

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1143

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

2003 HOUSE JUDICIARY

HB 1143

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Holladay
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1143

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	xx		41-end
1		xx	0-10
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: 11 members present, 1 member absent (Rep. Bernstein)

Chairman DeKrey: We will open the hearing on HB 1143.

Doug Friez, State Emergency Mgmt. Director and Homeland Security Coordinator: (see attached testimony).

Rep. Boehning: When you are talking about certain documents, are you talking about blueprints that are in local courthouses that are on file.

Mr. Friez: If there is information in those blueprints that require protecting.

Rep. Kretschmar: Who, under the bill, is going to decide what diagrams, etc. will become exempt.

Mr. Friez: I don't believe any changes in the procedures for open records.

Chairman DeKrey: What if someone challenges the exemption, how would they go about doing that, do they have to file a petition with the court? Who has the final say in this dispute in whether it is exempt or not.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna G. Ball
Operator's Signature

1/21/03
Date

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1143
Hearing Date 1-21-03

Mike Mullen, Attorney General's Office: If they wanted information that they believed was not exempt as defined in the proposed bill, they would simply file an open records request and then an examination would have to be conducted, to see whether this document fits under the terms of the law. If it didn't, then it would have to be disclosed.

Mr. Friez: We are not interfering with any of the existing procedures.

Rep. Kretschmar: What official in the government makes the decision that the document is exempt or not.

Mr. Friez: Again, the official in charge of the organization to which the request is being made would be the initial determiner of that; and if that is not accepted by the requester, it would have to be decided.

Rep. Eckre: If a person wanted the water/sewer line information, and the official decided that the person really didn't need it for the reason he wanted it for, then the person could appeal that, correct?

Mr. Friez: As I understand it, it may have to be discussed with the city and state's attorney and move toward that system.

Rep. Onstad: These records that the county exempts, and it covers some particular building, something that is no longer of public safety concern, at that point would it become open again, would any of them become open records.

Mr. Friez: The intent is to certainly limit the amount of information that is exempt, critical information that could be used against us. If it isn't going to do any harm, it's not going to be a part of this.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennna Hall
Operator's Signature

10/2/03
Date

Page 3
House Judiciary Committee
Bill/Resolution Number HB 1143
Hearing Date 1-21-03

Rep. Onstad: What if 20 years from now, there is a new focus, can someone go back to the archives and see information.

Mr. Friezi: The determination will be made on whether or not that information could be utilized to harm, and if not, it won't be.

Chairman DeKrey: Thank you. Anyone else wish to testify in support.

Tim Wiedrich, Chief of Bioterrorism Administration Section of the ND Dept of Health:

(see attached testimony) Support.

Chairman DeKrey: Thank you. Any further testimony in support.

Linda Johnson, Director of School Health Program, Dept. of Public Instruction: (see attached testimony)

Rep. DeImore: Do schools need to use all of the safety measures?

Ms. Johnson: No, they choose the measures that work best for them.

Chairman DeKrey: Thank you. Any further testimony in support.

Mary Wahl, ND Council of Educational Leaders: Support exempt from open records laws, we need to protect the kids by keeping information from bad guys.

Chairman DeKrey: Thank you.

Mike Mullen: The question about plans re: bridges, sewer, etc. that the city may have. In Section 2, line 13, any plans and records, information, etc. used to produce these security plans relating to protection of public or public officials are exempt. So this information has to be collected in connection with a security. Not just any public records, anywhere.

Chairman DeKrey: Thank you. Anyone else in support?

Deanna Hall
Operator's Signature

10/2/03
Date

Page 4
House Judiciary Committee
Bill/Resolution Number HB 1143
Hearing Date 1-21-03

Jack McDonald, ND Newspaper Association & ND Broadcasters Assoc: We are in support with the amendments. (see attached testimony) It is good that these documents are exempt instead of confidential.

Chairman DeKrey: Thank you. Support of HB 1143, opposition to HB 1143?

We will close the hearing on HB 1143.

Chairman DeKrey: We need to act on the bill right away, to get it to the Senate as quickly as possible.

Rep. Delmore: I move a Do Pass on the amendments.

Rep. Grande: Seconded.

