

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1145

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1145
2/7/2019
32390

- Subcommittee
 Conference Committee

Committee Clerk Carmen Hart by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Attachment 1, 2, 3

Vice Chair Steiner opened the hearing on HB 1145.

Rep. Nathan Toman appeared in support. This bill puts in statute our right as duly elected representatives to introduce and work on legislation. It prohibits any executive branch agencies and the judicial branch from introducing bills without a legislative sponsor or a committee sponsor.

Rep. Hoverson: Could you please explain the bill again?

Rep. Toman: The purpose of the bill is to prohibit executive branch agencies and judicial branch from introducing legislation without a legislative sponsor, be it a committee or a senator.

Rep. Johnston: ND is the only state that does this. They do this through their legislative assembly. This seems to be a separation of power.

Rep. Toman: I would think that this is similar to the interim committee.

Rep. Rohr: Did you ask legislative council to research any of the states? Just curious about what other states are doing.

Rep. Toman: Last session I introduced similar bill. We are the only state that does it this way.

Rep. B. Koppelman: Could that be perceived as laziness?

Rep. Toman: That could be perceived as that way, it is too much work for us to even listen to them. I understand what you are getting at?

Rep. B. Koppelman: Wouldn't you perceive it to be more important that we recognize the separation of powers that the constitution set up, even if it does require theoretically a duplication of process or a process that takes a little longer and that we not value efficiency over separation of powers.

Rep. Toman: I would totally agree with that. I don't think it's an advocacy of authority and separation of powers.

Rep. Louser: Would you be open to removing legislative management committees?

Rep. Toman: I would be amiable to that. We don't want to have Rep. Delzer on every budget.

Rep. Schneider: Can you give me the figures again on the house and senate bills and then how many of those had committee sponsorship?

Rep. Toman: 88 bills 25 appropriation bills on behalf of the committee. They all have a committee sponsor.

Rep. Schneider: We worked very hard on our committees to come up with the bills that the committee supported.

Rep. Toman: We need to provide some clarity if the committee thinks that the chairman of that interim committee should be listed so that folks know who to go to with questions.

Rep. Schneider: I know how good you and Rep. Louser are with tech and how quick you can get the answers. I bet you can find out who is on the committee and who chaired it pretty quickly.

Rep. Toman: Yes, all are on line. When we are talking about the 5 o'clock deadline and we are trying to read these bills, the pre filed ones is where it comes into question.

Rep. Karls: Were the 88 bills, policy bills?

Rep. Toman: I summed it up on the excel spread sheet that the council gave me and I think there might be some assigned appropriations, but I don't know if they are direct appropriations bills so they could be policy bills with appropriations in them.

Rep. Karls: I can see your point on policy bills from the agencies.

Rep. Toman: I think it should be hard for our government to pass laws that affect our constituents and the people of our state.

Rep. Karls: We are all elected and we all give a vote.

Rep. Toman: It could also be costly, because if you don't hire legal counsel staff or agency to draft these bills they can come to the legislature and say we have this problem and fix it for us.

Rep. Johnston: There could be members on the committee that did not support the bill? Correct?

Rep. Toman: That is correct.

Rep. Johnston: Is that fair to those that did not support the bill to have their name is used on that committee.

Rep. Toman: That does bring up a very interesting point because you might be in the minority on those interim committee chairs and that carries the weight of that interim committee saying yes that was a good idea.

Rep. B. Koppelman: Do you have interim committee carrier or list those that were in favor of the bill interim committee and they become the sponsors of the bill.

Rep. Toman: That would be a fine method or to even put the vote count on there.

Vice Chair Steiner: The automation tax credit is exactly what Rep. Johnston referred because in the interim taxation it wasn't unanimous. I did support it and when it came in front of the committee of interim taxation I championed it and I was on the Do Pass side but it was not unanimous and so in effect that's exactly what you are talking about. I chose to champion it for the committee but I didn't have to. There is a void if no one champions the bill. Any other questions?

Rep. Schneider: It is democracy at work. It is legislators voting to promote legislation that then goes to the legislature, the legislature then votes.

Rep. Toman: Provides a little more clarity to the citizens.

Vice Chair Steiner: Any other questions committee?

Jared Hendrix, Minot, appeared in support. Attachment 1. (19:55-27:12)

Chris Molden, citizen, appeared in support. Introduced by a committee at the request of a board. I would like to be on equal footing without having to run. I think that these boards need a carrier. They need a signer. They need to be accountable to the citizenry.

Rep. Hoverson: Could you give me a number on that bill?

Mr. Molden: HB 1113 from this year.

Opposition+

Maggie Anderson, Department of Human Services, appeared in opposition. Attachment 2. Thorough review of chapters. Come up with changes 1136, 1116, 1118, 1117 Federal requirements. We bring legislation forward because federal requirements that change or federal laws that happen. It is our responsibility to review those federal laws determine how they impact our programs or our financing of our programs and to make sure that those things are brought forward so that state statute is not inconsistent with federal statutes when it is a requirement of participating in those federal programs. Our purpose in bringing forward the legislation, many of these are very specific subject matter expertise type of reviews and changes and often times we are the only people who testify in our hearings.

Rep. Laning: Could you explain what's your Internal processes and how do you go through and decide what bill you need to process?

Maggie Anderson: We have a very detailed process, so for example, HB 1136 from last time.

It is the large department of human services chapter 50-06 and so we (4 or 5) coming out of the 2015 session sat down and went through the entire bill. We assigned divisions and said okay we are doing a full review of this chapter of code and so some of the sections that were assigned to the vocational rehabilitation division or the developmental disability division and each of those senior managers were responsible for reviewing that and then our legal advisory unit would do research if needed. After researching, we come back together and edit those. There were 15 bills that were brought forward for consideration going into the 2017 session, but we are very thoughtful about that so there are times where we have introduced policy bills. We have a very thorough internal process and so we don't do any work on bills until we are sure that it is needed. The work that our legal advisory unit does relate to legislation is a very small portion of their roles in any biennium.

Rep. Schauer: How many of those 15 bills did you go to a legislator or legislative committee and say we have decided and they would say yes go and research it.

Maggie Anderson: We didn't do that because this availability to the department to introduce legislation exists and we are very participative in the interim process when we know what bills there are. These were bills again for very specific purposes for federal requirements or chapter reviews or things like that so we did not approach legislative sponsors.

Rep. Schauer: So who is the controlling authority to allow you to move forward on doing the legal work on these bills?

Maggie Anderson: At the time that I was executive director of the department of human services and that would have been my decision to have our staff do the background work to bring those bills forward to the governor's office and then to the legislative council.

Rep. Schauer: How many policy bills of this 15 were there?

Maggie Anderson: All of these are policy bills. If we have a bill that has a fiscal impact, it is included in the governor's request or the bill does not come forward. This session SB 2106 is a complete review of chapter 5029 which is the children's health insurance program chapter. It is a complete review of that chapter, but we also have a budget proposal that is tied to the children's health insurance program, so if the governor had not included that in his request we would not have introduced the changes to chapter 5029.

Rep. Schauer: How much time, effort, energy, money that was put into those 15 bills?

