

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1030

2001 HOUSE JUDICIARY

HB 1030

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1030

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
Tape I	x		2970 to 4629
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1030. The clerk will read the title.

John Walstad: Legislative Council, Code Revisor - Council for the Administrative Rules Committee. Handed out a chart of the changes. Relating to correction of statutory references to provisions in North Dakota Century Code and the authority of the administrative rules committee to suspend administrative rules; to repeal existing chapters and relating to administrative agencies practices and to provide an effective date. This is a bill rewrite to arrange the sections and make it easier to find. The language of existing law remains the same with two exceptions and those were just words that were wrong and they were corrected.

Rep Mahoney: Those references in 1027, 1028, 1029 refers to the changes.

John Walstad: This bill HB 1030 will not incorporate 1027, 1028, 1029, but 1027, 1028, 1029 are drafted in the alternative so that the same change occurs to law whether HB 1030 passes or not.

Chr DeKrey: Is there anyone else wishing to testify on HB 1030?

Page 2

House Judiciary Committee

Bill/Resolution Number HB 1030

Hearing Date 01-16-01

Lyle Witham: North Dakota Asst Attorney general am here to talk about a couple words and talk about a oversight when 97 amendments were made to 3823. The department would like to clarify. If you will look at 1030 page 59 line 13 and 14 (see the over struck language) He goes on to explain the past amendments.

Rep Kretschmer: Under current law, are these hearing exempted from Administrative process?

Lyle Witham: Yes, we believe they are.

Rep Kretschmar: Under current law there would be no change?

Lyle Witham: No.

Chr DeKrey: Thank you for appearing before our committee. Anyone else wishing to testify on HB 1030?

Mike Ressler: Director of Operations at ITD (see attached testimony).

Chr DeKrey: Are there any questions for Mr Ressler? Thank you for appearing in front of our committee. Anyone else wishing to testify on HB 1030? We will close the hearing on HB 1030. I will appoint a sub committee of Rep Grand, Rep Klemin and Rep Eckre to combine all the amendments and bring them back to the committee.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1030A

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-17-01

Tape Number	Side A	Side B	Meter #
Tape II		x	1693 to 2070
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:Chr DeKrey: Chairman reopened the committee hearing on HB 1030. Rep Grande (Chr of the sub committee) reported on the sub committee. They proposed amendments to the bill. Rep Grande moved a do pass on the amendments and seconded by Rep Delmore. A voice vote was taken on the amendments. Amendments passed. What are the wishes of the committee. Rep Maragos moved a DO PASS as amended, seconded by Rep Delmore. The clerk will call the roll on a DO PASS as amended motion on HB 1030. The motion passes by a vote of 14 YES, 0 No, and 1 Absent. Floor assignment Rep Maragos.

VR
1/17/01

HOUSE AMENDMENTS TO HB 1030 House Judiciary 01-19-01

Page 1, line 5, after the third comma insert "23-01-23,"

HOUSE AMENDMENT TO HB 1030 House Judiciary 01-19-01

Page 4, after line 20, insert:

"SECTION 9. AMENDMENT. Section 23-01-23 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-23. Permit or investigatory hearings - Exemption from chapters 28-32 and 54-57. A permit hearing conducted for purposes of receiving public comment or an investigatory hearing conducted under chapters 23-20.1, 23-20.3, 23-25, 23-29, 61-28, and 61-28.1 is not an adjudicative proceeding under chapter 28-32 and is not subject to the requirements of chapter 54-57."

HOUSE AMENDMENTS TO HB 1030 House Judiciary 01-19-01

Page 7, line 7, after the underscored comma insert "and"

Page 7, line 8, remove ", rules relating to records management as authorized"

Page 7, remove line 9

Page 7, line 10, remove "as authorized under chapter 54-46.1"

HOUSE AMENDMENT TO HB 1030 House Judiciary 01-19-01

Page 11, line 16, after the underscored comma insert "and"

Page 11, line 17, remove ", rules relating to records management as authorized"

Page 11, remove line 18

Page 11, line 19, remove "as authorized under chapter 54-46.1"

HOUSE AMENDMENTS TO HB 1030 House Judiciary 01-19-01

Page 61, line 19, replace "12" with "13"

Page 61, line 21, replace "11" with "12"

Renumber accordingly

Date: 01-17-01
Roll Call Vote #: /

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1030

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep Maragos Seconded By Rep Delmore

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Maragos

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

REPORT OF STANDING COMMITTEE

HB 1030, as amended, Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). placed on the Sixth order on the calendar.

