

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1127

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1127

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1127

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 11, 2007

Recorder Job Number: 934

Committee Clerk Signature

*Morgan Penick*

Minutes:

**Karlene Fine:** Testimony Attached

**Sandi Tabor:** Testimony Attached

**Rep. Haas:** You are exempting the authority from 54-60.1

**Sandi Tabor:** That is the business accountability

**Rep. Kasper:** If you go to section 3 where you want to be able to borrow without the reserve, I have a couple of questions. What is the limit of borrowing under the current law now?

**Sandi Tabor:** I'm going to let Karlene answer that because it has to do with the Research and Development Program.

**Karlene Fine:** There is no limit. We have to pay it from our appropriations.

**Rep. Kasper:** Which goes up to 800 million?

**Karlene Fine:** No, that is on the transmission authority.

**Rep. Kasper:** So what happens if you borrow for a project that goes bad, is that the obligation for the state of ND?

**Karlene Fine:** We only go to ten million dollars where we will provide. That is the commission's decision. We would disperse our money as the project goes forward. Our money is only going

out when we know that the project is going forward. The repayment comes from the appropriations. That is where the obligation comes.

**Rep. Kasper:** First you said there is no limit to borrowing, but a policy limit to ten million?

**Karlene Fine:** Right, no limit in statute. If the project goes forward, and if possible, they will make a payback through the research fund.

**Rep. Potter:** Can you clarify the reserve fund?

**Karlene Fine:** It is a long term bonding project. The rating agency is required that you have a reserve fund of a one year step service. That increases the size of your bonding that you have to provide. We believe that we will not have to have that reserve fund if we are borrowing five years or less. That won't increase the size of your borrowing.

**Rep. Haas:** So essentially that adds to the cost?

**Karlene Fine:** Yes, it adds to the cost of doing the borrowing.

**Rep. Haas:** I have one more question for Sandi. Your information is very helpful. I'm curious to know are we within a year of actually starting construction on additional transmission lines. Are we within five years?

**Sandi Tabor:** Just the studies alone take 2-5 years. The process of pipeline construction, I mean once you get done with all the front stuff building the pipes doesn't take that long. It's all the environmental studies, the sighting studies, the permitting that goes on to take time.

**Rep. Haas:** I think you indicated that this 6,300 megawatts needs to be on line before 2014.

**Sandi Tabor:** I don't know that all of that will be taken care of. Part of the problem is in Minnesota is that some of those first projects are dealing with how electricity moves through the line. There are some constraints that cause some concern for some of the companies providing power in that area.

**Rep. Haas:** So is it realistic that if we follow the permitting, studies, and so forth that it is possible to have some additional transmission by 2014.

**Sandi Tabor:** We will not have it here.

**Rep. Weiler:** You alluded to a figure of 800 million earlier in your testimony. Is that the total cost of the transmission line big enough to carry over to Minnesota? What is the dollar amount that we are looking at?

**Sandi Tabor:** I am not the expert on that but have looked at a couple of proposals where I saw the figure of 300-400 million. That is what I've seen when I've come across them.

**Rep. Weiler:** So that would be the first when you've talked about transmission lines between eastern north Dakota and Minnesota. Then you would need more than that dollar amount because you want to do the ones in western North Dakota.

**Sandi Tabor:** I don't see the transmission authority getting involved in some of the first phase projects. My understanding is that the utilities are stepping up to the plate to take care of some of those.

**Rep. Weiler:** I was just looking for an overall bold cost of the project.

**Rep. Haas:** Are there additional questions for Sandi? Is there additional testimony in favor of HB 1127? Is there any opposition testimony? If not we will close the hearing on HB 1127.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1127

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1383

Committee Clerk Signature

*Morgan Penne*

Minutes:

**Sandi Tabor:** *If you recall at the hearing on 1127, which by the way is the ND Transmission Authority clean up bill. I told you that the Attorney General drafted the bill. There is some only language in your bill that really needs to be cleaned up. This relates to the section of confidential information. So now what you have before you are all the amendments that we agreed and came up with. The first four lines of the amendment really just change the introduction to the bill. The other lines are recommended to clean up. The new addition that you are going to get is on page 2. The fact that a request has been made to them. We believe that the way the bill was written before prevented Karlene Fine in telling anyone that a request has been made. Since she and part of the commission often work with that, so we thought maybe we should help Karlene out on that. There may be occasions were the request should be kept confidential but generally speaking, Karlene has always made that a public notice. The next amendment that changed was on page 2 line 10 which was the introduction to subsection 3. They clarify that the information concluded would be kept confidential. That is what that language says. We thought we would make it very clear what we were talking about. When we go into the rest of the amendments, section 5 reviews language that makes us have a more stringent recording reform and takes us out of the Public Accountability act. Section 6 is the*