Maggie Anderson: No I would not know. I can tell you that some are very simple changes such as 1117, it is basically terminology. The language needed to be updated in code on all of these bills. The work we did would have been done whether we would have found a legislative sponsor or whether the agency would have introduced them.

Rep. Rohr: I know that there are some agency bills that impact the consumer. What about those that you submit that should have some public input?

Maggie Anderson: There are times when we have to do clean up bills that have to do with the language. We updated the language to do with gambling and we worked with the gambling advisory council to provide input on those bills. We try to work with stakeholders who have a vested interest in those areas. Do we miss the mark sometimes on that absolutely and that same thing happens with the interim committees.

Rep. Louser: The legislative council works for the legislature. Is access provided to the agencies and the council permitted because agencies are permitted to introduce bills? Is that the practice or interpretation to allow agencies access to legislative council?

Maggie Anderson: We have our own legal counsel within the department of human services. They are assistant AG's. They are the ones who draft the agency legislation. They will reach out to legislative council if they have a billing and drafting question that is specific to some rules.

Rep. B. Koppelman: If you can make the case to the legislative committee you have to have a sponsor, because someone has to stand up here and tell us why we should vote yes.

Maggie Anderson: We submit the bills to legislative management or council by December 6th. We don't go to a committee they assign that committee. If I stood up here and one of our agency bills was in front of you I would say I am Maggie Anderson with the department of human services. I am here in support HB 1115 which was introduced at the request of the department of human services. We own our bills when we come before your committee.

Rep. B. Koppelman: So if you have to do that anyway, why not do that to a legislative sponsor? Our current governor, by his actions and his words through vetoes and other things, has made it very clear that he values a bright line between separation of powers. Don't step on the executive branches toes as legislative branch and we would assume

that he would value that vice versa the same way, so in keeping with that wouldn't it make sense for you to get a legislator to buy into your policy prior to introduction?

Maggie Anderson: I understand the question and I understand your perspective. What if nobody wanted to sponsor a long bill and one that has a lot of legislative history in it and so what if we weren't able to find a sponsor? What about a bill that had to update code? What if we couldn't find a sponsor?

Rep. B. Koppelman: Should legislators be the gatekeeper for what's important coming from the legislative session or not?

Maggie Anderson: I don't have an opinion, but look at the bills that we brought forth.

Rep. Johnston: You are the only ones testifying to committees. Shouldn't it make it easy to find a sponsor since your bills come out unanimous in both chambers? They are good bills so shouldn't it make it easy to find a sponsor?

Maggie Anderson: It would add an additional step in the process and additional time.

Ken Sorenson, Special Assistant Attorney General, ND Department of Corrections and Rehabilitation appeared in opposition. (55:45-1:00)(Attachment 3)

Rep. Hoverson: Would you support citizenry? After all we would vote on the citizen's bills too.

Mr. Sorenson: The legislative houses did this joint rule to get bills in. The legislature has the authority to do procedural rules for them to introduce bills.

Chairman Kasper: Anyone else in opposition to HB1145? Anyone neutral position on HB1145?

Closed the hearing on HB1145.

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1145
2/8/2019
32487

- Subcommittee
 Conference Committee

Committee Clerk Carmen Hart by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Kasper: opened the meeting on HB 1145.

Rep. B. Koppelman: This bill allows a legislator or a legislative interim committee to introduce a bill. To make an improvement on the process for that interim committee to introduce either making those in favor be the sponsor of the bill or at the very least have somebody assigned as a bill carrier out of the interim committee.

Rep. Rohr: I will support the bill. The people that testified against it per se said it would only include one step and that is finding someone to sponsor that bill for them. I think that for the benefit for our citizens to come forth and either be supportive or oppose that bill is just a small thing to ask.

Rep. Louser: Rep. Schneider brings up a good point that it is easy to find who serves on the interim committees. I still have that same concern with legislative management being able to sponsor a bill as opposed to either the chairman of the legislative management committee or an assigned member from the chairman. Something that we didn't talk about that we might want to consider if we do limit this and it should only be policy bills as opposed to budgets.

Rep. Schauer: If policy is included in that, I will vote yes. I was really offended by the comment that it was just another step.

Chairman Kasper: This is a huge policy change. Maybe put this into a study.

Rep. Louser: Advantageous to some local legislators or disadvantageous. There is enough here to warrant a study.

Rep. B. Koppelman: I don't believe executive branch has any business introducing policy as a bill. They can bounce it off a policy maker and say this is a good idea just like a citizen does, but they have no constitutional authority to make policy at all.

Rep. C. Johnson: Pick an agency and have a pilot program.

Rep. Schneider: I don't see this as a separation of powers issue at all. Helpful through the interim process. I just don't see the reason for making this drastic change.

Rep. Rohr: Motion for Do Pass on HB 1145.

Rep. B. Koppelman: Seconded motion.

Chairman Kasper: Any more discussion committee?

Rep. Rohr: Reconsider motion on HB 1145.

Rep. B. Koppelman: Withdraw the second.

Chairman Kasper: We have this back in front of us with no motion.

Rep. B. Koppelman: If we were to put this into a study, my fear is with any study, there will be a lot of pressure to try to influence people to not take the study up as to not diminish their power as they see it. What is the best form we could put this in?

Chairman Kasper: A mandatory study, but either way the legislative management is going to decide. Further discussion?

Rep. Louser: I move to amend HB 1145 to a shall study.

Rep. Schauer: Seconded motion.

Voice Vote Carried.

Rep. Laning: Moves a Do Pass as amended on HB 1145.

Rep. Rohr: Seconded motion.

Roll Call Vote Yes 10 No 2 Absent 2

Rep. Louser is the **Carrier**.

Chairman Kasper: There is a motion to reconsider on HB 1145.

Rep. Vetter: Made the motion to reconsider.

Rep. B. Koppelman: Seconded motion.

Chairman Kasper: The prime sponsor does not want to turn it into a study, he wants it voted on the merits so we will take a Voice Vote on reconsideration.

Voice Vote carries so the bill is back before us with no action on it. We will wait until next week to take action on it.

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1145
2/15/2019
32859

- Subcommittee
 Conference Committee

Committee Clerk: Carmen Hart by Marjorie Conley

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Kasper: Take up HB1145

Rep. B. Koppelman: I would move the bill back into its original form.

Rep. Johnston: Seconded the motion

Chairman Kasper: We are going back to the original bill with no amendment.

Voice vote. Motion carries.

Rep. Louser: Since we heard this bill we've heard other bills that came from the initiated referred measures commission as introduced legislation. Two-thirds of that commission including the chairman weren't in the legislature. The first one that we heard before this one we were scrambling as a committee who is going to introduce it. If everyone recalls Claire Ness was here at the last minute. There was nobody to turn to, there was nobody to ask questions. We had to have Claire email us the results of that commission and the votes and we had to revisit that discussion again today even though 3034 had a sponsor. That's an example and even that would still be allowed under this bill because it says legislative management committee. I know what committees I have served on and I would prefer to see this amended to model all legislative management committees. I would move a Do Pass.