Page 1, line 5, after the third comma insert "23-01-23,"

Page 4, after line 20, insert:

"SECTION 9. AMENDMENT. Section 23-01-23 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-23. Permit or investigatory hearings - Exemption from chapters 28-32 and 54-57. A permit hearing conducted for purposes of receiving public comment or an investigatory hearing conducted under chapters 23-20.1, 23-20.3, 23-25, 23-29, 61-28, and 61-28.1 is not an adjudicative proceeding under chapter 28-32 and is not subject to the requirements of chapter 54-57."

Page 7, line 7, after the underscored comma insert "and"

Page 7, line 8, remove "rules relating to records management as authorized"

Page 7, remove line 9

Page 7, line 10, remove "as authorized under chapter 54-46.1"

Page 11, line 16, after the underscored comma insert "and"

Page 11, line 17, remove "rules relating to records management as authorized"

Page 11, remove line 18

Page 11, line 19, remove "as authorized under chapter 54-46.1"

Page 61, line 19, replace "12" with "13"

Page 61, line 21, replace "11" with "12"

Renumber accordingly

2001 SENATE JUDICIARY

HB 1030

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1030

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 6th, 2001

Tape Number	Side A	Side B	Meter #
1		x	6.3-13.9
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1030.

John Walsted, Legislative Council for the administrative rules committee, neutral. Explains the bill. Office of administration hearings. Rules making has been jammed into a little section. The objective is to spread out sections and to better find what your looking for. Compatible with 1029, 1028. No changes in language.

Senator Traynor, closed the hearing on HB 1030.

SENATOR WATNE MOTIONED TO DO PASS, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR TRAYNOR VOLUNTEERED TO CARRY THE BILL.

Date: 3/5/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

Senate	Judiciary	Committee
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☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Wadner Seconded By Trenbath

[illegible]

Total (Yes) 6 No 0

Absent	1
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Floor Assignment Traylor

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2001 1:53 p.m.

Module No: SR-38-4913
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1030, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1030 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1030

DERIVATION TABLE FOR ADMINISTRATIVE AGENCIES PRACTICE ACT REVISION

Bill Draft Section	Previous Section
28-32-01	28-32-01
28-32-02	28-32-02(1), 28-32-02.1
28-32-03	28-32-02(6)
28-32-04	28-32-02.3
28-32-05	28-32-02.4
28-32-06	28-32-03(3)
28-32-07	28-32-02(2)
28-32-08	28-32-02.2
28-32-09	28-32-02.5
28-32-10	28-32-02(4)(5)
28-32-11	28-32-02(3)
28-32-12	28-32-02(4)
28-32-13	28-32-03(5)
28-32-14	28-32-02(7)
28-32-15	28-32-03(1)(2)
28-32-16	28-32-04
28-32-17	28-32-03.3(3)
28-32-18	28-32-03.3(1)(2)(4)
28-32-19	28-32-03(4), 28-32-03.1
28-32-20	28-32-03.2
28-32-21	28-32-05
28-32-22	28-32-05.1
28-32-23	28-32-05.2
28-32-24	28-32-06
28-32-25	28-32-07
28-32-26	28-32-08
28-32-27	28-32-08.1
28-32-28	28-32-08.2
28-32-29	28-32-08.3
28-32-30	28-32-08.4
28-32-31	28-32-08.5
28-32-32	28-32-08.6
28-32-33	28-32-09
28-32-34	28-32-11
28-32-35	28-32-11.1
28-32-36	28-32-12
28-32-37	28-32-12.1
28-32-38	28-32-12.2
28-32-39	28-32-13
28-32-40	28-32-14
28-32-41	28-32-14.1
28-32-42	28-32-15
28-32-43	28-32-16
28-32-44	28-32-17
28-32-45	28-32-18
28-32-46	28-32-19
28-32-47	28-32-19.1
28-32-48	28-32-20
28-32-49	28-32-21
28-32-50	28-32-21.1
28-32-51	28-32-21.2
28-32-52	28-32-21.3