*Lignite Confidentiality language. We figured as long as we were cleaning everything up, we might as well clean that up too.*

**Rep. Haas:** committee what are your wishes?

**Rep. Boehning:** One question I've got is that we don't want to use those amendments?

**Sandi Tabor:** No.

**Rep. Boehning:** I move a do pass on the amendment.

**Rep. Wolf:** Second

**Rep. Haas:** Is there any discussion? Amendment is carried.

**Rep. Haas:** Is there any discussion on the bill as amended?

**Rep. Boehning:** I move a do pass as amended.

**Rep. Wolf:** Second

**Rep. Haas:** HB 1127 passes as amended 12-0-1. Do we have a volunteer to carry the bill?

**Rep. Grande:** I will.

## 2007 HOUSE STANDING COMMITTEE MINUTES

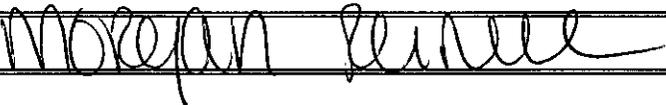
Bill/Resolution No. HB 1127

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1975

Committee Clerk Signature 

Minutes:

**Rep. Haas:** If you recall yesterday HB 1127 was sent back to our committee and we are now in possession of this. The reason why we have it is because we failed to take care of one small section that put a dollar limit on the amount of money that the Industrial Commission can use for these projects with the Lignite Council. In fact it was our speaker that caught that and brought it to our attention. However, before we can discuss the bill and correct the error, I would need a motion to reconsider the bill.

**Rep. Weiler:** I move to reconsider.

**Rep. Karls:** I Second that.

**Rep. Haas:** Is there any discussion on the motion to reconsider? If not all those in favor say 'aye' all opposed say 'no'. Thank you, the motion passes. We now have the bill before us in the same stage that it was before we voted on it, as an amended bill. I have a new amendment here that does only one thing and that is set the limit of \$16 million on the borrowing capacity of the Industrial Commission.

**Rep. Grande:** Are we talking about adopting this whole set of amendments then?

**Rep. Haas:** Well it is my understanding that if we adopt this set of amendments, we are superseding the previous set. So is there a motion on this amendment?

**Rep. Meier:** I move this amendment.

**Rep. Dahl:** I Second that.

**Rep. Haas:** Is there any discussion? All in favor of the amendment say 'aye' opposed say 'no'.  
We have the amended bill before us. What are your wishes?

**Rep. Froseth:** I move a do pass as amended.

**Rep. Meier:** I second that.

**Rep. Haas:** Is there any discussion on this bill?

**Rep. Kasper:** The amendment is a whole lot different then the first amendment. What other things are we doing here? We shouldn't be doing anything except adding \$6 million.

**Rep. Haas:** I didn't think there was anything else of substance that was done except adding the money. John Bjornson did the amendment.

**Rep. Kasper:** In an example on the first amendment where you are on section 5 where we had recording requirements here now we have recording requirements on section 2, so are we just moving these around but they are all the same? The new amendment for section 5 talks about access to records and section 5 before talks about the requirements. We had an amendment in section 6 on the original, we don't have 6 here.

**Rep. Haas:** Well he rearranged that. That is what the renumber accordingly comes in. This is actually the amendment that went out of here to the sixth order. What you're looking at is not the same thing as this.

**Rep. Grande:** I know but this was the amendment to be voted on. I can only go by what I voted on.

**Rep. Haas:** Are you comfortable with the amendment?

**Rep. Kasper:** No.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1127

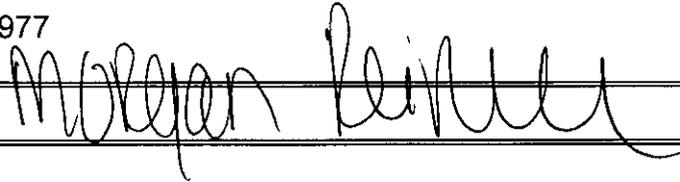
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1977

Committee Clerk Signature



Minutes:

**Rep. Grande:** Those amendments deal with section 49-24-13. The section 5 there on our new amendment refers to 54-17.5-6.