Chairman Kasper: **Rep. Louser** made motion for Do Pass and seconded by **Rep. B. Koppelman**. Further discussion committee?

Rep. B. Koppelman: We voted to strip the amendment but either way I think we have done all we can do and it will be okay.

Chairman Kasper: You may recall Maggie Anderson's testimony about the complexity that they have to follow with the federal and state guidelines and the numerous meetings that they have and the committee discussions they have to get to the point of coming up with agency bills. I've been involved with health care reform where we deal with her agency a lot and that is technical and complicated. The only question I would ask is if you would put your name to a bill you knew nothing about, would you want to do that?

Rep. Vetter: I'm wondering if any agency bills ever cut their budget or do anything like that? I think this is a no brainer. We are the legislative branch. We should be the ones holding that power, not delegating that authority to agencies that are only going to submit bills that help them out. I am not submitting bills to help myself out personally, so why should agencies do that? A normal citizen can't come to this legislature and say that they want to submit a bill. They have to go to a legislator. So why should not an agency?

Rep. B. Koppelman: What if there is something that affected federal funds? My answer to that is you follow the law that is put in front of you and if you can't find a sponsor, it must be a bad idea.

Rep. Louser: There are some improvements that can be made to this and one of them would be budget related. This is a step in the right direction.

Chairman Kasper: Further discussion?

Rep. Schauer: In my notes I had the word policy not budgets.

Rep. Louser: I think that right now we should vote on what we had in front of us.

Roll Call Vote Yes 9 No 5 Absent 0

Rep. Louser is the Carrier.

Date: 2-8-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1145**

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. Rohr Seconded By Rep. Koppelman

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

Withdrawn motion

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-8-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1145**

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. Louser Seconded By Rep. Schauer

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

*Vote
motion
Carries*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Shall study

Date: 2-8-19
 Roll Call Vote#: 3

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1145**

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. Laning 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	A				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	A				
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) 10 No 2

Absent 2

Floor Assignment Rep. Louser

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

Shall study

Date: 2-8-19
 Roll Call Vote #: 4

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1145**

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. Vetter

Seconded By Rep. B. Koppelman

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

no list
Carrie

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-15-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1145**

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

Other Actions: Place on Consent Calendar
 Reconsider * Going back to original bill w/o amendment

Motion Made By Rep. B. Koppelman seconded By Rep. Johnston

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

Vote to motion carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-15-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1145

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. Louser Seconded By Rep. B. Koppelman

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) 9 No 5

Absent 0

Floor Assignment Rep. Louser

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

REPORT OF STANDING COMMITTEE

HB 1145: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).
HB 1145 was placed on the Eleventh order on the calendar.

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1145

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB1145
3/21/2019
#34080

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Att # 1 – Maggie Anderson, Att #2 – Travis Engelhardt

Chairman Davison: Let's open the hearing for HB1145.

Rep. Nathan Toman, Dist. 34, Mandan: This bill is short and it prohibits agencies from introducing agencies from introducing bills, and they must find a bill sponsor. The bill has two exceptions on line 10 and 11 allow for legislative management or interim committees to introduce legislation. It needs to have one legislator. Any questions?

Chairman Davison: This has not been the case as long as I remember. (2.24)

Rep. Toman: It has been by rules that we have allowed that.

Chairman Davison: Do you feel there is a problem we are trying to solve? What should a better outcome be?

Rep. Toman: It is a separation of powers issue with me. They should bring it to use the elected lawmakers. The agencies are the executive branch. (2.58)

Vice Chair Meyer: How many agency bill s are put in each session?

Rep. Toman: I had that during the House hearing but do not have it with me. I could e-mail that to you. (3.41) I think 20% or so maybe.

Emmery Mehlhoff, Farm Bureau: Here in support of this bill. We have long had policy in the books for this. We don't want state agencies sponsoring, fostering or authoring legislation. We think state agencies would have the ability to bypass the process of finding a legislative sponsor. (5.11)

Rep. Scott Louser, Dist. 5, Minot: I am in support of this bill. We had a bill that came over to Government and Veterans Affairs Committee in the House. From an interim meeting we had bill from there. The chairman from that interim committee was not a legislator. There were 12 people, of which 6 were legislators, and none from L.C. We had the bill before us with no one to present it. I would like this bill to include a legislator instead of an interim committee as well. (7.27) Any questions?

Chairman Davison: Any more in support? Agency? Any opposed?

Maggie Anderson, Dept. of Human Services: We are opposed to this bill. I brought forward some bill summaries from HS. (see att #1) We do a very thorough vetting process internally before we bring bills forward. We go through the governor's office and talking to stake holders. We do bills that we do thorough review of Code. She went through the bills on her summary sheets. Sometimes there are federal changes we have to deal with in a bill. (17.00)

Chairman Davison: If someone approached me with something reasonable, I would sponsor, but I may suggest finding someone on Human Services who knows your agency better. (17.17) Any more testimony.

Travis Engelhardt, N.D. Dept. of Corrections & Rehabilitation (DOCR): We are opposed to this bill. (see att# 2) We agree with what Maggie said. Please Do Not Pass. Any questions? (19.01)

Chairman Davison: Any more testimony opposed? The hearing is closed.

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB1145
3/21/2019
34088

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Davison: Look at HB1145. What are the committee wishes?

Sen. Kristin Roers: I can see the intent behind it. I sit on Human Services and know all the technical corrections and would have to carry those bills. I don't know if there is another way to deal with this. Maybe we should change the committee structure in Human Services. I don't know if this bill is necessary.

Chairman Davison: Rep Toman said we did it through the rules process. So there is a way to do without writing into Code. (1.15)

Sen. Kristin Roers: It is not so bad to carry the bill in front of your own committee, but doing it in the House and vice versa, you don't know the group. You ask Maggie to come up and explain it. Happens all the time. (2.48)

Sen. Erin Oban: This is just about efficiency. This just adds a level of inefficiency with this bill. (3.27) The process we use now with agencies still goes through the same process every other bill has to do through. The authority of what we do stays intact.

Sen. Erin Oban: I move a DO NOT PASS on HB1145. **Sen. Kristin Roers:** I second.

Chairman Davison: Discussion? Roll: **YES -- 7 NO -- 0 -0-absent.**
DO NOT PASS – passed. Sen. Kristin Roers will carry the bill.

Done (5.00)

REPORT OF STANDING COMMITTEE

HB 1145: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1145 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1145

#1
HB 1145
2-7-19
page 1

Empower the Legislature

A Bill to Re-Establish the Separation of Powers (HB 1145)

Testimony by Jared Hendrix
701-712-1487 - libertyhendrix@gmail.com

Philosophical & Legal basis for HB 1145

Montesquieu established the "separation of powers" within government in his 1748 work 'The Spirit of the Laws'. He prescribed the purposes and "balance of power" between an executive, legislative and judicial branch. This influenced America's founding fathers — particularly James Madison, as he wrote the Constitution. It is foundational to the 'Nondelegation doctrine', which affirms that one branch of government cannot delegate its authority to another. This was written about by John Locke as early as 1690:

"...The power of the Legislative being derived from the People by a positive voluntary Grant and Institution, can be no other, than what the positive Grant conveyed, which being only to make Laws, and not to make Legislators, the Legislative can have no power to transfer their Authority of making laws, and place it in other hands."

