

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1104

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1104

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1104

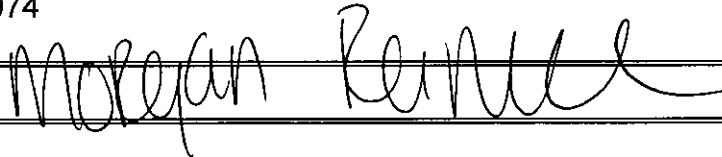
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 11, 2007

Recorder Job Number: 974

Committee Clerk Signature



Minutes:

Ron Henke: Testimony Attached

Rep. Weiler: What would be the reasons on line 6 on page 1 that it was stricken in the first place?

Ron Henke: It was to be revisited

Rep. Froseth: Does this become part of the whole entire road project cost. Do funds come out of the road building? There are no other special funds?

Ron Henke: That is correct. IT does come out of the highway. Federal funds are available.

Rep. Boehning: Page 2 Lines 8-10. If I'm in a business and I'm renting, you wouldn't qualify for any moving expenses if you're the renter?

Mark Gadle: If there is a renter that is situated in a building, they are eligible for allocated moving expenses. We do work with those situations. We have both the owners of the building and if there are tenants in them. They are allocated with relocation costs.

Rep. Boehning: In those moving costs, do the signs come out of the funds?

Mark Gadle: The signing is addressed in our policies and it is an item that can be addressed.

Rep. Haas: Of the relocations that you have done in the past, have any of these had to be the results of eminent domain, or do you eventually come into agreement without exercising that?

Ron Henke: I can't answer that for sure. We do use eminent domain. I think most of these are a negotiated type settlement. We might have done it but through the process we are able to negotiate a cost to re-establish.

Rep. Amerman: Do these people go and find someplace where they want to get moved to, or do you find the establishment.

Ron Henke: We do both. We will go help them look for compensation or similar properties. They too go look for themselves.

Rep. Kasper: Would these people experience a loss of income? Will you compensate for that?

Ron Henke: I don't believe loss of income is eligible for that?

Rep. Kasper: Does that ever come up?

Ron Henke: I'm sure it has.

Rep. Kasper: Is it eligible to be given?

Ron Henke: I think we would have to look at the federal regulations

Rep. Amerman: How much time on average do they get to move from one place to another establishment?

Ron Henke: I believe we give up to one year.

Mark Gable: We do have a policy that we have a minimum amount of time we have to give. We try to relocate them prior to the initiation of the construction project. If that isn't fully completed we make provisions in the plans.

Rep. Haas: So if I understand that right, there is actually enough time to prepare their new facility and still run their old one without a minimum disruption to their actual business?

Mark Gable: Yes sir

Rep Haas: Is there any additional testimony in favor of HB 1104? Is there any opposition testimony? If not we will close hearing on HB 1104.

2007 HOUSE STANDING COMMITTEE MINUTES

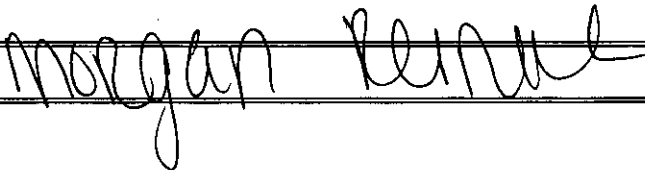
Bill/Resolution No. HB 1104

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 12, 2007

Recorder Job Number: 975

Committee Clerk Signature 

Minutes:

Rep. Haas: Let's take a look at HB 1104 on relocation expenses.

Rep. Froseth: I move for a do pass.

Rep. Meier: I second that

Rep. Haas: Is there any discussion on a do pass for HB 1104.

Committee clerk takes roll

Rep. Haas: HB 1104 passes 13-0-0. Is there someone who will volunteer to carry the bill?

Rep. Meier: I will

FISCAL NOTE
 Requested by Legislative Council
 01/04/2007

Bill/Resolution No.: HB 1104

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$0		\$0		\$0
Expenditures		\$0		\$0		\$0
Appropriations		\$0		\$0		\$0

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill provides for reimbursement of the actual reasonable expenses for relocating and reestablishing businesses impacted by transportation projects.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Relocations and reestablishments are primarily federal funded and are included in the total project cost. The total federal funding available to the DOT will not increase, thus as reestablishment costs increase or decrease on a project, those costs will be offset by a corresponding adjustment in capitol expenditures. Therefore, this bill will have no net fiscal impact on the DOT.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Mark Gaydos	Agency:	NDDOT
Phone Number:	328-4417	Date Prepared:	01/05/2007

1109

Date: 1/11/07
Roll Call Vote # 11

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 1109

Action Taken DO PASS

Motion Made By Froseth Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande V.R.	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	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Meier

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

Date: 1-12-07
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 1104

Action Taken DO PASS

Motion Made By Rep. Froseth Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande VC	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	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Meier

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

REPORT OF STANDING COMMITTEE

HB 1104: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1104 was placed on the Eleventh order on the calendar.

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1104

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1104

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/22/07

Recorder Job Number: 3667

Committee Clerk Signature *Victoria Spudis*

Minutes:

All members of the committee were present.

Sen. Dever, Chairman, opened the hearing on HB 1104.

