The single audit is our federal audit of all federal expenditures that occur within the state of North Dakota. It requires approximately 15,000 audit hours. For a 3-4 month period it taps into about 35 of our agencies' FTEs. An annual single audit would probably be 15,000 hours every year that would require 10-12 additional FTEs and in terms of a couple million dollars in salary and operating costs.

Rep. Vetter: Do you see that happening with other agencies?

Mr. Gallion: I couldn't really speak to any other functions in the agencies. When the legislature is in session, it does require a demands on the executive branch to provide information. To meet annually could add to the burden.

Chairman Kasper closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1398
1/25/2019
31512

- Subcommittee
 Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to annually reconvened sessions of the legislative assembly

Minutes:

Chairman Kasper opened the meeting on HB 1398.

Rep. Karls made a motion for a **DO NOT PASS**.

Rep. Rohr seconded the motion.

Rep. Schneider: Karla had suggested in consideration of one or the other of these bills that it might be an opportunity for the legislature to exercise power over its own ability to bring the legislature back into session. Currently it is just the governor who can do that. She had suggested an amendment.

Rep. B. Koppelman: I am pretty sure that the legislature does have the authority to call itself back and as long as we have statutory days left. I believe that was amended somewhere around 2001, 2003. If our elected members to legislative management in the interim wanted to consider going to some other division of days between years, can they already do that on their own without us passing a statute?

Chairman Kasper: I do not know. If we do have three legislative days left, there is a method where we can be called back into session by us.

A roll call vote was taken. 11-3, 0 absent.

Rep. Rohr will carry the bill.

Date: 1-25-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1398**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Rep. Karls Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson		X
Vice Chair Vicky Steiner		X	Rep. Mary Schneider		X
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 11 No 3

Absent _____

Floor Assignment Rep. Rohr

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

REPORT OF STANDING COMMITTEE

HB 1398: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
HB 1398 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1398

#1
HB 1398
1-24-19

House Bill 1398
Government and Veterans Affairs Committee - Jan. 24, 2018

Testimony from Rep. Karla Rose Hanson, District 44

Mr. Chairman and Members of the Committee,

I'm here today to re-introduce you to an old friend. I'm introducing two bills relating to annual legislative sessions.

I will provide some general information that applies to both HB 1398 and HB 1399, and then I'll speak specifically about what's in HB 1398. In the following hearing, I'll speak to the specifics of HB 1399 but without repeating the duplicate information for the sake of time.

My intention with each of these bills is to enable the Legislative Assembly to be more responsive.

Today's world moves fast. Meeting every year instead once of every two years would allow lawmakers to pass necessary policy in a timelier way. For an example, if an urgent policy problem arose in May 2019 - either a statewide issue or something we as a state needed to do to react to federal policy -- we'd have to wait 20 months address it.

Additionally, we have an economy based on commodities. North Dakota has the second-most volatile revenue of all states - after Alaska -- so we see lots of ups and downs. In my proposals, we would still have a two-year budget, but meeting every year instead of once every two years would enable lawmakers to be more nimble with any needed adjustments.

As you know, our state constitution limits the legislature to meeting for 80 days every biennium, but it doesn't specify how we can or must divide up those days over the two-year period. It is by tradition that we use most or all the days in the odd year.

Besides being more responsive on both policy and budget matters, there are also benefits related to authority.

Meeting annually would maintain the authority of the legislative branch to make budget decisions - vs ceding our power to the executive branch to do broad cuts (allotments) if revenues should dip sharply beyond forecasts like they did a few years ago.

This past year's lawsuit between the legislative branch and executive branch also drew attention to the authority of the legislative assembly's Budget Section - a committee of 42 lawmakers that meets when the full legislature is not in session. During that legal tussle, Sen. Ray Holmberg said - the question now is whether the Budget Section has "amassed too much power" and "become a mini-Legislature". Having the full legislature meet during the even-numbered year could alleviate this concern related to the authority of the Budget Section.

