

# MICROFILM DIVIDER

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10/2/03  
Date

2003 HOUSE APPROPRIATIONS

HB 1162

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*10/2/03*  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1162

House Appropriations Committee

☐ Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	X		0.0-33.3
Committee Clerk Signature <i>Chris S. Nelson</i>			

Minutes:

**Chairman Svedjan** Called the meeting to order. All representatives were present excluding Rep. Kroeber.

**Karlene Fine, Executive Directory and Secretary of the Industrial Commission of ND**

**Rep. Kempenich** Will this proposed bond issue go over and above the current bond limits authorized by the legislature?

**Fine** Any financing we would do would be in addition to what we have outstanding but we would still have to be within the authorized limit that is set.

**Rep. Delzer** I disagree with that because in your revenue bond you don't put under that limitation. You either need to have a bond that you are doing repayments for or else you need to have a lease with the language that it is dependent on legislative appropriation.

**Fine** The documentation we would still have will always have that language in it.

**Delzer** So you are going from having either a bond or a lease to just having a loan?

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1/21/03  
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House Appropriations Committee  
Bill/Resolution Number HB 1162  
Hearing Date 01-21-03

**Fine** Yes, for those instances that we could do it more efficiently. We can still make it work with the lease structure, but it is cumbersome.

**Rep. Kempenich** Right now we are limited by statute, if we voted for this would it change the limits?

**Fine** This would not change the limits already in place, it would only give us another method in financing.

**Rep. Carlisle** We don't need this bill if we bond for IT budget for ConnectND?

**Fine** We can make it work under the current lease structure, but with this bill it would make it more efficient.

**Rep. Carlisle** What is the origin of the bill?

**Fine** ConnectND prompted us to look at different ways of doing this.

**Rep. Skarphol** Explain the revenue bond and the lease structure more. But with this bill you don't have the implication of exceeding bonding limits because instead of the debt being a lease or a bond, it is a loan. Am I correct?

**Fine** We have to have a lease with ITD for ConnectND.

**Rep. Skarphol** I thought we purchased this software for 4.7 million dollars, how do you lease what you already own?

**Fine** We would be able to construct it by establishing the additional costs that go with the implementation with ConnectND.

**Chair** So the lease is between the authority and ITD. What are you, in fact, leasing?

**Fine** The equipment and services provided to implement that program.

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**Chair** Please distinguish between a revenue bond and the other type subject to the bonding limitation.

**Fine** We have the lease revenue bonds that are appropriated by the legislature. Others rely on the holding of titles of buildings and those give us more flexibility.

**Rep. Delzer** So you want to deal with is the lease between the Commission and ITD, what is ITD doing to get this stuff to lease to you?

**Fine** I'm not sure. What we are looking for is the payment source on those bonds. I think ITD will bill agencies and university systems for their cost.]

**Rep. Delzer** We need to find out what ITD is doing on this, because that is the true question.

**Fine** I don't have all that background information.

**Rep. Monson** I don't see this bill as anything but another form of debt. I don't understand how we can do this without coming up with a limit, at this rate there is no limit whatsoever on the debt we can pile up. Our Constitutional obligation is to not be in debt.

**Fine** We hold to the Constitution, but maybe that needs to be revised.

**Rep. Monson** If we don't authorize the repayment of this loan, then what are the repercussions?

**Fine** If the bondholders are defaulted on they will have other options to claim funds.

**Rep. Carlson** What are we bonding?

**Fine** I am not the best person to cover HB 1022, I would direct that to ITD.

**Rep. Carlson** How broad of a category are we making when we change the languages in this bill?

**Fine** We want to follow your wishes most efficiently. It is your choice, but we need some flexibility.

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Bill/Resolution Number HB 1162  
Hearing Date 01-21-03

**Rep. Carlisle** -to Sheila Peterson- Please refer to HB 1022.

**Sheila Peterson, OMB** The two bills are connected. This bill changes the statute to allow us to do that.

**Rep. Carlisle** There are no assets here.

**Rep. Peterson** Software only becomes a value when you use it, and it will last for 20 years. That creates the value.

**Rep. Skarphol** I can't find a definition in the Century Code for a revenue bond. What is it?

**Fine** It is an term commonly used in the industry.

**Rep. Delzer** Is this the first time the state has proposed bonding for services?

**Fine** The closest we have come in the past is for building repairs.

**Rep. Delzer** Does this go against the Constitution saying we can't spend more than is coming in?

**Fine** We have not asked for an opinion on that.

**Rep. Koppleman** Can we prognosticate that 20 year statement? Isn't technology changing more quickly now?

**Peterson** The new legacy systems are built to be amended easier. They are more user friendly, with report generation for example.

