2023 HOUSE ENERGY AND NATURAL RESOURCES

HB 1353

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau AB Room, State Capitol

HB 1353
1/27/2023

Relating to resource planning.

9:43 AM

Chairman Porter opened the hearing. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

Discussion Topics:

- EMP threat
- EMP Impact
- Cybersecurity
- Critical Infrastructure Threats
- Control of Co-Ops
- Amendments

Rep. Bernie Satrom, introduced HB 1353, Testimony 17268

Carlee McLeod, President, Utility Shareholders, Testimony 17316

HB 1353 hearing closed at 9:55 AM. Committee Recessed until 10:07 AM.

Rep. Heinert moved a do pass on the proposed amendment (17316). Seconded by Rep. Olson.

Committee Discussion.

Rep. Heinert withdrew his motion, Rep. Olson withdrew his second.

Rep. Heinert moved to adopt the proposed amendment (17316) and to include in number 5 of the proposed amendment the language “and cyber security” behind word security on lines 3, 4, and 5. Second by Rep. Novak.

Voice Vote: Motion carries.

Rep. Roers Jones moved a do pass as amended on HB 1353, seconded by Rep. Olson.

Roll Call Vote:

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y

Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	AB
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y

Motion Carries: 13-0-1

Bill carrier: Rep. Novak.

Additional Written Testimony:
Jared Hendrix, Minot Resident, Testimony 17352

10:15 AM Chairman Porter adjourned the meeting.

Kathleen Davis, Committee Clerk

Adopted by the House Energy and Natural Resources Committee
January 27, 2023

#1 1-27-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1353

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-05-17 of the North Dakota Century Code, relating to resource planning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-05-17 of the North Dakota Century Code is amended and reenacted as follows:

49-05-17. Resource planning.

1. An integrated resource plan must include:

   a. The electric public utility's forecast of demand for electric generation supply over the planning period with recommended plans for meeting the forecasted demand plus an additional planning reserve margin for ensuring adequate and sufficient reliability of service; and

   b. Any additional information the commission requests related to how an electric public utility intends to provide sufficient electric generation service for use by retail customers within the state over the planning period.

2. An electric public utility shall include a least cost plan for providing adequate and reliable service to retail customers which is consistent with the provisions of this title and the rules and orders adopted and issued by the commission.

3. The commission may consider the qualitative benefits and provide value to a base-load generation and load-following generation resource and its proximity to load.

4. The commission may contract or consult with an expert to evaluate qualitative benefits of resources and to review reliability planning. The commission may require an electric public utility to pay a fee necessary for completion of an evaluation in an amount not to exceed two hundred fifty thousand dollars.

   a. If additional funds are necessary for completion of the evaluation, upon approval of the emergency commission, the electric public utility shall pay the additional fees reasonably necessary for the completion.

   b. If the evaluation applies to more than one electric public utility, the commission may assess each electric public utility the proportionate share of the fee.

5. An electric public utility shall report annually to the commission on ~~cybersecurity preparedness, including an assessment of~~ emerging threats

and efforts taken by the electric public utility to implement security and cybersecurity measures. The commission ~~may~~shall limit access to records and portions of a meeting relating to security and cybersecurity preparedness."

1-27-23

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1353: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1353 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-05-17 of the North Dakota Century Code, relating to resource planning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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Renumber accordingly

2023 SENATE ENERGY AND NATURAL RESOURCES

HB 1353

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Peace Garden Room, State Capitol

HB 1353
3/3/2023

A bill relating to resource planning.

9:14 AM Chairman Magrum opened the meeting.

Senators Kessel, Kannianen, Beard, Boehm and Magrum are present. Senator Patten joined the meeting at 9:24 AM.

Discussion Topics:

- Electromagnetic pulse attacks
- Cybersecurity

9:15 AM Representative Bernie Satrom introduced the bill.

9:18 AM Carlee McLeod, President of Utility Shareholders of North Dakota testified in favor of the bill and provided written testimony #21870.

9:25 AM Chairman Magrum closed the public hearing.