#1
HB 1398
1-24-19

To set some broader context, North Dakota is just one of four states that meet every other year. And of these four, we are limited to the shortest session. ND is limited to meeting for 80 days, Montana for 90, Nevada for 120 and Texas for 140 days. (Plus I'll note that Texas goes into special session on a frequent and long basis. In 2017, they met in special session for 39 days and in 2013 they had 66 special session days.)

As another comparison, 15 states have annual sessions and biennial budgets. For geographical comparison, South Dakota meets for 38-40 days annually.

The reason I mentioned annual sessions is an old friend is because bills relating to annual sessions have been proposed 27 times in the last 40 years -- and that doesn't include this year's bills! After reviewing the testimony from the recent proposals, it appeared that some discomfort with the idea was because there was little detail provided in terms of how it would work - the practicalities -- so I will attempt to address that with some specific ideas for this committee to consider.

HB 1398 divides our 80 days by dedicating 65 days in the odd year and 15 days in the even year.

Here are some key points related to my intention of how this proposal might work:

- **Budgeting:**

- We would keep biennial budgets. The budget would be set for a two-year period in the odd-numbered year like we do today, and that is specified on page 1 lines 16-17. But a budget review would be held during the session held during the even year to adjust as necessary, and that is specified on page 2 lines 30-31.
- Past proposals have raised the question among committee members of - how could we develop a budget in such a short period of time? I believe the Appropriations Committees in each chamber could make adjustments so they are able to complete their work during a shorter session during the odd-year. For example, more joint reviews of agency budgets could be held, saving time. Also, appropriations committees could meet and hold hearings without the full legislature gaveling in - similar to what we did on Jan 4 and Jan. 7. This is described on page 1, lines 11-13. There would be a financial cost to meeting on these extra days, but it wouldn't count against our 80-day limit because the full legislature would not convene.

- **Organizational work would be done every two years**, for smoother operation. Committee assignments would be in effect for the biennium (effective for two sessions & two years). The addresses from the executive and judiciary branches and our American Indian nations could be done in odd years only as well.

- **Interim committees** could be refashioned to consist of the standing committees from each chamber related to that topic and they would also stay in effect for the two-year period. This could create efficiencies and enable smoother transitions between the sessions and the interim periods. Recommendations from the interim can be implemented in a timelier manner. Interim committees

#1
HB 1398
1-24-19

also would be able to meet one less time since the larger assembly would convene during the even-numbered year.

- **Transparency.** We would not change North Dakota's practice where every bill gets a hearing and every bill gets a vote. I believe we take a lot of pride in this practice. While not specified in my bill, legislative leadership could propose rules relating to introducing a limited number of bills per legislator, especially in the even-numbered year which has fewer days.
- **"Constituent Days".** This is an idea from South Dakota's legislature that I've incorporated into HB 1398 - which you'll see on page 2, lines 1-3 and lines 25-27. On several Fridays during the legislative session, the SD legislature doesn't gavel in as a body. They call them constituent contact days, designed to ensure the public has the time to understand what's being proposed and to give lawmakers time to go home and get input.
- **Neutral fiscal impact.**
 - The legislative budget does not assume that we use the full 80 days. The typical legislative budget assumes that we will meet for 77 days (not 80) for the regular legislative session, plus the organization session, costing \$77K per day in past budgets.
 - However, the ND legislature increasingly uses the time it can -- bumping up to our 80-day limit. We try to "save days" but we don't. In the last 9 sessions (2000 - 2017), we have gone over the 77 budgeted days 5 times, met the 77 days twice and gone under twice, averaging 77.7 days. In the 12 prior sessions (from 1999-1977), the average was 68.5 days. In other words, we are spending more time here than we used to.
 - In past proposals for annual sessions, the fiscal note reflected a net increase in appropriations of \$231K, because legislative council analysts assumed that by meeting annually, we'd use the full 80 days we are constitutionally allowed to use - not just the 77 days we typically budget for.
 - However, the fiscal note for annual sessions should consider a reduction in the costs for interim committees. A reduction in all of our interim committee meeting costs could offset the budgeting of 3 additional session days.

In closing, the world moves fast, and we need a model that better allows us to be more responsive -- to pass urgent policy and make any necessary budget adjustments. I ask for your favorable consideration of HB 1398.