This legal principle is clearly recognized in the ND State Constitution. In Article III, Section 1, it states that *"...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."*

According to the National Conference of State Legislatures, North Dakota is among three states that allow agencies of government to submit requests for bills to be drafted, and is the **ONLY state that allows agencies to directly introduce bills**. I believe this to be in tenuous discord with the principle of the separation of powers.

Question & Answer

Question 1: Who is responsible for bills introduced by agencies?

Answer: Unclear. State agencies are comprised of public employees or contractors and are not directly accountable to the people through elections.

#1
HR 1145
2-7-19
page 2

Question 2: Aren't agency bills just "benign" or "housekeeping" bills?

Answer: Yes and no. While all bills must be viewed as having the force of law and directing government authority, some bills literally remove a single word or correct minor language. The simplicity of such bills should make it easy for an agency official to convince a legislator to introduce it. However, some agency bills are not "housekeeping", but policy bills. Determining which bills are policy bills is best achieved through a process that filters them through legislator's ears. *A legislator should always determine what policy should be introduced.*

Question 3. Is there any evidence of this process being a problem, and if not, why change it?

Answer: For the sake discussion, let's consider HB 1130 from the Office of Management and Budget during the 2017 session. 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. Yet, it went through two committee hearings, a floor discussion and likely consumed many paid hours of state employees, both in the agency and in Legislative Council. This wasted the Legislature's time and the agency's time. Nonetheless, specific examples are ultimately arbitrary. The problem that HB 1145 seeks to correct is the fact that this process is allowed in the first place.

Question 4. Aren't there important and unexpected bills which need to be written to comply with federal regulations, for example?

Answer: Session is every two years. These "compliance" changes will be voted on and become law on virtually the same timetable.

Question 5. Wouldn't forcing legislators to introduce agency bills inundate them with bills they don't care about?

Answer: Unlikely. In fact, it may have the opposite effect. Agencies will not waste time developing certain bill ideas they know are unlikely to find a sponsor. Instead, they can find willing partnerships with legislators willing to handle an agency's "housekeeping" items or policy initiatives. This will benefit *both* legislators and agencies. A legislator will become more of an "expert" on certain issues and serve as a valuable source of information for fellow legislators and their constituents. *Agencies will benefit from an informed advocate.*

#1
HB 1145
2-7-19
page 3

Question 6. Won't this makes it more difficult for agencies to bring their ideas to the legislature?

Answer: No, it will only make it more difficult for them to bring *bad* ideas. Good ideas will easily find sponsors. Legislators exhibit a monopoly control on lawmaking, not on ideas. Furthermore, Committees can call upon agency officials as a resource in developing legislation *at any point in time*. Current statute allows ample impact on legislation by agencies in Code sections 54-35-02 and 54-35-08. State employees are free to bring forth their knowledge into the process of making a law, without *directing* that process. Nothing in this bill prohibits the influence of agencies or state employees on legislation, or the abilities of Committees to request testimony and expertise from agency employees.

Question 7. Is it fair for agencies to have the privilege to introduce bills?

Answer: No, because this privilege is granted only to legislators in the Constitution and *through them*, to *all* the people they represent. Giving this privilege to unelected citizens who are state employees, delegates other citizens into a second class status. It is also inconsistent. If agencies of state government — vested with certain authorities by the Constitution — can introduce bills, then why can't local subdivisions, vested with authorities of separate but equal importance?

Question 8. Won't this make the legislators "have to do more work"?

Answer: Generally, no. However, it may require individual legislators to do more work in certain areas. But I believe that North Dakotans have *full confidence* in the abilities and capacity of this body to do the job that was signed up for, along with its privileges, which have been earned by elections.

Question 9. Is this is just an ideological & philosophic exercise?

Answer: That's like going into a courtroom and telling the judge that due process is just an ideological exercise. We have a set form of government with a separation of powers clearly defined. If we don't like it, we can amend it or abolish it. In the meantime, the rule of law is clear.

Our citizen-legislature deserves respect for the commitment to serve and the sacrifice of time and energy. Let's also respect the power which is granted to them.

Additional Information National Conference of State Legislatures

#1
HB 1145
2-7-19
page 4

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

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

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

You can read more here:

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

#2
HB 1145
2-7-19

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

Bill No.	Description	Details	House Actions	Senate Actions
HB 1116	Relating to the structure of the Department of Human Services and Changes in terminology.	THIS WAS A CLEAN UP BILL AND THERE ARE NO SUBSTANTIVE CHANGES: Four changes in this Bill: (1) Changed The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to The Joint Commission as the Commission was renamed; (2) changed mental health services to behavioral health; and (3) with DHS centralizing fiscal functions, the Bill removed the specific reference to fiscal staff from the ND State Hospital to reference the broader DHS fiscal administration; and (4) changed "Health Care Finance Administration" to "Centers for Medicare and Medicaid Services" as the federal agency name changed some time ago. THE AMENDMENTS ADOPTED WERE AT THE REQUEST OF THE DEPARTMENT.	12-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 91-0, and passed as amended on House Floor with 90-0 vote	7-0 Do Pass Recommendation from Senate Human Services. Amendments were adopted, at request of Department. Passed Senate Floor 46-0.
HB 1117	Relating to changes in terminology with respect to substance abuse and behavioral health.	THIS WAS A CLEAN UP BILL AND THERE WERE NO SUBSTANTIVE CHANGES: The changes updated language to be consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorder, for example "substance use disorder" instead of "drug abuse" or "alcoholism." The changes also updated the "Division of Mental Health and Substance Abuse" to the "Behavioral Health Division" – a change initiated by the Department in May 2015. The changes also utilized person-first language. The bill changed "chronically mentally ill individuals" to "individuals with a serious mental illness." THERE WERE NO AMENDMENTS TO THIS BILL	11-1 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 82-11.	Received 7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.
HB 1118	Relating to the definition of eligible beneficiary for the aid to aged, blind, and disabled persons.	CLEAN UP BILL WITH NO SUBSTANTIVE CHANGES. Amended North Dakota Century Code Section 50-24.5-01, relating to Basic Care Assistance Program (BCAP) eligibility. The changes removed language that is no longer applicable to BCAP program. The language should have been removed with the revisions to this section in the 2013 Legislative session at which time Expanded Service Payments for Elderly and Disabled Chapter 50-24.7 was created and removed from this section of North Dakota Century Code. THERE WERE NO AMENDMENTS TO THIS BILL.	14-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 91-0	7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.