Chairman Magrum closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Peace Garden Room, State Capitol

HB 1353
3/3/2023

A bill relating to resource planning.

10:09 AM Chairman Patten opened the meeting.
Chairman Patten and Senators Kessel, Kannianen, Beard, Boehm and Magrum are present.

Discussion Topics:

- Committee action

10:10 AM Senator Magrum moved to adopt amendment LC 23.0574.02001, #21912
Senator Beard seconded the motion.

10:10 AM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passed 6-0-0.

10:11 AM Senator Magrum moved DO PASS as Amended on the bill.
Senator Beard seconded the motion.

10:11 AM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passed 6-0-0.

Senator Magrum will carry the bill.

This bill does not affect workforce development.

10:12 AM Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

23.0574.02001
Title.03000

Adopted by the Senate Energy and Natural Resources Committee
March 3, 2023

BR
4/1
3-3-2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1353

Page 2, line 8, after "implement" insert "physical"

Page 2, line 9, after "to" insert "physical"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1353, as engrossed: Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1353 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 8, after "implement" insert "physical"

Page 2, line 9, after "to" insert "physical"

Renumber accordingly

TESTIMONY

HB 1353

https://www.livescience.com/air-force-emp-attacks-protection.html

USND
Utility Shareholders of North Dakota

PO Box 1856
Bismarck, ND 58502
701-258-8864
1-800-981-5132
www.usnd.org

House Bill 1353 Testimony in **Support, as amended**

House Energy and Natural Resources Committee, Representative Porter, Chair

January 27, 2023

Chairman Porter, members of the committee, I am Carlee McLeod, president of the Utility Shareholders of North Dakota, here on behalf of USND utility members, including ALLETE, Montana-Dakota Utilities, Otter Tail Power, and Xcel Energy. We ask you to support HB 1353 with the attached amendments.

The intention behind this bill is good, and I commend the sponsor for bringing it to the attention of the legislative assembly. The utility industry provides critical infrastructure, and as such, there are nefarious people who seek to create chaos by attacking that infrastructure. For example, last session this committee assisted in implementing a reporting requirement for cybersecurity preparedness to ensure the PSC was aware of cyber threats and utility plans to thwart attacks. This bill is specific to the threat of electromagnetic pulse, a real threat against which utilities have created plans to harden infrastructure. This proposed study would seek information utilities cannot disclose publicly while maintaining the strength of their protective measures. However, we understand the need for a regulatory body with oversight over public utilities to be aware of emerging threats and utility plans to protect against them.

This amendment addresses the concern of the original bill while protecting sensitive information. By widening the reporting requirement from cyber threats to all emerging threats, utilities and the PSC can discuss threats and protective measures confidentially. We ask the committee to adopt the amendment and support passage of the amended bill.

Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO 1353

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2. An electric public utility shall include a least cost plan for providing adequate and reliable service to retail customers which is consistent with the provisions of this title and the rules and orders adopted and issued by the commission.

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    b. If the evaluation applies to more than one electric public utility, the commission may assess each electric public utility the proportionate share of the fee.

5. An electric public utility shall report annually to the commission on ~~cybersecurity preparedness, including an assessment of~~ emerging threats and efforts taken by the electric public utility to implement ~~cybersecurity~~ security measures. The commission ~~may~~ shall limit access to records and portions of a meeting relating to ~~cybersecurity~~ security preparedness.

Chairman Porter & Members of the House Energy & Natural Resources Committee

Thank you for your time and consideration of my testimony. My name is Jared Hendrix, of Minot. I write in support of HB 1353 – one of the more important pieces of legislation during this session. I grew up in Virginia, around one of the most active military populations in the United States – including major installations of every single branch, not to mention the production of most of our nuclear carrier and submarine fleets. It has always occurred to me what the dangers of a concentrated attack could be around such critical infrastructure.

