

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2033 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1394

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1394

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1394

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Feb. 5 2001

Tape Number	Side A	Side B	Meter #
1		X	11.2
2	X		-6.84
Committee Clerk Signature <i>Heidi Lee</i>			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Frank Wald: I am sponsoring this bill to immune penalties if a voluntary disclosure arises from a self-evaluation. I would also like to change the time frame. This bill would affect pipelines, truckers, farmers, contractors, self-service stations and so on with anyone able to admit to a hazardous accident.

Rep M. Klein:(18.9) What about shortening 2 years to 6 months?

Rep Wald: That is a reasonable amount of time. The point is for a person to come forward so the problem may be fixed.

Rep Froseth: I oppose changing three years to one year.

Rep Wald: We offer the change because some operators are repeatedly in this violation.

Rep Thorpe: If persons are immune, who pays for cleanup?

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House Industry, Business and Labor Committee

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Rep Wald: They're only immune to being prosecuted. The operation still pays for the clean up according to law.

Rep Rex Byerly: (25.3) What it boils down to is if there's something a business comes across that they may wish to hide to stay out of trouble, they will come forward without worry and the problem can be fixed without complications. We should have a "good faith" clause for mistakes on accidents. Our primary concern is for no loopholes.

Ron Ness: *ND Petroleum Counsel* We support the bill and the revisions to remove loopholes.

Francis Schwindt: *ND State Health Dept.* **Neutral** Our primary job is to clean up the problem. We basically follow this law already but we support the concept. It doesn't appear to make a lot of difference because it's rarely used in other states.

Rep M. Klein: Are our neighboring states using this?

Schwindt: Yes but with different provisions.

Rep Kasper: Have any states lost money from EPA?

Schwindt: No but there have been quite a few threats.

Chairman Berg: Has anyone ever been in trouble volunteering this information?

Schwindt: No

Rep Koppang: Are there federal statutes that would mandate a fine?

Schwindt: Generally 80% of statutes are at the state's discretion.

Julie Palmer: (51.9) *C.A.R.E.* **Written testimony opposed to bill.**

Rep Lemieux: If amended, would this be acceptable?

Palmer: It would be very difficult to do.

Ken Hanson: *Small Business Owner* **Opposed to bill.**

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House Industry, Business and Labor Committee

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Rep. Severson: Is six months better than two years?

Hanson: I'm unsure, it needs to be more defined.

Mary Christianson: (4.7) **Written testimony opposed to bill.**

Vice-Chairman Keiser: We'll close the hearing.

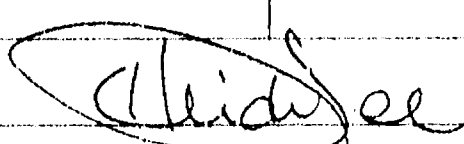
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1394(B)

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Feb 12, 2001

Tape Number	Side A	Side B	Meter #
2	X		22.73-28.1
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Lemieux: Proposed and supplied amendments.

Rep Lemieux: I move a do not pass.

Rep M. Klein: I second.

13 yea, 1 nay, 1 absent Carrier Rep Lemieux

FISCAL NOTE
 Requested by Legislative Council
 01/23/2001

Bill/Resolution No.: HB 1394

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill has several provisions that are likely to cause EPA to withdraw delegation of program authority from ND such as air and water quality permits, drinking water and hazardous waste regulation. EPA funds of approximately 7 million per biennium could be jeopardized if implementation of these programs is lost. Included in Health Department's 2001-03 appropriation SB 2004, is \$6,845,941 in Performance Partnership Grants to implement EPA delegated programs in the State. If EPA withdraws program delegation they would also withdraw the grants we receive to implement the programs. This would equate to approximately 70 FTEs in the Health Department and approximately \$220,000 in funds granted to District Health Units.

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

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

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

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328-2392	Date Prepared:	01/30/2001

Date: 2-12-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HR 1394~~ HB 1394

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Lemieux Seconded By M. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser			Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby		✓
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	1	1

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep Lemieux

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

REPORT OF STANDING COMMITTEE (410)
February 12, 2001 4:20 p.m.