#2
HB 1145
2-7-19

#2
 HB1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>HB 1119</p>	<p>Relating to collection of overpayments for service payments for elderly and disabled program and expanded service payments for elderly and disabled program.</p>	<p>The changes in the bill provided authority for the Department to collect overpayments for the Service Payments for the Elderly and Disabled (SPED) program and the Expanded Service Payments for the Elderly and Disabled (Ex-SPED) program when a recipient or legal representative of the recipient provides inaccurate information for the purpose of obtaining benefits. (In order to qualify for SPED or Ex-SPED services, an individual or their legal representative must provide sufficient information to determine their functional and financial eligibility for the service.) If an individual or legal representative provides inaccurate or false information about finances, health status, or ability to complete everyday tasks, the Department had previously lacked the authority to recoup the funds that were paid for the services received when the individual was not eligible. This authority had previously existed for home and community based services (HCBS) that are Medicaid-funded, but did not exist for SPED and Ex-SPED, which are funded through State general fund. THE AMENDMENTS ADOPTED WERE AT THE REQUEST OF THE DEPARTMENT.</p>	<p>14-0 Do Pass as amended Recommendation from House Human Services Committee. Passed on House Floor 94-0</p>	<p>7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 44-3</p>
-----------------------	---	--	---	--

#2
 HB1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>HB 1120</p>	<p>Relating to the prior authorization program.</p>	<p>Department proposed the bill to allow prior authorization of generics when the brands are less expensive (net of rebates). This situation more common and can account for cost differentials in all drug classes, including the six classes affected by this portion of the North Dakota Century Code. The Department's original proposed language would also have established prior authorization of stimulates used for treatment of ADHD for adults 21 and over to assist in finding solutions to address the substance use issues facing the State. Some language was amended by legislators.</p>	<p>Received a 12-2 Do Pass as amended Recommendation from House Human Services Committee. Passed on House Floor 89-0</p>	<p>5-2 Do Pass as Amended Recommendation from Senate Human Services. Passed Senate Floor 34-11. House refused to concur with Senate amendments, went to conference committee where the Senate receded from their amendments. Passed 45-1 in Senate.</p>
----------------	---	--	--	---

#2
HB 1145
2-7-19

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

<p>HB 1134</p>	<p>Relating to updating definitions and code sections to reflect person first language, updating language to reflect rights of the developmentally disabled, and to clarify inspection of facilities.</p>	<p>This bill updated language to reflect changes in federal law, and to update the rights of clients with Developmental Disabilities. Amendments were offered by legislators on the House and Senate sides.</p>	<p>14-0 Do Pass Recommendation from House Human Services Committee, as amended Passed on House Floor 91-0. House concurred with Senate amendments, and passed the bill 90-0</p>	<p>Received 7-0 Do Pass Recommendation from Senate Human Services with a further amendment from the Senate. Passed Senate Floor 46-0.</p>
<p>HB 1135</p>	<p>Relating to consolidating the committee on employment of people with disabilities into the state rehabilitation council and updating the categories of positions in the state service.</p>	<p>THIS BILL CONSOLIDATED COMMITTEES: Specifically the committee on employment of people with disabilities into the state rehabilitation council, renaming the employment of disabilities fund to allow the Council to access the funds, and "updating the categories of positions in the state service." This efficiency will serve to expand employment opportunities for people of all ages with disabilities by identifying and reducing barriers to competitive and integrated employment for persons with disabilities. The Council is a Governor-appointed council, mandated since 1992 by federal regulation for a state to receive federal VR funds. The Council is a group of North Dakota residents, more than 50% of the membership are persons with disabilities, who are appointed by the Governor to advise the VR agency on issues related to the competitive and integrated employment of persons with disabilities. Membership is defined in federal regulation and provides states the flexibility to add additional members. Through the consolidation of the committees, the council will offer recommendations to the Governor to add the Department's Developmental Disabilities Division Director and the Executive Director of the North Dakota Association of Community Providers to SRC's membership. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 14-0 Do Pass Recommendation from House Human Services Committee, Passed on House Floor 91-0.</p>	<p>Received 6-1 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.</p>

#2
 HB 1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>HB 1136</p>	<p>Relating to substance use disorder treatment voucher system; relating to departmental updates for statutory consistency, technical corrections, powers and duties of the department, department structure, program activities, regional human service centers, leases, and aging and disability resource center funding; and to repeal sections of the North Dakota Century Code.</p>	<p>THIS BILL REPRESENTED A THOROUGH REVIEW OF CHAPTER 50-06. DHS initiated this review after the 2015 Session and updated the entire chapter to remove obsolete references and update code with practice. There was nothing controversial in this clean up bill and both chambers voted unanimously to approve. THE AMENDMENT ADOPTED WAS AT THE REQUEST OF THE DEPARTMENT.</p>	<p>Received a 14-0 Do Pass Recommendation from House Human Services Committee, as amended. Passed on House Floor 94-0.</p>	<p>Received 7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 47-0.</p>
-----------------------	--	---	--	--

2
 HB1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>SB 2114</p>	<p>Relating to the definition of permanency hearing, reasonable efforts for sibling placement, definition of group home, and liability coverage to foster homes for children.</p>	<p>THIS BILL ALLOWED DHS TO COMPLY WITH FEDERAL CHANGES AND PROMOTES CONTINUED INTEREST BY FAMILIES TO PROVIDE FOSTER CARE. North Dakota Century Code chapter 27-20 addresses juvenile court proceedings. The changes in this bill were made to meet compliance with federal legislation "Preventing Sex Trafficking and Strengthening Families Act" (P.L. 113-183) which requires states to engage earlier with young people in efforts to build their independent living skills. The change was expected to reduce the age required in foster care permanency planning from age 16 to age 14 when case managers must assist youth with goals and tasks to transition to successful adulthood. The changes also include requiring sibling language be present in permanency hearings and case planning only if applicable. The Bill also corrected the definition of a group home to include the number four, allowing an agency to operate as a group home if the agency has at least four, but less than thirteen beds licensed for children in need of placement. The changes allow the Department limited discretion when more than \$25,000 of total damage is caused to a property. At the time the bill was introduced, the Department would reimburse up to \$5,000 per claim with a maximum of \$10,000 per claimant per year. However, the change allowed the Department to reimburse the claimant more than \$5,000 per claim if determined appropriate, but still not exceed the \$10,000 annual maximum. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 10-4 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 65-24.</p>	<p>Received a 7-0 Do Pass Recommendation from Senate Human Services Committee, as amended. Passed on Senator Floor 46-0</p>
<p>SB 2115</p>	<p>Relating to members of the autism spectrum disorder task force.</p>	<p>Establishes changes to who the members of the autism task force should be. Some amendments were provided by legislators.</p>	<p>Received a 13-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 73-17</p>	<p>7-0 Do Pass Recommendation from Senate Human Services Committee. Passed on Senator Floor 46-0. Senate concurred with House Amendments, and passed the bill 47-0</p>

#2
 HB1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>SB 2116</p>	<p>Relating to criminal history record checks for medicaid services applicants, providers, and staff members; to amend and reenact section 50-06-01.9 of the North Dakota Century Code, relating to criminal history record checks for job applicants, department staff, county employees, contractors, and medicaid services applicants, providers, and staff members; to provide an effective date; and to declare an emergency.</p>	<p>The changes in Section 1 of the Bill removed redundant language regarding medical records being provided to the Department or the Department's authorized agent as the changes in Section 2 address the disclosure of medical records. The changes in Section 2 of the Bill clarified that certain health professionals and facilities shall disclose to the Department or the Department's authorized agent, records of a patient or client that are deemed relevant for a child abuse or neglect assessment or a services required decision. Amendments were provided by House legislators.</p>	<p>Received a 9-3 Do Pass as amended recommendation from House Human Services, and Passed on House Floor 66-22.</p>	<p>Received a 7-0 Do Pass recommendation from Senate Human Services, and Passed on Senate Floor 46-0. Senate refused to concur to House Amendments, went to conference committee, where Senate acceded to House amendments. Passed on Senate Floor 46-0</p>
-----------------------	--	--	---	---