Chairman DeKrey: Any discussion? Hearing none, we will take a voice vote on the amendments. Passed unanimously. The amendment carries.

Rep. Delmore: I move a Do Pass on HB 1143 as amended.

Rep. Grande: Seconded.

11 YES 1 NO 1 ABSENT DO PASS W/AMENDMENTS CARRIER: Rep. Grande

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Danina Ballarín
Operator's Signature

10/2/03
Date

38106.0101
Title.0200

Adopted by the Judiciary Committee
January 21, 2003

VR
1/22/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1143 JUD 1-22-03

Page 1, line 8, remove "confidential and is"

HOUSE AMENDMENT TO HB 1143

JUN 1-2-03

Page 2, line 13, after "and" insert "only those portions of"

Page 2, line 22, replace "confidential" with "exempt"

Renumber accordingly

Page No. 1

38106.0101

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Ballantyne
Operator's Signature

10/2/03
Date

Date: 1/21/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1143

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38106.0101 . 0200

Action Taken Do Pass as Amended

Motion Made By Rep. Delmore Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	AB		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemm	✓				
Rep. Kretschmar		✓			
Rep. Wrangham	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep. Grande

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda Hall
Operator's Signature

1/21/03
Date

REPORT OF STANDING COMMITTEE (410)
January 22, 2003 12:15 p.m.

Module No: HR-12-0904
Carrier: Grande
Insert LC: 38106.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1143: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1143 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "confidential and is"

Page 2, line 13, after "and" insert "only those portions of"

Page 2, line 22, replace "confidential" with "exempt"

Renumber accordingly

The micrographic images on this film are accurate reproductions of records delivered to the National Archives and Records Administration for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda Ball
Operator's signature

10/2/03
Date

2003 SENATE JUDICIARY
HB 1143

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Halladay
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1143

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/03/03

Tape Number	Side A	Side B	Meter #
1	X		47.0 - End
2	X		0.0 - 5.4
Committee Clerk Signature <i>Maria L Solberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony Support of HB 1143

Douglas C. Friez, Director ND Division of Emergency Management and Homeland Security

Coordinator (meter 47) Read Testimony Attachment #1

Senator Thomas L. Trenbeath stated that should not the public be aware of evacuation or other emergency plans? Yes, we want to be able to restrict the information if provided could do harm the details of where to go in an emergency is critical. The following is an example. We are starting to inoculate for small pox in North Dakota. Is it necessary to disclosed to all of ND where we store the small pox vaccinations and who has the key. Senator Carolyn Nelson referred to "could" who makes the decision do you? (meter 52) The department who receives the request for information would initially make that determination. Most cases it would be me, but it could

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Douglas C. Friez
Operator's Signature

10/2/03
Date

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1143

Hearing Date 03/06/03

be a local emergency manager, it could be a public health official. If the initial decision would be challenged then we would go into the system for normal open records to determine whether that decision was in line.

Discussion of Exempt Vs Confidential (meter 54)

Sen. Dever stated (meter 56.9) If this is already covered under the Federal Laws is it necessary to change the North Dakota Law? We believe that it is because some of the information can lose its Federal Identity after we have receive it. This would make the coverage under the Federal law questionable.

Dahrman
Al Dahrman Legal Council for the Adjunct General. (meter 57) This law is necessary even though the Patriot act covers a lot of this information. The Patriot classifies the information that comes from the Federal Government down to us. If we pass information up to them and it is still classified. If we maintain information that is sensitive and should not be disclosed or should be at least given some consideration by a public official or to be reviewed by the Attorney General's office is why this law is needed. In the Patriot act it only protects us with the Federal Government and ourselves not us and other entities.

Tim Wiedrich - Section Chief of the Bioterrorism Administration Section of the ND Dept. of Health (Tape 2 side 1)

Senator Carolyn Nelson asked for an overview of the Bioterism Department (meter 2.0) Consists of three people and we have an "all Hazard approach; i.e. floods, tornadoes as well as terroristic threats. They discussed the other entities the department tapped into and the use of Universities and potential use of pharmacies / schools.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dawnna Hall
Operator's Signature

10/2/03
Date

Page 3
Senate Judiciary Committee
Bill/Resolution Number HB 1143
Hearing Date 03/06/03

Jerry Hjelmsted - ND League of Cities - (meter 3.9) We are in support of this bill to keep our waters and cities safe.