**John Bjornson:** I'm not sure. Send it into us directly. That is the bottom line. The section 5 and 6 that she has isn't the way it is in the bill.

**Rep. Haas:** I think after we took the amendment that Sandy presented then .0101 was prepared by council.

**John Bjornson:** Many of you might not be aware of the process we follow. When you adopt and amendment in committee, our intern submits it. It may not be entirely correct in its form and style. Our responsibility is to make it correct. It does look often different than what you sent to us.

**Rep. Haas:** Is it always correct when it gets to the 6<sup>th</sup> order?

**John Bjornson:** What Sandi Tabor gave to me wasn't in correct form and style. We fixed that into .0101 version.

**Rep. Karls:** I believe that Sandi's major deal was that the fact that the request was made as exempt. The wording is on both sides of that .0101. I don't see it in the language anywhere in .0102. Is that wording just not suitable?

**John Bjornson:** I guess when we saw this we were wondering what the intent of it was. What it does now is it says under the current law that they are subject to the constitution and it is made public. With that crossed out language it is saying that these materials are subject to section 44-14-18.4 which I believe is the section that defines trade secrets. It is a reference to that section. If you further page to the back part, subsection 3 says that the information submitted under subsection 2 is confidential. Personally, I don't think that was the best way to do it but it gets around to saying that it is confidential information. What is different then exempt information is that it means in the hands of the holder, in this case it is the industrial commission, the information is not open to the public but it is not confidential. The holder can determine whether or not it can be distributed. If it is, it is a Class C Felony. With this it makes things exempt. I don't know what that means.

**Rep. Kasper:** Why don't we just get this back to us. You said that there is wording in here that shouldn't be. Why don't we just get it rewritten the right way instead of going with something that is ok but it should be better.

**John Bjornson:** I think what the language in subsection 3 about being confidential; I don't believe it is necessary to say in subsection 1. We are saying it is confidential. It doesn't matter that it is public to that.

**Rep. Kasper:** If we are looking at the original bill plus the .0102 amendment subsection 3 does not deal with confidentiality.

**John Bjornson:** The reference to 44-4-18.4 that section states that the trade secrets of proprietary commercial and financial information are confidential. I guess my point that Rep. Kasper picked up on was if we are saying in the bill that it is confidential, it's a duplication in the subsections. I have no idea what the intent of the draft was.

**Rep. Haas:** What would you advise in this circumstance?

**John Bjornson:** By adopting this amendment you aren't hurting anything. You are just adopting something that is a little bit confusing. It confused me when I first read it. If you go ahead and adopt it and pass it out, nothing hurts. If you would like we could certainly take it up and try to clean it up a little bit. My concern is that the people that drafted it might not have a good reaction to our work. You might get something back which the people who drafted this don't like. I can't tell you what to do with it, but those are your options.

**Rep. Haas:** We have the bill in front of us. I think we can feel assured that the amendment is ok. It may have been done in a more refined manner; however we won't be doing anything drastically bad if we adopt it.

**Rep. Froseth:** I move the amendment.

**Rep. Boehning:** I second that.

**Rep. Haas:** We will take a voice vote on this. All in favor of the amendment say 'aye' all opposed say 'no'. Amendment is carried.

**Rep. Dahl:** I move a do pass as amended.

**Rep. Wolf:** I second that.

**Rep. Haas:** Is there any further discussion? If not we will take a roll call vote on a do pass as amended motion on HB 1127. The do pass motion passes with a vote of 11-0-2. Is there a volunteer to carry this bill?

**Rep. Grande:** I will.

**House Amendments to HB 1127 (78170.0101) - Government and Veterans Affairs  
Committee 01/23/2007**

Page 1, line 3, after the first comma insert "section 49-24-13," and after the second comma insert "section 54-17.5-06,"

Page 1, line 5, replace the first "and" with a comma and after "commission" insert ", reporting requirements, and confidential records"

Page 1, after line 12, insert:

**"SECTION 2. AMENDMENT.** Section 49-24-13 of the North Dakota Century Code is amended and reenacted as follows:

**49-24-13. ~~Biennial report to legislative council~~ Reporting requirements.**

The authority shall deliver a written report on its activities to the legislative council each biennium. Notwithstanding chapter 54-60.1, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year."