Previous Section	Bill Draft Section
28-32-01	28-32-01
28-32-02	28-32-02, 28-32-03, 28-32-07, 28-32-10, 28-32-11, 28-32-12, 28-32-14
28-32-02.1	28-32-02
28-32-02.2	28-32-08
28-32-02.3	28-32-04
28-32-02.4	28-32-05
28-32-02.5	28-32-09
28-32-03	28-32-06, 28-32-13, 28-32-15, 28-32-19
28-32-03.1	28-32-19
28-32-03.2	28-32-20
28-32-03.3	28-32-17, 28-32-18
28-32-04	28-32-16
28-32-05	28-32-21
28-32-05.1	28-32-22
28-32-05.2	28-32-23
28-32-06	28-32-24
28-32-07	28-32-25
28-32-08	28-32-26
28-32-08.1	28-32-27
28-32-08.2	28-32-28
28-32-08.3	28-32-29
28-32-08.4	28-32-30
28-32-08.5	28-32-31
28-32-08.6	28-32-32
28-32-09	28-32-33
28-32-10	Repealed 1991
28-32-11	28-32-34
28-32-11.1	28-32-35
28-32-12	28-32-36
28-32-12.1	28-32-37
28-32-12.2	28-32-38
28-32-13	28-32-39
28-32-14	28-32-40
28-32-14.1	28-32-41
28-32-15	28-32-42
28-32-16	28-32-43
28-32-17	28-32-44
28-32-18	28-32-45
28-32-19	28-32-46
28-32-19.1	28-32-47
28-32-20	28-32-48
28-32-21	28-32-49
28-32-21.1	28-32-50
28-32-21.2	28-32-51
28-32-21.3	28-32-52
28-32-22	Repealed 1999

**JUDICIARY COMMITTEE
NORTH DAKOTA HOUSE OF REPRESENTATIVES
57TH LEGISLATIVE ASSEMBLY
HB 1030
JANUARY 16, 2001 HEARING**

**Testimony of North Dakota Department of Health
Relating to Proposed Amendment to HB 1030**

HB 1030 makes needed changes to correct statutory references to provisions in the North Dakota Century Code relating to administrative practices and procedures. The department of health requests one additional amendment to clarify a possible ambiguity created by past amendments to these laws.

Each state environmental law¹ grants the department authority to investigate actual and potential environmental hazards, threats, and conditions. This investigative authority is one of the important components of assumption of primacy over environmental programs delegated by EPA to the states. The procedure governing investigative hearings conducted by the department is contained in N.D. Admin. Code article 33-22.

In addition to these laws, the former provisions of N.D.C.C. § 28-32-08, subsec. 1, and the current provisions of N.D.C.C. § 54-57-03, subsec. 1, provided general authority to exempt the department's investigative hearings and functions under federally delegated programs from adjudicative or contested case proceedings under N.D.C.C. ch. 28-32. The '97 amendments to chapter 28-32 repealed the general language exempting investigatory hearings from chapter 28-32, but continued to exempt specific agency rules like N.D. Admin. Code article 33-22 when necessary to comply with specific provisions of the North Dakota Century Code or requirements

¹ The state's environmental laws include N.D.C.C. ch. 23-20.1 (radioactive waste), N.D.C.C. ch. 23-20.3 (hazardous waste), N.D.C.C. ch. 23-25 (air pollution), N.D.C.C. ch. 23-29 (solid waste), N.D.C.C. ch. 61-28 (water pollution), and N.D.C.C. ch. 61-28.1 (drinking water protection).

of federal law. See N.D.C.C. § 28-32-05.2 re-codified in HB 1030, Section 11, as 28-32-23 (p.29, lines 11-16).