Testimony in opposition of HB 1143

None

Testimony Neutral to HB 1143

None

Motion Made to DO PASS HB 1143 Senator Stanley W. Lyson, Vice Chairman and seconded by Senator Carolyn Nelson

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Senator Carolyn Nelson

Senator John T. Traynor, Chairman closed the hearing

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1143

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/05/03

Tape Number	Side A	Side B	Meter #
1		X	44.0 - End
Committee Clerk Signature <i>Maria L Solberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the Testimony Neutral to HB 1143

Sen. Joel Heitkamp - Discussed (meter 45.5) concern cited in an E-mail. Submitted three Amendments; Amendment 1a, Amendment 1b, and Amendment 1c.

Discussed water plant plan concerns.

Al Dohrman - from Doug Friez's office said bill currently covers these concerns. How do you research the contractors and determine a risk. Can you take "Exempt" and turn it into a "confidential". Most issues are addressed in the contract with a contractor of a project.

Motion Made to DO PASS amend 38106.0202 on HB 1143 Senator Thomas L. Trenbeath and seconded by Senator Stanley W. Lyson, Vice Chairman

Roll Call Vote: 5 Yes. 0 No. 1 Absent

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dan H. Solberg
Operator's Signature

10/2/03
Date

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1143
Hearing Date 03/05/03

Motion Made to DO PASS Engrossed HB 1143 as Amended by Senator Thomas L.

Trenbeath and seconded by Senator Stanley W. Lyson, Vice Chairman

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Senator Carolyn Nelson

Senator John T. Traynor, Chairman closed the hearing

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Ballantyne
Operator's Signature

10/2/03
Date

Date: March 3, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~AB~~ 1143

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Senator Stanley W. Lyson Seconded By Senator Carolyn Nelson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment Sen. Lyson

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Bercier
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 3, 2003 12:05 p.m.

Module No: SR-37-3718
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1143, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO
PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1143 was
placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-37-3718

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilm and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda Ballentine
Operator's Signature

10/2/03
Date

Date: March 5, 2003
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1143

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider action of March 3rd

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment _____

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Bercier
Operator's Signature

10/2/03
Date

38106.0202
Title.0300

Prepared by the Legislative Council staff for
Senator Heitkamp
March 4, 2003

JP
3-6-3

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1143

Page 2, line 7, remove "Under this subsection,"

Page 2, remove lines 8 and 9

Renumber accordingly

Page No. 1

38106.0202

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorena Heitkamp
Operator's Signature

10/2/03
Date

Date: March 5, 2003
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1143

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38106.0202

Action Taken DO PASS AMENDMENT

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment _____

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Bercier
Operator's Signature

10/2/03
Date

Date: March 5, 2003

Roll Call Vote #: 4

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1143

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38106.0202

Action Taken DO PASS ENGROSSED BILL AS AMENDED

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley. Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment Sen. Nelson

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis Bercier
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 6, 2003 2:02 p.m.

Module No: SR-40-4138
Carrier: Nelson
Insert LC: 38106.0202 Title: .0300

REPORT OF STANDING COMMITTEE
HB 1143, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1143 was placed
on the Sixth order on the calendar.

Page 2, line 7, remove "Under this subsection,"

Page 2, remove lines 8 and 9

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-40-4138

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda Bell
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1143

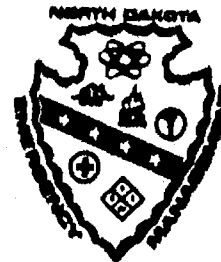
The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennna Hall
Operator's Signature

10/2/03
Date

North Dakota

Division of Emergency Management



JOHN HOEVEN
GOVERNOR

Maj Gen MICHAEL J. HAUGEN
ADJUTANT GENERAL

DOUGLAS C. FRIEZ
STATE DIRECTOR

To: Duane L. Dekrey
Chairman House Judiciary Committee
From: *Doug* Douglas C. Friez, Director
ND Division of Emergency Management
Homeland Security Coordinator
Subject: HD 1143 with Proposed Amendments
Date: January 21, 2003

Mr. Chairman, Members of the Committee, I am Doug Friez, State Emergency Management Director and Homeland Security Coordinator.