Page 1, remove line 20

Page 1, line 21, remove "Constitution of North Dakota and"

Page 2, line 10, replace "A request" with "The information submitted"

Page 2, after line 24, insert:

**"SECTION 5. AMENDMENT.** Section 54-17.5-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-17.5-06. Access to commission records.**

1. Materials and data submitted to, or made or received by, the commission, to the extent that the commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, ~~are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and~~ are subject to section 44-04-18.4.
2. A person or entity must file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission, and must include at least the following:
  - a. A general description of the nature of the information sought to be protected.
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
  - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.
3. Any ~~request~~ information submitted under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
4. The names or identities of independent technical reviewers on any project or program and the names of individual lignite council members making recommendations are confidential; and may not be disclosed by the commission, ~~and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota."~~

Renumber accordingly

Date: 1-18-07  
Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number

HB 1127

Action Taken

Do pass amendments

Motion Made By

Rep. Boehning

Seconded By

Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande V.P			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1-18-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1127

Action Taken Do pass as amended

Motion Made By Boehning Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande V.P	X		Rep. Louise Potter	X	
Rep. Randy Boehning	X		Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper					
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Grande

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

Date: 1-25-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1127

Action Taken Reconsider bill

Motion Made By Rep Weiler Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande V.P			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1-25-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affair Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1127

Action Taken move amendment

Motion Made By Rep. Meier Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande V.P			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1127

In lieu of the amendments adopted by the House of Representatives as printed on pages 225 and 226 of the House Journal, House Bill No. 1127 is amended as follows:

Page 1, line 3, after the first comma insert "section 49-24-13," and after the second comma insert "section 54-17.5-06,"

Page 1, line 5, replace the first "and" with a comma and after "commission" insert ", reporting requirements, and confidential records"

Page 1, after line 12, insert:

**"SECTION 2. AMENDMENT.** Section 49-24-13 of the North Dakota Century Code is amended and reenacted as follows:

**49-24-13. ~~Biennial report to legislative council~~ Reporting requirements.**  
The authority shall deliver a written report on its activities to the legislative council each biennium. Notwithstanding chapter 54-60.1, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year.

Page 1, remove line 20

Page 1, line 21, remove "Constitution of North Dakota and"

Page 2, line 10, replace "A request" with "The information submitted"

Page 2, line 19, after "money" insert "in an amount not to exceed six million dollars"

Page 2, line 20, after "money" insert "in an amount not to exceed six million dollars"

Page 2, after line 24, insert:

**"SECTION 5. AMENDMENT.** Section 54-17.5-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-17.5-06. Access to commission records.**

1. Materials and data submitted to, or made or received by, the commission, to the extent that the commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, ~~are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and~~ are subject to section 44-04-18.4.
2. A person or entity must file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission, and must include at least the following:

- a. A general description of the nature of the information sought to be protected.
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons:
  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
  - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.
3. Any request information submitted under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
  4. The names or identities of independent technical reviewers on any project or program and the names of individual lignite council members making recommendations are confidential, and may not be disclosed by the commission, ~~and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.~~

Renumber accordingly

Date: 1-25-07  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1127

Action Taken Move amendment .0102

Motion Made By Froseth Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande V.P			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1-25-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number

HB 1127

Action Taken

Do pass as amended

Motion Made By

Rep. Froseth

Seconded By

Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande V.P			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent 1

Floor Assignment Rep.

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

Date: 1-25-07  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1127

Action Taken Do pass as amended

Motion Made By Rep Dani Seconded By Rep Wolf

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande V.P	X		Rep. Louise Potter		
Rep. Randy Boehning	X		Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler					

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Grunzel

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

**REPORT OF STANDING COMMITTEE**

**HB 1127: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1127 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House of Representatives as printed on pages 225 and 226 of the House Journal, House Bill No. 1127 is amended as follows:

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  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
  - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.
3. Any ~~request~~ information submitted under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
4. The names or identities of independent technical reviewers on any project or program and the names of individual lignite council members making recommendations are confidential; and may not be disclosed by the commission; ~~and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota."~~

Renumber accordingly

2007 SENATE POLITICAL SUBDIVISIONS

HB 1127

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1127**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **March 15, 2007**

Recorder Job Number: **5158**

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Cook** called the Senate Political Subdivisions Committee to order. All members (5) present.