#2
 HB1145
 2-7-19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>SB 2117</p>	<p>Relating to criminal history record checks for job applicants, department staff, county employees, contractors, and medicaid services applicants, providers, and staff members</p>	<p>The changes in Sections 1 and 2 of the Bill ensure that the Department is in compliance with IRS requirements and federal regulation in regards to criminal history record checks. The Bill added the ability for the Department to conduct criminal history record checks on a job applicant. Previously, the Department was conducting criminal history record checks only upon hiring the employee. This Bill added the ability for the Department to conduct criminal history record checks on job applicants of the county social service agencies and the Department's and county social service agencies' contractors and contractor's subcontractors that have access to FTI received from the IRS. This change was required for the Department to be in compliance with Publication 1075 and Internal Revenue Code 6103(p)(4). Amendments were made by legislators.</p>	<p>Received a 15-0 Do Pass as amended recommendation from House Human Services, and Passed on House Floor 69-23.</p>	<p>6-0 Do Pass recommendation from Senate Human Services and Passed ins Senate 45-1. Senate concurred with House Amendments, Passed on Senate Floor 46-0</p>
<p>SB 2118</p>	<p>Relating to gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.</p>	<p>THIS IS A CLEAN UP BILL AND THERE ARE NO SIGNIFICANT CHANGES: The bill updated language to be consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorder, for example "Gambling Disorder" instead of compulsive gambling. In addition, the bill ensured individuals providing gambling services are working within the scope of their profession, and the bill made changes to utilize person-first language. The bill changed "compulsive gamblers" to "individuals with a gambling disorder". The North Dakota Problem Gambling Advisory Council provided input to the Department regarding the original bill draft. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 13-1 Do Pass recommendation from House Human Services, and Passed on House Floor 74-15</p>	<p>Received a 7-0 Do Pass recommendation from Senate Human Services, and Passed on Senate Floor 45-0.</p>

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Representative Jim Kasper, Chair
February 7, 2019

#3
HB 1145
2-7-19
page 1

For the record, I am Ken Sorenson, Special Assistant Attorney General for the North Dakota Department of Corrections and Rehabilitation (ND DOCR), and I present this testimony on behalf of the ND DOCR in opposition to House Bill 1145.

In House Bill 1145, the bill sponsors propose to enact a new statute to govern the submission of bills executive agencies and the Supreme Court wish to have introduced.

Both houses of the Legislature presently have the authority to determine rules of procedure, including the submission, form, and introduction of bills and resolutions, and have enacted procedural rules in accordance with their authority.

Under current rules, each executive branch agency and the Supreme Court is authorized to file with Legislative Council bills they wish to have introduced and the bills will be deemed introduced by a standing committee of the House or Senate. If the executive agency or Supreme Court gets the approval of a legislator to sponsor the bill, then the bill will be introduced by the legislator.

The ND DOCR, which is the largest criminal justice agency in the state, submitted two agency bills before the 65th Legislative Assembly and two bills before this Legislative Assembly. The bills were to make a "housekeeping" correction, resolve a sentence calculation issue, come into compliance with a mandatory requirement of federal law, and clean up a records retention matter – all with the purpose of more effective management of ND DOCR daily operations. Criminal justice policy matters were dealt with through legislator-sponsored bills.

The rules of both houses operate to effectively manage the submission of bills and there is no actual or discernable problem with the current rules. The proposed statute that would displace current legislative rules governing the submission of bills is simply not necessary.

Therefore, the North Dakota Department of Corrections and Rehabilitation stands in opposition of House Bill 1145, and urges a "do not pass".

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

Bill No.	Description	Details	House Actions	Senate Actions
HB 1116	Relating to the structure of the Department of Human Services and Changes in terminology.	THIS WAS A CLEAN UP BILL AND THERE ARE NO SUBSTANTIVE CHANGES: Four changes in this Bill: (1) Changed The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to The Joint Commission as the Commission was renamed; (2) changed mental health services to behavioral health; and (3) with DHS centralizing fiscal functions, the Bill removed the specific reference to fiscal staff from the ND State Hospital to reference the broader DHS fiscal administration; and (4) changed "Health Care Finance Administration" to "Centers for Medicare and Medicaid Services" as the federal agency name changed some time ago. THE AMENDMENTS ADOPTED WERE AT THE REQUEST OF THE DEPARTMENT.	12-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 91-0, and passed as amended on House Floor with 90-0 vote	7-0 Do Pass Recommendation from Senate Human Services. Amendments were adopted, at request of Department. Passed Senate Floor 46-0.
HB 1117	Relating to changes in terminology with respect to substance abuse and behavioral health.	THIS WAS A CLEAN UP BILL AND THERE WERE NO SUBSTANTIVE CHANGES: The changes updated language to be consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorder, for example "substance use disorder" instead of "drug abuse" or "alcoholism." The changes also updated the "Division of Mental Health and Substance Abuse" to the "Behavioral Health Division" – a change initiated by the Department in May 2015. The changes also utilized person-first language. The bill changed "chronically mentally ill individuals" to "individuals with a serious mental illness." THERE WERE NO AMENDMENTS TO THIS BILL	11-1 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 82-11.	Received 7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.
HB 1118	Relating to the definition of eligible beneficiary for the aid to aged, blind, and disabled persons.	CLEAN UP BILL WITH NO SUBSTANTIVE CHANGES. Amended North Dakota Century Code Section 50-24.5-01, relating to Basic Care Assistance Program (BCAP) eligibility. The changes removed language that is no longer applicable to BCAP program. The language should have been removed with the revisions to this section in the 2013 Legislative session at which time Expanded Service Payments for Elderly and Disabled Chapter 50-24.7 was created and removed from this section of North Dakota Century Code. THERE WERE NO AMENDMENTS TO THIS BILL.	14-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 91-0	7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.