I am here today to testify in favor of House Bill 1143, which has been introduced at the request of the Division of Emergency Management. At this time I also have a proposed amendment to the bill as introduced.

With your permission, Mr. Chairman, copies of both my testimony and the amendment proposal have been distributed.

In the aftermath of the September 11, 2001, attacks on the World Trade Center in New York and the Pentagon near the nation's Capitol there have been several proposed changes to help reduce the vulnerability of this nation from future terrorist activity.

Some of those proposals have already been implemented, while some have been received with mixed emotions. Nevertheless, among the many impacts of the September 11 tragedy have been the special challenges presented to government leaders nationwide. One of those challenges is to continue to provide for the best combination of freedom and security to insure the public safety of our citizens, as intended by our forefathers, while maintaining a free, open society.

House Bill 1143 is a necessary and appropriate step to help ensure public safety. It specifically outlines the subject matter to be "exempted" from existing open records, without interfering with our basic freedoms.

House Bill 1143 draws the line by restricting public disclosure of highly sensitive information to include evacuation plans, emergency response plans, security measures and emergency health procedures. Also to be exempted are state and local security plans and manuals. These exemptions could include disclosure of architectural drawings of public buildings and infrastructure, such as utility plans, bridges, water lines, sewer lines and transportation systems, as well as certain health information, which if disclosed would endanger public health.

PO Box 5511 • Bismarck, North Dakota 58506-5511
701-328-8100 • Fax 701-328-8181
discovernd.com

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Douglas C. Friez
Operator's Signature

10/2/03
Date

The proposal, with the amendments I am suggesting, "exempts" from public records disclosure, information concerning security system plans for property owned or leased by the state or its political subdivisions.

If passed into law, House Bill 1143 with the proposed amendments will exempt portions of records of public agency buildings, facilities, infrastructure and systems from disclosure when such disclosure would threaten public safety.

The purpose of this bill is to exempt information regarding plans and details about infrastructure from getting into the hands of people who would intentionally want to use that information to do harm.

This proposal will bring North Dakota into line with federal legislation protecting sensitive security plan information regarding critical public and private infrastructure for Homeland Security purposes.

The amendments I propose today will clarify the intent of the bill to "exempt" rather than to "keep confidential" the referenced information. I believe this approach is correct since the records we are seeking to protect exist at the state and local level. To classify these documents as confidential could lead to inadvertent violations of the law.

Finally, allow me to point out that the exemptions identified in this proposal are retroactive to the date the public entity received the information.

We request this proposal be treated as an emergency measure.

Mr. Chairman, Members of the Committee, I request passage of House Bill 1143 with the amendments as proposed.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

PROPOSED AMENDMENT TO HOUSE BILL NO. 1143

Page 1, line 8, remove "confidential and is"

Page 2, line 13, after the second "and" insert "only those portions of"

Page 2, line 22, replace "confidential" with "exempt"

Renumber accordingly

Explanation:

The page 1, line 8 and page 2, lines 22 amendments clarify that it is the intent of this Bill that these records be exempt from public disclosure and not classified as confidential. We believe this is right approach to take in this instance since these records exist at the state and local level. To classify these documents as confidential could lead to inadvertent violations of the law. Under Chapter 12.1 of the North Dakota Century Code, it is a class C felony to disclose confidential documents.

The page 2, line 13 amendment provides needed specificity. With this change redacted records, information, surveys, communications, and consultations could be disclosed to the public. Only exempt portions would be withheld.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Danna Baller
Operator's Signature

10/2/03
Date

Testimony

House Bill 1143

House Judiciary Committee

January 21, 2003

2:00 p.m.

North Dakota Department of Health

Chairman DeKrey and members of the committee, my name is Tim Wiedrich and I am Chief of the Bioterrorism Administration Section of the North Dakota Department of Health. I am here to testify in support of House Bill 1143.