**Chairman Cook** opened the hearing on HB 1127 relating to confidentiality of transmission authority information/relating to powers of the transmission authority, procurement and borrowing by industrial commission, reporting requirements & confidential records.

**Sandy Tabor**, Acting Director, ND Transmission Authority, introduced and testified in support of HB 1127 with the amendments. (Attachment #1)

**Karlene Fine**, Executive Director and Secretary for the Industrial Commission of ND testified in support of HB 1127 with the amendments. (Attachment #2)

**Senator Hacker**: How does it limit the commission more if it only applies to the five year borrowing?

**Karlene Fine**: What we had talked about and discussed with the committee is that we would not borrow more than six million dollars and we were comfortable with that number but by inserting in the first line which is not an amendment that we proposed to them, they have limited all our borrowing both long term and short term.

**Senator Hacker:** Why does the commission need to be exempt from the procurement process specifically if they take a large roll in the project that does construction of transmission?

**Karlene Fine:** It is more in the service area that we are concerned about. We may have some difficulty in following the procurement process. The bidding part of the procurement process.

No further testimony in support, opposed or neutral on HB 1127.

**Chairman Cook** closed the hearing on HB 1127.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1127

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 16, 2007 (Discussion) and March 22, 2007 (Action)

Recorder Job Number: 5189 and 5476

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Vice Chairman Olafson** called the committee to order. Four members present and one member absent.

**Vice Chairman Olafson** asked the committee if they would like to act on HB 1127 or discuss it.

**Senator Hacker:** I am speaking with some interested parties about Section four. They asked to have that section removed. That section has gotten butchered so much that it is not a tool any more but a hindrance, so they are hoping to either fix it or delete it.

**Senator Olafson** asked that Senator Hacker work on the amendments and have them ready for next week.

**Chairman Olafson** adjourned the meeting.

March 22, 2007 Recorder # 5476 (Action)

**Chairman Cook** called the committee to order. All members (5) present.

**Chairman Cook** asked the committee to go to HB 1127. This is the power transmission authority bill. I have a note on page 2, Section Four regarding the six million dollars. The amendment the house put on is too restrictive. We have amendments before us and I will

hand them out. We were told Representative Delzer was instrumental in wanting these amendments on. The amendments are a compromise and I will have Karlene Fine explain them.

**Karlene Fine**, Executive Director and Secretary for the Industrial Commission. We talked about deleting Section 4 and not having that have go to conference committee and discuss that but then based on what was indicated to us, we went back to speak with Representative Delzer about what his concerns were when he was purposing putting a six million dollar limitation and what they had ended up doing was putting that six million dollar limitation on all our bonding and what they were really intending to do was just put the six million dollar limitation on the short term borrowing that we were going to do at the Bank of North Dakota.

So if you look at the second page of those amendments that is how this would read in our century code. The other part if the amendment deals with the confidentiality. (Attachment #1)

**Chairman Cook** asked for further questions.

**Senator Hacker** moved the amendments.

**Senator Olafson** seconded the motion.

Discussion: None

Voice Vote: All in favor 5 to 0.

**Senator Hacker** moved a Do Pass as Amended

**Senator Olafson** seconded the motion.

Roll Call Vote: Yes 5 No 0 Absent 0

Carrier: **Senator Hacker**

March 22, 2007

*JFB*  
3-22-07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1127

Page 2, line 5, after the underscored period insert "A request to have material designated as confidential is exempt as defined in section 44-04-17.1."

Page 2, line 25, overstrike "borrow money", remove "in an amount not to exceed six million dollars", and overstrike "and"

Page 2, line 26, replace "provided that the" with "and to"

Page 2, line 27, remove "industrial commission may"

Page 2, line 29, after the first "the" insert "Bank of North Dakota and the"

Page 3, line 12, after the period insert "A request to have material designated as confidential is exempt as defined in section 44-04-17.1."

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**HB 1127, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1127 was placed on the Sixth order on the calendar.

Page 2, line 5, after the underscored period insert "A request to have material designated as confidential is exempt as defined in section 44-04-17.1."

Page 2, line 25, overstrike "borrow money", remove "in an amount not to exceed six million dollars", and overstrike "and"

Page 2, line 26, replace "provided that the" with "and to"

Page 2, line 27, remove "industrial commission may"

Page 2, line 29, after the first "the" insert "Bank of North Dakota and the"

Page 3, line 12, after the period insert "A request to have material designated as confidential is exempt as defined in section 44-04-17.1."