Ron Henke, Office of Project Development, Director, for North Dakota Department of

Transportation, introduced the bill. See attachment # 1.

Senator Nelson asked if Ron's office has ever used eminent domain to proceed with a project.

Ron said he has had to use it on occasion although they try to negotiate before they fall back on it.

Senator Dever asked if the displacement is sometimes temporary.

Ron said some displacements have been temporary.

Senator Horne asked for clarification on the bill. The only real change is a deletion of the end date.

Ron said if the sunset clause were removed then there would be limits on what could be paid.

He referred to page 2, line 25 and 26 of the bill.

Senator Dever said a sunset clause is fairly common when a program is started so they can "test" how it will work.

Ron agreed.

Senator Oehlke asked if this bill addressed the placement of a road that may reroute traffic and be detrimental to a particular place of business.

Ron responded that this bill addresses only an actual physical move for an individual or a business.

Senator Oehlke asked how the amount is determined.

Ron said they arrive at the figures based on what federal regulations allow.

Senator Horne mentioned that the fiscal note seemed to reflect that the bulk of the cost is federal.

Ron said it generally is 80% - 90% federal with only 10% - 20% state or local.

Support: -

Opposition: -

Neutral: -

Chairman Dever closed the hearing on HB 1104.

A do pass motion was made by Senator Nelson.

The motion was seconded by Senator Oehlke.

Roll Call Vote: Yes 6 No 0 Absent 0

Carrier: Horne

Date : 2-22-07
Roll Call Vote # : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1104

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Nelson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Horne

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

REPORT OF STANDING COMMITTEE (410)
February 22, 2007 11:51 a.m.

Module No: SR-34-3672
Carrier: Horne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1104: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1104
was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1104



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

January 19, 2007

The Honorable C.B. Haas
State Representative
600 E. Blvd.
Bismarck, ND 58505

Dear Mr. Haas:

During the ND Department of Transportation's (NDDOT) testimony on HB 1104 the question presented by State Representative Jim Kasper was, "is loss of business or loss of profits compensable?"

Loss of profit is not an eligible moving or related expense and is specifically excluded under federal regulations. NDDOT also lists loss of profits as an ineligible item. The Department's first priority is to relocate the business prior to the construction. If the move is not complete prior to construction, the business relocation date is extended so that it remains operational until the relocation is complete. The Department would put provisions in the plans to restrict the contractors operations so that the business has reasonable access and is not physically impacted.

A handwritten signature in cursive script, appearing to read "Ronald Henke".

RONALD J. HENKE, P.E., DIRECTOR – OFFICE OF PROJECT DEVELOPMENT

57:rjh:js

c: Francis G. Ziegler, P.E., Director

Attach #1

GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
February 22, 2007

North Dakota Department of Transportation
Ronald J. Henke, P.E., Office of Project Development, Director

HB 1104

Mr. Chairman and Members of the Committee. I'm Ron Henke, Office of Project Development, Director, for the North Dakota Department of Transportation. I'm here today to testify in support of House Bill 1104, which was introduced at the request of the department.

The department only relocates businesses when they deem it necessary to make way for new or reconstructed roads or other road-related improvements. The 58th Legislative Assembly gave the NDDOT the ability to compensate business and property owners for actual reestablishment cost. The NDDOT has found that this process is working well. We have relocated a farm and a variety of businesses including auto sales, an insurance company, hardware store, gas station/convenience store and others. Reestablishment costs have generally ranged from \$50,000 - \$100,000. The current law has allowed us to compensate business and property owners for their true reestablishment costs. We believe that if a business or person is displaced, there should be no unreasonable expenses to the owner, and that the owner should be compensated for eligible, actual invoiced costs. To date, because of the current law and procedures, all businesses who have been relocated and reestablished continue to operate and contribute to the community.

The NDDOT is here today to request that in Section 54-01.1-03 NDCC, Moving and Related expenses, the words "Effective through July 31, 2007" be removed from page number 1, (line 6) remove (lines 11 thru 31) on page number 2, and also remove lines (1 thru 9) on page number 3. Removing these items will allow the NDDOT to continue to relocate and reestablish businesses necessary to move ahead with road projects and improvements and to continue to provide reimbursement for actual reasonable expenses incurred as a result of relocation.

If you make the recommended changes, the allowable payments for relocating a displaced business, farm or family would be:

1. Actual reasonable expenses in moving the displaced person and the displaced person's family, business, farm operation, or other personal property.
2. Actual direct losses of tangible personal property as a result of moving or discontinuing a business, or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate each property, as determined by the state agency.
3. Actual reasonable expenses in searching for a replacement business or farm.
4. Actual reasonable expenses to reestablish a displaced farm, nonprofit organization, or small business at its new site, as determined by criteria established by the state agency.

NDDOT finds that each relocation is unique in some way. In all cases to date, the relocation has been unwanted by the landowner, but this process is necessary to meet the NDDOT goals of meeting and improving the needs of the states transportation system. We also feel that if a business is impacted, the NDDOT should do their best to reestablish the impacted business in the city, which provides employment and a tax base for that community.

NDDOT will be faced with numerous relocations in the coming years. Being displaced is traumatic enough for each of the parties concerned. It would be unfair if they also have to face an economic loss to reestablish their business.

This concludes my testimony. Mr. Chairman, I would be happy to answer any questions.
Thank you.