Certain individuals and organizations have expressed their intent to use biological agents, chemicals and other means to harm or kill Americans and our allies. These threats are real as demonstrated by the heinous acts that occurred on September 11, 2001, the subsequent release of anthrax and the recent discovery that ricin was being manufactured in an apartment in the United Kingdom.

Substantial efforts are underway to protect the citizens of North Dakota from those who would do us harm. The development of security and public health plans for the detection, response and mitigation of terrorist acts are an important component of protecting our state and our nation.

As we plan and implement systems of protection, we must be careful not to compromise the safety of our citizens by creating and releasing information that would assist terrorists in their attacks against the United States. The federal government, for example, has indicated they will not release documents created by states in the assessment, planning and implementation of bioterrorism protection plans. Releasing this information could increase our vulnerability to terrorist attack. The stance of the federal government is ineffective, however, if state and local governments release this sensitive information.

Current law does not exempt public health and security plans from North Dakota open record and meeting provisions. Providing this exemption is a reasonable and important step in protecting our citizens from terrorist attacks.

The Department of Health respectfully requests your favorable response to House Bill 1143. I am happy to answer any questions you may have.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Baller
Operator's Signature

10/2/03
Date

**TESTIMONY ON HB 1143
HOUSE JUDICIARY COMMITTEE**

January 21, 2003

**by Linda L. Johnson, Director of School Health Programs
(701) 328-4138
Department of Public Instruction**

Chairman DeKrey and members of the committee:

My name is Linda Johnson and I am the Director of School Health Programs, including Safe and Drug Free Schools for the Department of Public Instruction. I am here to speak in favor of HB 1143 and provide information regarding the school safety plans.

In December of 1999, a team of six representing emergency management, the Department of Public Instruction, school administrators, school counselors, fire inspectors and law enforcement attended a Multihazard Training for Schools sponsored by the Federal Emergency Management Agency. From this training a North Dakota Multihazard School Planning Committee agreed the Leadership and Educational Administrative Development (LEAD) Center would deliver these trainings statewide. School district personnel, along with fire and law enforcement professionals, gathered in teams to develop Multihazard Plans for their school sites. Currently 85% of the districts have a written plan for responding to emergencies at their school. Other data we have collected on safety and security measures for schools are on the back.

Two examples of areas in which the security measures provided in this bill will be useful to school plans are:

- maintaining confidentiality codes for intruders in the building.
- school interior video tapes for use by a police or fire departments.

I would be pleased to answer any of your questions regarding school security issues.

Linda L. Johnson
Operator's Signature

1/21/03
Date

SCHOOL HEALTH EDUCATION PROFILE

Violence
2002

Eighty-five percent of schools in North Dakota have a written plan for responding to violence at the school.

Schools Implement the Following Safety and Security Measures

Require visitors to report to the main office or reception area upon arrival	93%
Maintain a "closed campus" where students are not allowed to leave school during the school day, including during lunch time	56%
Use staff or adult volunteer to monitor school halls during and between classes	80%
Routinely conduct bag, desk, or locker checks	35%
Prohibit students from carrying backpacks or book bags at school	18%
Require students to wear school uniforms	1%
Use metal detectors	1%
Have uniformed police, undercover police, or security guards during the regular school day	10%

Sixty-six percent of teachers want in-service training on conflict resolution and violence prevention.

Schools Have or Participate in Each of the Following Programs

A peer mediation program	19%
A safe-passage to school program	5%
A program to prevent gang violence	19%
A program to prevent bullying	53%

Recommendation: Provide teachers with in-service training on conflict resolution and violence prevention. Teachers want to know how to keep kids safe.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

January 21, 2003

HOUSE JUDICIARY COMMITTEE
HB 1143

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We usually oppose legislation that closes records, but in this instance we support the bill as amended because we believe it is the correct approach to take to sensitive information that needs to be protected.

Our organizations have always maintained that exceptions to the open meetings and open records laws should be very specific and narrowly defined. In other words, we oppose bills that say, for instance "All records" of an agency are closed, or "all meetings dealing with personnel matters" are closed.

We want to support this bill because it takes the correct approach with the amendments. First, it makes the records exempt rather than confidential, so it gives authorities the discretion in handling the records while at the same time protecting the records from unwarranted disclosure.