Renumber accordingly

2007 TESTIMONY

HB 1127



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

Testimony on HB 1127  
House Government and Veterans Affairs  
Karlene Fine, Industrial Commission Executive Director and Secretary  
January 11, 2007

Mr. Chairman and members of the Government and Veterans Affairs, my name is Karlene Fine and I am Executive Director and Secretary for the Industrial Commission of North Dakota. House Bill 1127 deals with two areas of responsibility under the Industrial Commission. Since drafting this legislation we have become aware of a technical correction that needs to be made and have an amendment regarding the accountability provisions of the law.

Late last year the Industrial Commission named Sandi Tabor as Acting Director of the Transmission Authority. Sandi will cover Sections 1, 2 and 4 which deal with amendments to the Transmission Authority statute.

Section 3 relates to the Lignite Research, Development and Marketing Program also under the control of the Industrial Commission. A quick reminder of what the Lignite R&D Program is all about.

In the late 1980's the Legislature authorized the establishment of a partnership between the State and the lignite industry in the form of the Lignite Research, Development and Marketing Program. That Program is funded from a portion of the Coal Trust Fund and a 2 cent per ton tax. Nearly every dollar provided by the State is at a minimum matched by industry funding. The Commission believes it is important that there is industry buy-in to the research and marketing that is done. We don't want studies that sit on the shelf. We want to have research done that makes a difference.

The Program has three focuses – research for existing facilities including reclamation and combustion and environmental projects. Marketing—telling the story of lignite and that lignite is a competitive low-cost product. Development/Demonstration – taking the research into the development stage. The Commission has established the Lignite Vision 21 Program that commits up to \$10,000,000 in matching funds for the development of each project. Currently we have four LV21 participants—MDU/Westmoreland Coal Company; Great Northern Power Development; Spiritwood Energy Park and the Coal-to-Liquids Project. In addition there are other potential projects. In a separate bill we are seeking additional funding for this program. However, we are also in need of some flexibility in financing the

State's funding for these projects. Current law allows the Commission to borrow/bond for financing of the State's share of these projects. Those bonding provisions require establishment of a reserve fund. Rather than bonding in the typical manner for 10 years or more, we would like the flexibility to borrow from the Bank of North Dakota for periods not to exceed five years without the requirement that we also establish a reserve fund. Having this flexibility will save the Lignite R&D program and the State money.

Sandi will speak to the other sections of the bill and will also review the proposed amendments. On behalf of the Industrial Commission I ask for your support of the amendment to House Bill 1127 and then passage of the bill.

**Testimony of Sandi Tabor**  
**Acting Director**  
**North Dakota Transmission Authority**  
**January 11, 2007**

**HB 1127**

In 2005 the Legislature created the North Dakota Transmission Authority. The bill was introduced at the request of the Industrial Commission as part of an effort to facilitate the construction of new electrical transmission infrastructure in the state. Codified in Chapter 49-24 of the Century Code, the new law provided that the Industrial Commission will serve as the Transmission Authority. While the bill enumerates several powers, the Authority will focus on facilitating and financing new structures.

HB 1127 was introduced at the request of the Industrial Commission to make a few minor changes.

- 1) Section 1 of the bill inserts the words "or persons" to make it clear that individuals may be consulted when determining reasonable fees to be charged in the event that the Authority were to build a transmission line.
- 2) Section 2 provides protection for materials or data including trade secrets, or commercial, financial or proprietary information submitted by individuals or entities applying to or contracting with the Authority. The language used in this section is similar to existing language used to protect information submitted to the Industrial Commission under the Lignite Vision 21 Program (§ 54-17.5-06).

After HB 1127 was prefiled, Mary Kae Kelsch from the Attorney General's Office informed me that the 1998 language used in the Lignite Vision 21 law was dated language. Ms. Kelsch provided me with the language now used by the AG's Office and I have drafted amendments for the bill accordingly. In addition, with the concurrence of Karlene Fine, I have taken the liberty of amending § 54-17.5-06 to bring it into compliance with the recommendations of the AG's Office.

- 3) Finally, in light of the nature of the transmission authority's mission, section 4 excludes the Authority from the State procurement requirements.