HB 1030 deletes the outdated reference to the repealed portions of N.D.C.C. § 28-32-08, subsec. 1, in the amendments to N.D.C.C. § 54-57-03. See HB 1030, page 59, line 13. The department asks that additional language be added to either N.D.C.C. § 54-57-03 or N.D.C.C. § 23-01-23 to clarify that the department retains the authority to conduct investigatory hearings under EPA delegated programs. The department suggests that this amendment be made to N.D.C.C. § 23-01-23 because the department is unsure whether other agencies also are required to conduct investigatory proceedings under federally delegated programs. A copy of the proposed amendment to N.D.C.C. § 23-01-23 is attached. A representative of the department is here to answer any questions you may have about this proposed amendment.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1030

Page 1, line 5, after "20.1-15-09," insert "23-01-23,"

Page 61, after line 14, insert:

SECTION 34. AMENDMENT. Section 23-01-23 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-23 Permit or Investigatory hearings -- Exemption from chapters 28-32 and 54-57. A permit hearing conducted for purposes of receiving public comment or an investigatory hearing conducted under chapters 23-20.1, 23-20.3, 23-25, 23-29, 61-28, and 61-28.1 is not an adjudicative proceeding under chapter 28-32 and is not subject to the requirements of chapter 54-57.

HB 1030 TESTIMONY
JUDICIARY COMMITTEE
BY: MIKE J. RESSLER, DIRECTOR
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
JANUARY 16, 2001

Mr. Chairman, and members of the committee, my name is Mike Ressler and I am the Director of Operations at ITD.

ITD does not have a preference on this bill, however in reviewing the bill we noticed the century code was not updated to reflect the change that occurred during the last session. Information Technology Department was Information Services Division last biennium and was a division under the Office of Management and Budget. We are now a separate department.

Responsibilities of ITD include the records management and central microfilm functions as outlined on page 7, lines 8, 9, and 10 and also on page 11, lines 17, 18, and 19 of this bill. In this bill they are still are identified as responsibilities of OMB.

We would like you to consider exempting Information Technology Department from the definition of an administrative agency. As a division under the Office of Management and Budget we were exempt and feel this should continue.

We currently create standards and policies for agencies with regards to information technology. These standards and policies affect state agencies only. We do not feel a public hearing would add any benefit or draw any interest by the citizens. We have a process in place where on a quarterly basis agencies advise us in the drafting of these standards and policies. If a standard or policy is created and an agency has an issue with it, they can appear before the Legislative IT Committee which meets on a quarterly basis as well.

This concludes my testimony and I would be happy to answer any questions you may have.

Thank you for your consideration.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1030

Page 7, line 7, after the underscored comma insert "and"

Page 7, line 8, replace ", rules....." with an underscored period

Page 7, remove lines 9 and 10

Page 7, line 25, after "m." insert "The Information Technology Department."

"n.

Page 7, line 27, replace "n" with "o"

Page 7, line 28, replace "o" with "p"

Page 7, line 29, replace "p" with "q"

Page 7, line 30, replace "q" with "r"

Page 7, line 31, replace "r" with "s"

Page 8, line 1, replace "s" with "t"

Page 8, line 3, replace "t" with "u"

Page 8, line 6, replace "u" with "v"

Page 8, line 8, replace "v" with "w"

Renumber accordingly.

Also on,

Page 11, line 16, after the underscored comma insert "and"

Page 11, line 17, replace ", rules....." with an underscored period

Page 11, remove lines 18 and 19

Page 12, line 3, after "m." insert "The Information Technology Department."

"n.

Page 12, line 5, replace "n" with "o"

Page 12, line 6, replace "o" with "p"

Page 12, line 7, replace "p" with "q"

Page 12, line 8, replace "q" with "r"

Page 12, line 9, replace "r" with "s"

Page 12, line 10, replace "s" with "t"

Page 12, line 12, replace "t" with "u"

Page 12, line 15, replace "u" with "v"

Page 12, line 17, replace "v" with "w"

Renumber accordingly.