Secondly, the bill, as amended, defines what is to be closed very specifically and narrowly: The security plans and only those portions of other, open records used to create those plans. Without the amendments, the bill is too broad. It could take normally open records, such as minutes and reports, and make them confidential.

Therefore, we urge your support of HB 1143 as amended. If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

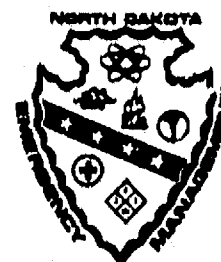
The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Baller
Operator's Signature

1/21/03
Date

North Dakota

Division of Emergency Management



JOHN HOEVEN
GOVERNOR

Maj Gen MICHAEL J. HAUGEN
ADJUTANT GENERAL

DOUGLAS C. FRIEZ
STATE DIRECTOR

To: Senator John Traynor
Chairman Senate Judiciary Committee
From: *Doug Friez* Douglas C. Friez, Director
ND Division of Emergency Management
Homeland Security Coordinator
Subject: Engrossed HB 1143
Date: March 3, 2003

Mr. Chairman, Members of the Committee, I am Doug Friez, State Emergency Management Director and Homeland Security Coordinator.

I am here today to testify in favor of Engrossed House Bill 1143, which has been introduced at the request of the Division of Emergency Management.

With your permission, Mr. Chairman, copies of my testimony have been distributed.

In the aftermath of the September 11, 2001, attacks on the World Trade Center in New York and the Pentagon near the nation's Capitol there have been several proposed changes to help reduce the vulnerability of this nation from future terrorist activity.

Some of those proposals have already been implemented, while some have been received with mixed emotions. Nevertheless, among the many impacts of the September 11 tragedy have been the special challenges presented to government leaders nationwide. One of those challenges is to continue to provide for the best combination of freedom and security to insure the public safety of our citizens, as intended by our forefathers, while maintaining a free, open society.

Engrossed House Bill 1143 is a necessary and appropriate step to help ensure public safety. It specifically outlines the subject matter to be "exempted" from existing open records, without interfering with our basic freedoms.

Engrossed House Bill 1143 draws the line by restricting public disclosure of highly sensitive information to include evacuation plans, emergency response plans, security measures and emergency health procedures. Also to be exempted are state and local security plans and manuals. These exemptions could include disclosure of architectural drawings of public buildings and infrastructure, such as utility plans, bridges, water lines, sewer lines and transportation systems, as well as certain health information, which if disclosed would endanger public health.

J:\HOME\Admin Assistant 2003\Correspondence-Doug Friez\House Bill 1143\House Bill 1143-2-24-03 Senate testimony 02-27-03.doc

701-328-8100 • Fax 701-328-8181
discovernd.com

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Douglas C. Friez
Operator's Signature

10/2/03
Date

The proposed legislation, "exempts" from public record disclosure, information concerning security system plans for property owned or leased by the state or its political subdivisions.

If passed into law, Engrossed House Bill 1143 will exempt portions of records of public agency buildings, facilities, infrastructure and systems from disclosure when such disclosure would threaten public safety.

The purpose of this bill is to exempt information regarding plans and details about infrastructure from getting into the hands of people who would intentionally want to use that information to do harm.

This proposed legislation would bring North Dakota into line with federal legislation protecting sensitive security plan information regarding critical public and private infrastructure for Homeland Security purposes.

The intent of the bill is to "exempt" rather than to "keep confidential" the referenced information. I believe this approach is correct and that treating these records as exempt will provide adequate protection of this information.

Finally, allow me to point out that the exemptions identified in this proposal are retroactive to the date the public entity received the information.

We request this proposal be treated as an emergency measure.

Mr. Chairman, Members of the Committee, I request passage of Engrossed House Bill 1143 with the amendments as proposed.

J:\HOME\Admin Assistant 2003\Correspondence-Doug P\House Bill--1143\House Bill-- 1143--1-20-03 Senate testimony 02-27-03.doc

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dan H. Hall
Operator's Signature

10/2/03
Date

HH #2

Testimony

House Bill 1143

Senate Judiciary Committee

Fort Lincoln Room

10:00 a.m., March 3, 2003

North Dakota Department of Health

Chairman Traynor and members of the committee, my name is Tim Wiedrich and I am Section Chief of the Bioterrorism Administration Section of the North Dakota Department of Health. I am here to testify in support of House Bill 1143.