As for the attached amendments, in addition to those already discussed, we are adding a section 5 to the bill addressing accountability by requiring the authority to provide the Industrial Commission with an annual report detailing activities and expenditures incurred during the preceding year. This amendment was done in consultation with Rep. Keiser.

With the amendment, section 4 will read:

"To issue evidences of indebtedness as authorized in this chapter and to borrow money in an amount not to exceed six million dollars from the Bank of North Dakota for a period not to exceed five years on the terms and conditions as the Bank of North Dakota and industrial commission may approve without the necessity of establishing or maintaining any reserve fund as otherwise required by section 54-17.5-05.

**PROPOSED AMENDMENTS TO HOUSE BILL 1127**

Page 1, line 3, after "49-24-05," insert "section 49-24-13,"

Page 1, line 3, replace the second "and" with "subsection 1 of section 54-17.5-06, and"

Page 1, line 5, replace the first "and" with ","

Page 1, line 5, after "procurement" insert ", and reporting requirements; confidentiality of lignite research, development and marketing program;"

Page 1, remove line 20

Page 1, line 21, remove "Constitution of North Dakota and"

Page 2, after line 28, insert:

**"SECTION 5. AMENDMENT.** Section 49-24-13 of the North Dakota Century Code is amended and reenacted as follows:

**49-24-13. Biennial report to legislative council. Reporting Requirements.**  
The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of Chapter 54-60.1, but in order to ensure public accountability, the authority shall provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year.

**SECTION 6. AMENDMENT.** Subsection 1 of section 54-17.5-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Materials and data submitted to, or made or received by, the commission, to the extent that the commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, ~~are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and~~ are subject to section 44-04-18.4. "

**PROPOSED AMENDMENTS TO HOUSE BILL 1127**

Page 1, line 3, after "49-24-05," insert "section 49-24-13,"

Page 1, line 3, replace the second "and" with "subsection 1 of section 54-17.5-06, and"

Page 1, line 5, replace the first "and" with ","

Page 1, line 5, after "procurement" insert ", and reporting requirements; confidentiality of lignite research, development and marketing program;"

Page 1, remove line 20

Page 1, line 21, remove "Constitution of North Dakota and"

Page 2, after line 9, insert:

"The fact that a request has been made is exempt."

Page 2, line 10, replace "A request under" with "The information submitted pursuant to"

Page 2, line 14,

Page 2, after line 28, insert:

**"SECTION 5. AMENDMENT.** Section 49-24-13 of the North Dakota Century Code is amended and reenacted as follows:

**49-24-13. ~~Biennial report to legislative council.~~ Reporting Requirements.**

The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of Chapter 54-60.1, but in order to ensure public accountability, the authority shall provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year.

**SECTION 6. AMENDMENT.** Section 54-17.5-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Materials and data submitted to, or made or received by, the commission, to the extent that the commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving

commission services under this chapter, ~~are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.~~ "

2. A person or entity must file a request with the authority to have material designated as confidential under subsection 1. The request must contain any information required by the authority, and must include at least the following:
  - a. A general description of the nature of the information sought to be protected.
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
  - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.

The fact that a request has been made is exempt.

3. ~~Any request under~~ Any information submitted pursuant to subsection 2 is confidential. The authority shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the authority determines the information is either not relevant or not a trade secret, the authority shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
4. The names or identities of independent technical reviewers on any project or program and the names of individual lignite council members making recommendations are confidential ; and may not be disclosed by the commission, ~~and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.~~

**Testimony of Sandi Tabor  
Acting Director  
North Dakota Transmission Authority  
March 15, 2007**

**HB 1127**

In 2005 the Legislature created the North Dakota Transmission Authority. The bill was introduced at the request of the Industrial Commission as part of an effort to facilitate the construction of new electrical transmission infrastructure in the state.

HB 1127 was introduced at the request of the Industrial Commission to make a few minor changes to the Transmission Authority chapter and to the Lignite Research and Development chapter.

**Section 1** of the bill inserts the words "or persons" to make it clear that individuals may be consulted when determining reasonable fees to be charged in the event the Authority were to build a transmission line.

**Section 2** addresses accountability by requiring the authority to provide the Industrial Commission with an annual report detailing activities and expenditures incurred during the preceding year.