Simply put, all of modern society relies on our power grid. Water, food, waste treatment, fuel production & distribution, transportation, financial, radio, communications and hospitals – all depend on "the grid". Considerable research and discussion on the threats of an EMP attack or natural phenomena has occurred for many decades – but little action at both the state and federal level. This represents an existential threat to our nation, and indeed humanity, for which we are wholly unprepared. The most likely sources of an attack are the detonation of a nuclear weapon, a powerful solar flare, or potentially some type of sabotage.

We are entering what is called a solar maximum period which will occur between 2023 and 2026, during which the Sun's magnetic polarity flips. This will increase sunspots and coronal mass ejections. It is understood that this tends to occur on 150-200 year cycles. Infamously, the Carrington Effect took place in 1859, sparking random fires in telegraph stations globally. With today's technology, there is no doubt such an event would be devastating. Indeed, a congressional study from 2004 projected a 90% fatality rate. Even if exaggerated, it is not difficult to imagine that an almost immediate loss of mass food production & distribution, potable water, needed medical supplies, and the panic caused by a loss of modern communications could have apocalyptic repercussions.

More recently China, with one of the most active ballistic weapons developments in the world, has created a threatening arsenal. Their increased development of advanced satellites and EMP weapons is concerning. Much like the threat of nuclear war, this threat is somewhat reciprocal, which can keep both sides in check. Yet, the danger remains very real. Either China or North Korea, for instance, could easily destroy major components of the U.S. power grid with a calibrated weapon. It is also worth noting, much like how policymakers have sat back and allowed Chinese interests to purchase major tracks of agriculture in the U. S. (think Fufeng in Grand Forks), or monopolies on essential medical supplies (think antibiotics), in the last 10 years, we have imported over 200 large power transformers from China. Investigations have shown some of these transformers have hardware backdoors, increasing the risk of adversarial foreign hacking.

Why has there been such little action on this issue? The reason is threefold. One – a lack of transparency, accountability, and whistleblower protections from within the electrical industry, as it relates to vulnerabilities and protections against known hazards. Two – a lack of courage from our representation to take the lead against this powerful lobby, which has millions to bear. Three – a wide array of misconceptions from, unfortunately, widely cited scientific publications and authorities that have falsely downplayed the real risks of an EMP attack.

Rep. Satrom has been very forward-thinking in introducing this important bill. For in depth expertise on this issue, I highly encourage you to visit securethegrid.com. Please give HB 1353 a Do Pass out of committee. If the federal government is slow to act, then we have an obligation to take steps at the state level.

Respectfully,
Jared Hendrix

USND
Utility Shareholders of North Dakota

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House Bill 1353 Testimony in **Support**

Senate Energy and Natural Resources Committee, Senator Patten, Chair

March 3, 2023

Chairman Patten, members of the committee, I am Carlee McLeod, president of the Utility Shareholders of North Dakota, here on behalf of USND utility members, including ALLETE, Montana-Dakota Utilities, Otter Tail Power, and Xcel Energy. We ask you to support HB 1353.

The utility industry provides critical infrastructure, and as such, there are nefarious people who seek to create chaos by attacking that infrastructure. For example, last session the legislature created a reporting requirement for cybersecurity preparedness to ensure the PSC was aware of cyber threats and utility plans to thwart attacks. This bill is specific to the threat of electromagnetic pulse, a real threat against which utilities have created plans to harden infrastructure. We understand the need for a regulatory body with oversight over public utilities to be aware of emerging threats and utility plans to protect against them, and such reporting would be consistent with current practices.

House amendments addressed concerns we had with the original bill by protecting sensitive information. By widening the reporting requirement from cyber threats to all emerging threats, utilities and the PSC can discuss threats and protective measures confidentially.

However, the wording of the House amendment was a bit inelegant. If the committee desired to amend the bill, it would be appropriate to insert "physical" before "security and" in both lines 8 and 10 on page two. This would not change the intent of the bill, but it would make the use of "security" less redundant. We ask the committee to support this bill.

Thank you.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO 1353

Page 2, line 8, insert "physical" before "security and"

Page 2, line 10, insert "physical" before "security and"

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