Handwritten notes:
1 p 1145
3-21-19
AH #1
ps 1

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

HB 1119	Relating to collection of overpayments for service payments for elderly and disabled program and expanded service payments for elderly and disabled program.	The changes in the bill provided authority for the Department to collect overpayments for the Service Payments for the Elderly and Disabled (SPED) program and the Expanded Service Payments for the Elderly and Disabled (Ex-SPED) program when a recipient or legal representative of the recipient provides inaccurate information for the purpose of obtaining benefits. (In order to qualify for SPED or Ex-SPED services, an individual or their legal representative must provide sufficient information to determine their functional and financial eligibility for the service.) If an individual or legal representative provides inaccurate or false information about finances, health status, or ability to complete everyday tasks, the Department had previously lacked the authority to recoup the funds that were paid for the services received when the individual was not eligible. This authority had previously existed for home and community based services (HCBS) that are Medicaid-funded, but did not exist for SPED and Ex-SPED, which are funded through State general fund. THE AMENDMENTS ADOPTED WERE AT THE REQUEST OF THE DEPARTMENT.	14-0 Do Pass as amended Recommendation from House Human Services Committee. Passed on House Floor 94-0	7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 44-3
----------------	--	---	--	---

HB 1145
3-21-19
Att #1
PG 2

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>HB 1120</p>	<p>Relating to the prior authorization program.</p>	<p>Department proposed the bill to allow prior authorization of generics when the brands are less expensive (net of rebates). This situation more common and can account for cost differentials in all drug classes, including the six classes affected by this portion of the North Dakota Century Code. The Department's original proposed language would also have established prior authorization of stimulates used for treatment of ADHD for adults 21 and over to assist in finding solutions to address the substance use issues facing the State. Some language was amended by legislators.</p>	<p>Received a 12-2 Do Pass as amended Recommendation from House Human Services Committee. Passed on House Floor 89-0</p>	<p>5-2 Do Pass as Amended Recommendation from Senate Human Services. Passed Senate Floor 34-11. House refused to concur with Senate amendments, went to conference committee where the Senate receded from their amendments. Passed 45-1 in Senate.</p>
-----------------------	---	--	--	---

*HB 1145
 3-21-19
 AH #1
 pg 3*

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

HB 1134	<p>Relating to updating definitions and code sections to reflect person first language, updating language to reflect rights of the developmentally disabled, and to clarify inspection of facilities.</p>	<p>This bill updated language to reflect changes in federal law, and to update the rights of clients with Developmental Disabilities. Amendments were offered by legislators on the House and Senate sides.</p>	<p>14-0 Do Pass Recommendation from House Human Services Committee, as amended Passed on House Floor 91-0. House concurred with Senate amendments, and passed the bill 90-0</p>	<p>Received 7-0 Do Pass Recommendation from Senate Human Services with a further amendment from the Senate. Passed Senate Floor 46-0.</p>
HB 1135	<p>Relating to consolidating the committee on employment of people with disabilities into the state rehabilitation council and updating the categories of positions in the state service.</p>	<p>THIS BILL CONSOLIDATED COMMITTEES: Specifically the committee on employment of people with disabilities into the state rehabilitation council, renaming the employment of disabilities fund to allow the Council to access the funds, and "updating the categories of positions in the state service." This efficiency will serve to expand employment opportunities for people of all ages with disabilities by identifying and reducing barriers to competitive and integrated employment for persons with disabilities. The Council is a Governor-appointed council, mandated since 1992 by federal regulation for a state to receive federal VR funds. The Council is a group of North Dakota residents, more than 50% of the membership are persons with disabilities, who are appointed by the Governor to advise the VR agency on issues related to the competitive and integrated employment of persons with disabilities. Membership is defined in federal regulation and provides states the flexibility to add additional members. Through the consolidation of the committees, the council will offer recommendations to the Governor to add the Department's Developmental Disabilities Division Director and the Executive Director of the North Dakota Association of Community Providers to SRC's membership. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 14-0 Do Pass Recommendation from House Human Services Committee, Passed on House Floor 91-0.</p>	<p>Received 6-1 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 45-0.</p>

3-21-19
 AH + 1
 pg 4
 HB 1145

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>HB 1136</p>	<p>Relating to substance use disorder treatment voucher system; relating to departmental updates for statutory consistency, technical corrections, powers and duties of the department, department structure, program activities, regional human service centers, leases, and aging and disability resource center funding; and to repeal sections of the North Dakota Century Code.</p>	<p>THIS BILL REPRESENTED A THOROUGH REVIEW OF CHAPTER 50-06. DHS initiated this review after the 2015 Session and updated the entire chapter to remove obsolete references and update code with practice. There was nothing controversial in this clean up bill and both chambers voted unanimously to approve. THE AMENDMENT ADOPTED WAS AT THE REQUEST OF THE DEPARTMENT.</p>	<p>Received a 14-0 Do Pass Recommendation from House Human Services Committee, as amended. Passed on House Floor 94-0.</p>	<p>Received 7-0 Do Pass Recommendation from Senate Human Services. Passed Senate Floor 47-0.</p>
-----------------------	--	---	--	--

HB 1145
 3-21-19
 RH #1
 P 85

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

<p>SB 2114</p>	<p>Relating to the definition of permanency hearing, reasonable efforts for sibling placement, definition of group home, and liability coverage to foster homes for children.</p>	<p>THIS BILL ALLOWED DHS TO COMPLY WITH FEDERAL CHANGES AND PROMOTES CONTINUED INTEREST BY FAMILIES TO PROVIDE FOSTER CARE. North Dakota Century Code chapter 27-20 addresses juvenile court proceedings. The changes in this bill were made to meet compliance with federal legislation "Preventing Sex Trafficking and Strengthening Families Act" (P.L. 113-183) which requires states to engage earlier with young people in efforts to build their independent living skills. The change was expected to reduce the age required in foster care permanency planning from age 16 to age 14 when case managers must assist youth with goals and tasks to transition to successful adulthood. The changes also include requiring sibling language be present in permanency hearings and case planning only if applicable. The Bill also corrected the definition of a group home to include the number four, allowing an agency to operate as a group home if the agency has at least four, but less than thirteen beds licensed for children in need of placement. The changes allow the Department limited discretion when more than \$25,000 of total damage is caused to a property. At the time the bill was introduced, the Department would reimburse up to \$5,000 per claim with a maximum of \$10,000 per claimant per year. However, the change allowed the Department to reimburse the claimant more than \$5,000 per claim if determined appropriate, but still not exceed the \$10,000 annual maximum. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 10-4 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 65-24.</p>	<p>Received a 7-0 Do Pass Recommendation from Senate Human Services Committee, as amended. Passed on Senator Floor 46-0</p>
<p>SB 2115</p>	<p>Relating to members of the autism spectrum disorder task force.</p>	<p>Establishes changes to who the members of the autism task force should be. Some amendments were provided by legislators.</p>	<p>Received a 13-0 Do Pass Recommendation from House Human Services Committee. Passed on House Floor 73-17</p>	<p>Recommendation from Senate Human Services Committee. Passed on Senator Floor 46-0. Senate concurred with House Amendments, and passed the bill 47-0</p>

11/14/19
 3-2-19
 11/14/19
 11/14/19

Department of Human Services (DHS)
 2019 House Bill 1145
 2017 DHS Agency Legislation examples