Module No: HR-25-3128
Carrier: Lemieux
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1394: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends
DO NOT PASS (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1394 was
placed on the Eleventh order on the calendar.

2001 TESTIMONY

HB 1394

Julie Palmer
1224 East Hillcourt
Williston, ND 58801

February 4, 2001

Legislative Assembly

Dear Legislature Members:

I am here today to oppose House Bill No. 1394. I am a member of CARE (Clean Air & Responsible Enforcement), a local citizens group in Williston, and a member of Dakota Resource Council.

Problems with HB1394:

1. The bill would allow a company/individual to operate without adequate permits. The permit process involves adequately assessing the proposal to make sure safeguards are put into place to protect the workers and the surrounding community. Subsection 1c would allow anyone to operate provided they have "submitted" an application. The act of submitting an application does not mean the company has met all of the safety/environmental requirements. They should not be allowed to operate unless the State Health Department has issued the actual permit to operate.
2. Section 2 allows noncompliance to continue for up to two years. Sabin Metals has purchased the former Dakota Catalyst property and plans to open a precious metal recycling plant within our city limits. They propose to burn carcinogenic material containing arsenic, nickel, benzene, lead, molybdenum and many others. The previous operator (DCP) had major problems with their pollution equipment. Downdrafting was occurring three to five times a week in which the pollution was hovering near our homes. This was unacceptable especially since they were processing carcinogenic material, and we do not want to see it repeated. Over 600 people signed a petition stating they want more controls in place to assure us the new operators run the plant safely. If this bill is passed, Sabin Metals could operate out of compliance for an extended period of time and potentially jeopardize the health of the citizens of our community.

The existing rules allow Sabin to operate out of compliance for a period of up to 24 hours without notifying the health department. We believe this is even too long, let alone extending it to two years.
3. Sections 4 & 5 allow immunity from any administrative or civil penalty associated with the issues disclosed provided they have not been found by a court or administrative law judge to have committed serious violations that constitute a pattern of continuous or repeated violations. If Sabin Metals has problems with their pollution equipment (and it is their first offense) they could operate out of compliance and we the citizens would have no legal recourse against them. No one should have the right to harm someone else without being held accountable for their actions.
4. The pollution rules were put into place for a reason: To protect the environment. Whether or not someone voluntarily discloses they are out of compliance is irrelevant. They are still polluting and causing harm to the environment/public. The same standards should apply whether or not they admit they are out of compliance or not.
5. The financial notes, which accompanied the bill, stated the State could lose \$7 million per biennium of federal funds if this bill goes into effect. This alone is reason enough to not pass this bill.

I urge you to reject this bill.

Sincerely,



Julie Palmer

Dakota Resource Council

418 Rosser Ave. Suite 301b
Bismarck, North Dakota 58501
ph. (701) 224-8587 fax (701) 224-0198
e-mail: <drc@btigate.com>

February 5, 2001

Testimony re: HB 1394 Environmental Self Audit
House Industry Business and Labor Committee

Chairman Berg and Members of the Committee:

People in North Dakota, just like people all over the country, want clean air and clean water. We want these things because we know that our health is at stake. For this reason both the state and federal government have enacted laws to protect the air we breathe and the water we drink. We have just as much right to expect that our laws governing air and water pollution are enforced as we do to expect that our laws against such crimes as murder and robbery are enforced. We also have a right to expect that even our most powerful industries are not above the law.

With regard to HB 1394, Dakota Resource Council (DRC) affirms some of the ideas that apparently stand behind this bill. For example, we think it is an excellent idea for companies with emissions permits to conduct environmental self-audits. These self-audits should help responsible companies make sure they are maintaining compliance with the law, and help them act quickly to resolve problems with compliance. Also, when companies who have broken environmental laws come forward willingly admit it, and seek to resolve the problem in cooperation with state and local enforcement agencies, DRC thinks these public-spirited actions should be taken into account when penalties are considered. Companies that voluntarily disclose violations should not be treated the same as companies that try to hide their violations from public scrutiny.

However, there are some features of HB 1394 as now written which DRC believes are likely to produce less rather than greater public