**Section 3** provides protection for materials or data including trade secrets, or commercial, financial or proprietary information submitted by individuals or entities applying to or contracting with the Authority. The language used in this section is similar to existing language used to protect information submitted to the Industrial Commission under the Lignite Vision 21 Program (§ 54-17.5-06).

A little history about the amendments adopted by the House may be appropriate at this point. After HB 1127 was prefiled, Mary Kae Kelsch from the Attorney General's Office informed me that the confidentiality language found in the Lignite Vision 21 chapter was outdated language. Ms. Kelsch provided me with the language now used by the AG's Office. Her suggested language was adopted by the House. In addition, the House amended § 54-17.5-06 (which deals with the confidentiality of information received by the Lignite Visions 21 program) to bring it into compliance with the recommendations of the AG's Office. In reviewing the engrossed bill, I noticed that a sentence was omitted by Legislative Council when they drafted the House amendments. I have prepared amendments to correct the mistake.

**Section 4** deals with the borrowing authority of the Industrial Commission and Karlene Fine is present to discuss that section.

**Section 5** includes the updated confidentiality language for the Lignite Vision 21 program as I mentioned earlier.

Finally, in light of the nature of the transmission authority's mission, **Section 6** exempts the Authority from the State procurement requirements.

The amendments referred to in this testimony are attached. I ask for your favorable consideration of the HB 1127 with the amendments.

att 4-1

Submitted by Sandi Tabor  
March 15, 2007

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL No. 1127**

Page 1, line 3, remove "subsection 3 of section"  
Page 1, line 4, remove "54-17.5-04,"  
Page 1, line 5, remove "and borrowing"

Page 2, after line 15 insert "The fact that a request has been made is exempt."

Page 2, remove lines 23 through 31

Page 3, after line 22 insert "The fact that a request has been made is exempt."

Renumber accordingly



Att # 2

# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

Testimony on Engrossed House Bill No. 1127  
Senate Political Subdivisions Committee  
Karlene Fine, Industrial Commission Executive Director and Secretary  
March 15, 2007

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Karlene Fine and I am Executive Director and Secretary for the Industrial Commission of North Dakota.

Before going into the specifics of Section 4 some background on our Lignite Research, Development and Marketing Program and particularly the Lignite Vision 21 Program. In the late 1980's the Legislature authorized the establishment of a partnership between the State and the lignite industry in the form of the Lignite Research, Development and Marketing Program. That Program is funded from a portion of the Coal Trust Fund and a 2 cent per ton tax. Nearly every dollar provided by the State is at a minimum matched by industry funding. The Commission believes it is important that there is industry buy-in to the research and marketing that is done. We don't want studies that sit on the shelf. We want to have research done that makes a difference.

The Program has three focuses – research for existing facilities including reclamation and combustion and environmental projects. Marketing—telling the story of lignite and that lignite is a competitive low-cost product. Development/Demonstration – taking the research into the development stage. The Commission has established the Lignite Vision 21 Program that commits up to \$10,000,000 in matching funds for the development of each project. Currently we have four LV21 participants—MDU/Westmoreland Coal Company; Great Northern Power Development; Spiritwood Energy Park and the Coal-to-Liquids Project. In addition there are other potential projects. In a separate bill we are seeking additional funding for this program.

When House Bill 1127 was first introduced we had proposed some language that would allow for efficiency and flexibility in the Commission's ability to do short-term borrowing for the Lignite Program. This short-term borrowing may be needed based on the cashflow needs of the projects. In the drafting of the amendments on Section 4 the House removed flexibility rather than enhancing it. We are now faced with either trying to further amend House Bill 1127 or removing Section 4. At this point we are proposing, as stated in the amendments prepared by Ms. Tabor, that Section 4 be removed.

On behalf of the Industrial Commission I ask for your support of the amendments as proposed today to Engrossed House Bill 1127 and then passage of the bill.

Att #1

Submitted by Sandi Tabor  
March 22, 2007

**NEW AMENDMENTS  
DISCARD MARCH 15 Version**

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL No. 1127**

Page 2, after line 15 insert "The fact that a request has been made is exempt."

Page 2, line 25 overstrike "borrow money", remove "in an amount not to exceed six million dollars", and overstrike "and"

Page 2, line 26 replace "provided that the" with "and to"

Page 2, line 27 remove "industrial commission may"

Page 2, line 29 after the first "the" insert "Bank of North Dakota and"

Page 3, after line 22 insert "The fact that a request has been made is exempt."

Renumber accordingly