Certain individuals and organizations have expressed their intent to use biological agents, chemicals and other means to harm or kill Americans and our allies. These threats are real as demonstrated by the heinous acts that occurred on September 11, 2001, the subsequent release of anthrax and the recent discovery that ricin was being manufactured in an apartment in the United Kingdom.

Substantial efforts are underway to protect the citizens of North Dakota from those who would do us harm. The development of security and public health plans for the detection, response and mitigation of terrorist acts are an important component of protecting our state and our nation.

As we plan and implement systems of protection, we must be careful not to compromise the safety of our citizens by creating and releasing information that would assist terrorists in their attacks against the United States. The federal government, for example, has indicated they will not release documents created by states in the assessment, planning and implementation of bioterrorism protection plans. Releasing this information could increase our vulnerability to terrorist attack. The stance of the federal government is ineffective, however, if state and local governments release this sensitive information.

Current law does not exempt public health and security plans from North Dakota open record and meeting provisions. Providing this exemption is a reasonable and important step in protecting our citizens from terrorist attacks.

The Department of Health respectfully requests your favorable response to House Bill 1143. I am happy to answer any questions you may have.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Tim Wiedrich
Operator's Signature

10/2/03
Date

"Steve L. Burian"
<Steve.Burian@AF2B.
com>

To: "Joel C. Heitkamp" <jheitkam@state.nd.us>
cc:
Subject: RE: HB1143

03/04/2003 07:54 AM

I talked to John Bjornson three times yesterday afternoon as well as Howard Swanson, City Attorney for the City of Grand Forks. John also talked to the attorney with the National Guard (Division of Emergency Management) who helped draft the bill. It is my understanding that John and I were going to talk again this morning to develop an amendment strategy.

I would like Section 1.4. removed and replaced with some ability to prequalify or screen bidders and suppliers before distributing plans and specs. Howard Swanson indicated there is no current provision in the statutes to complete the pre-screening I am suggesting. He further indicated that we may have a "rational basis" for doing so, but our position would be much stronger if we had the language in statute. He understood my concerns, citing the potential for having to publically distribute plans and specs for the Governor's bomb shelter, if a new one were to be built. According to John, the attorney with the National Guard is cool with removing Section 1.4., but isn't as comfortable with adding new language.

Did you still want me to talk to Senator Traynor or can I work with John to develop an acceptable amendment and you work with Senator Traynor on making the amendment happen?

Steve B

-----Original Message-----

From: Joel C. Heitkamp [mailto:jheitkam@state.nd.us]
Sent: Tuesday, March 04, 2003 7:46 AM
To: Steve L. Burian
Subject: Re: HB1143

Did you get a hold of Traynor

Joel C Heitkamp
State Senator District 26
1-888-635-3447

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

38106.0203
Title.

1a
Prepared by the Legislative Council staff for
Senator Helkamp
March 4, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1143

Page 1, line 1, after "44-04" Insert "and a new section to chapter 48-01.1"

Page 2, after line 23, insert:

"SECTION 4. A new section to chapter 48-01.1 of the North Dakota Century Code is created and enacted as follows:

Public Improvement - Security system plans - Prequalification of bidders.
If a contract of a governing body for a public improvement involves any security system plan as defined in section 1 of this Act, the governing body may require any person that desires to bid on the contract to file an application with the governing body containing such information as requested by the governing body relating to the qualifications of the bidder to perform the work required in the contract and the measures the bidder will undertake to safeguard any security system plan. The governing body may also require a person desiring to bid on the contract to sign a confidentiality agreement and require the bidder to return any security system plan or information to the governing body upon the request of the governing body."

Renumber accordingly

Dorena Helkamp
Operator's Signature

10/2/03
Date

38106.0201
Title.

12
Prepared by the Legislative Council staff for
Senator Heitkamp
March 4, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1143

Page 2, remove lines 5 through 9

Renumber accordingly

Page No. 1

38106.0201

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Heitkamp
Operator's Signature

10/2/03
Date