<p>SB 2116 Relating to criminal history record checks for medicaid services applicants, providers, and staff members; to amend and reenact section 50-06-01.9 of the North Dakota Century Code, relating to criminal history record checks for job applicants, department staff, county employees, contractors, and medicaid services applicants, providers, and staff members; to provide an effective date; and to declare an emergency.</p>	<p>The changes in Section 1 of the Bill removed redundant language regarding medical records being provided to the Department or the Department's authorized agent as the changes in Section 2 address the disclosure of medical records. The changes in Section 2 of the Bill clarified that certain health professionals and facilities shall disclose to the Department or the Department's authorized agent, records of a patient or client that are deemed relevant for a child abuse or neglect assessment or a services required decision. Amendments were provided by House legislators.</p>	<p>Received a 9-3 Do Pass as amended recommendation from House Human Services, and Passed on House Floor 66-22.</p>	<p>Received a 7-0 Do Pass recommendation from Senate Human Services, and Passed on Senate Floor 46-0. Senate refused to concur to House Amendments, went to conference committee, where Senate acceded to House amendments. Passed on Senate Floor 46-0</p>
---	--	---	---

14B 1145
 3-21-19
 AFT
 Ps 7

Department of Human Services (DHS)
2019 House Bill 1145
2017 DHS Agency Legislation examples

<p>SB 2117</p>	<p>Relating to criminal history record checks for job applicants, department staff, county employees, contractors, and medicaid services applicants, providers, and staff members</p>	<p>The changes in Sections 1 and 2 of the Bill ensure that the Department is in compliance with IRS requirements and federal regulation in regards to criminal history record checks. The Bill added the ability for the Department to conduct criminal history record checks on a job applicant. Previously, the Department was conducting criminal history record checks only upon hiring the employee. This Bill added the ability for the Department to conduct criminal history record checks on job applicants of the county social service agencies and the Department's and county social service agencies' contractors and contractor's subcontractors that have access to FTI received from the IRS. This change was required for the Department to be in compliance with Publication 1075 and Internal Revenue Code 6103(p)(4). Amendments were made by legislators.</p>	<p>Received a 15-0 Do Pass as amended recommendation from House Human Services, and Passed on House Floor 69-23.</p>	<p>recommendation from Senate Human Services and Passed in Senate 45-1. Senate concurred with House Amendments, Passed on Senate Floor 46-0</p>
<p>SB 2118</p>	<p>Relating to gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.</p>	<p>THIS IS A CLEAN UP BILL AND THERE ARE NO SIGNIFICANT CHANGES: The bill updated language to be consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorder, for example "Gambling Disorder" instead of compulsive gambling. In addition, the bill ensured individuals providing gambling services are working within the scope of their profession, and the bill made changes to utilize person-first language. The bill changed "compulsive gamblers" to "individuals with a gambling disorder". The North Dakota Problem Gambling Advisory Council provided input to the Department regarding the original bill draft. THERE WERE NO AMENDMENTS TO THIS BILL.</p>	<p>Received a 13-1 Do Pass recommendation from House Human Services, and Passed on House Floor 74-15</p>	<p>Received a 7-0 Do Pass recommendation from Senate Human Services, and Passed on Senate Floor 45-0.</p>

AB 1145
 3-21-19
 AH #1
 PR

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Senator Kyle Davison, Chair
March 21, 2019

HB 1145
3-21-19
att #2
PS 1
opposed

For the record, I am Travis Engelhardt and I present this testimony on behalf of the North Dakota Department of Corrections and Rehabilitation (ND DOCR) in opposition to House Bill 1145.

In House Bill 1145, the bill sponsors propose to enact a new statute to govern the submission of bills executive agencies and the Supreme Court wish to have introduced.

Both houses of the Legislature presently have the authority to determine rules of procedure, including the submission, form, and introduction of bills and resolutions, and have enacted procedural rules in accordance with their authority.

Under current rules, each executive branch agency and the Supreme Court is authorized to file with Legislative Council bills they wish to have introduced and the bills will be deemed introduced by a standing committee of the House or Senate. If the executive agency or Supreme Court gets the approval of a legislator to sponsor the bill, then the bill will be introduced by the legislator.

The ND DOCR, which is the largest criminal justice agency in the state, addresses criminal justice policy matters through legislatively sponsored bills. On the other hand, when the matter is one of specific agency expertise, such as bringing operational matters into compliance with mandatory requirements of federal law or technical issues, an executive agency is often times in the best position to submit a proposed change in the law.

A present example is House Bill 1076, of which a copy of the enrolled bill is attached to this testimony. NDCC Section 12-46-13 allowed the DOCR to place a juvenile offender between the age of 16 and 18 in a DOCR adult correctional facility. This provision in Section 12-46-13 was in violation of the Prison Rape Elimination Act of 2003 (P.L. 108-79), a federal law enacted to address the problem of sexual abuse of persons in the custody of federal and state correctional agencies, and one of its corresponding regulations, PREA Standard 115.14 (28 C.F.R. Part 115), which prohibits housing youthful inmates – that is – any individual under the age of 18, in a housing unit in which the youthful inmate may have sight, sound, or physical contact with an adult

HB 1145

inmate. HB 1076 is an example in which an executive agency has the expertise, as well as the obligation, to correct a deficiency in a law.

3-21-19
#2
Pg 2

The current rules that authorize executive agencies and the Supreme Court to submit bills to the Legislative Council allows an efficient mechanism to submit bills that involve matters of agency expertise or administration. Because the Legislature's current rules require these bills be submitted no later than the close of business on the day after the organizational session, Legislative Council is able to more rapidly process these bills and get them on the policy committees' hearing calendars in the opening weeks of the session. The bills will still be heard by the assigned policy committee, or committees, and will be voted on by the House and the Senate.

Legislative rules that govern filing executive branch and Supreme Court bills operate to effectively manage the submission of bills. There is no actual or discernable problem with the current rules. The proposed statute that would displace current legislative rules governing the submission of bills is simply not necessary.

Therefore, the North Dakota Department of Corrections and Rehabilitation stands in opposition of House Bill 1145, and urges a "do not pass".

Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

HB 1145
3-21-19
AA #2
pg 3

HOUSE BILL NO. 1076
(Judiciary Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-46-13 of the North Dakota Century Code, relating to placement of offenders at the North Dakota youth correctional center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-46-13 of the North Dakota Century Code is amended and reenacted as follows:

12-46-13. Who may be sent to North Dakota youth correctional center - Court procedure.

Whenever a district court finds an offender under eighteen years of age guilty of a crime and commits the offender to the custody of the department of corrections and rehabilitation, the department may transfer the offender to the North Dakota youth correctional center; however, the department shall first transfer the offender to the North Dakota youth correctional center if the offender is under sixteen years of age. ~~The department may transfer an offender who is between sixteen years of age and eighteen years of age to an adult correctional facility after the department has given the offender an administrative hearing to determine if the interests of the department, the safety of other residents, or the interests of the general public justifies the transfer.~~ The department may allow an offender who is between eighteen years of age and twenty years of age to remain at the North Dakota youth correctional center if the department determines that it is in the best interests of the department and the offender and it is not contrary to safety interests of the other residents or the general public. The department shall transfer an offender who has attained twenty years of age to an adult correctional facility. An offender placed by the department at the North Dakota youth correctional center under this section has all the rights to sentence reduction for good and meritorious conduct and all the pardon and parole rights of an adult committed to the legal and physical custody of the department.

HB 1145
3-21-19
AH #2
PST

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1076.

House Vote: Yeas 82 Nays 7 Absent 5

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State