**Rep. Glassheim** Is part of our cost getting guaranteed updates from the software manufacturer?

**Peterson** Referred to Laurie from OMB to answer that, but says that there is a maintenance contract with PeopleSoft.

**Rep. Glassheim** What is the source of repayment that the bonds are sold against?

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**Peterson** Each agency that utilizes the system will be assessed their fair share of the cost to the system. We pay ITD for our fair share of the system.

**Rep. Skarphol** There is an update agreement to PeopleSoft for ERP. The distribution of the repayments is 60% Higher Education, 40% state agencies. Higher Education pays for it with student fees. Agencies will be assessed on each budget. The total annual cost over an 8 year period would be about 1.6 million dollars for Higher Education and 1 million for state agencies.

**Hearing Closed**

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2003 HOUSE STANDING COMMITTEE MINUTES

B'LL/RESOLUTION NO. HB 1162

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-05-03

Tape Number	Side A	Side B	Meter #
2	X		26.1 - 33.5
Committee Clerk Signature <i>Chris S. [Signature]</i>			

Minutes:

**Chairman Svedjan** Opened HB 1162 for discussion.

**Rep. Skarphol** I move a Do Not Pass. 2nd Rep. Delzer.

**Rep. Carlisle** Do we need this bill for 1022 or not?

**Rep. Skarphol** No they do not.

**Rep. Glassheim** What does it mean that we could do what we want now, but it would be easier if this bill passed. What would the effect be of not passing this?

**Karlene Fine, Executive Director for the Industrial Commission.** Easier and more efficient are better words to use. We could use a loan structure that requires more paperwork than a lease structure.

**Rep. Glassheim** Does it save an hour? What is inefficient about a lease structure?

**Karlene Fine** A lease on a building authority is about 50 pages long, a loan structure is shorter and is about 5 pages.

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Date

Page 2

House Appropriations Committee

Bill/Resolution Number HB 1162

Hearing Date 02-05-03

**Rep. Glassheim** Would legislators looking at a 50 page lease have more information about the lease, or is it all superfluous information. What is the content of that 50 page document?

**Karlene Fine** They are similar.

**Motion Carries 15-7-1. Rep. Skarphol will carry this bill.**

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10/2/03  
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**FISCAL NOTE**  
Requested by Legislative Council  
01/03/2003

Bill/Resolution No.: HB 1162

**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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

House Bill 1162 has been introduced to allow the Industrial Commission acting as the North Dakota Building Authority to use the most efficient manner for financing projects approved by the Legislature. Also included in this legislation is a revision to the name of the Authority.

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

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

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

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

Name:	Karlene K. Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	01/07/2003

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Date: 02-05-03  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1162**

House House Appropriations: Subcommittee with Rep. Skarphol, Chairman Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number N/A

Action Taken Do Not Pass

Motion Made By Rep Delzer Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Rep. Kempenich	X				
Rep. Glassheim		X			
Rep. Delzer	X				
Rep. Skarphol	X				

Total (Yes) 3 No 1

Absent 0

Floor Assignment Subcommittee recommends Do Not Pass

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

Subcommittee on HB 1162 recommends a Do Not Pass on HB 1162.

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**REPORT OF STANDING COMMITTEE (410)**  
February 6, 2003 8:23 a.m.

**Module No: HR-23-1779**  
**Carrier: Skarphol**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**  
**HB 1162: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT**  
**PASS (15 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). HB 1162 was placed on**  
**the Eleventh order on the calendar.**

(2) DEBK, (3) COMM

Page No. 1

HR-23-1779

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2003 TESTIMONY

HB 1162

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10/2/03  
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# OFFICE OF MANAGEMENT AND BUDGET

600 East Boulevard Ave, Dept 110 • Bismarck, North Dakota 58505-0400  
FAX - (701) 328-3230

TO: Representative Carlisle

FROM: Pam Sharp

SUBJECT: HB 1162

DATE: January 16, 2003

HB 1162 was submitted at the request of the Industrial Commission to provide more flexibility for the building authority. If this bill is passed, it will enable the bonding for ConnectND to be done easier and more efficiently. However, if HB 1162 is not passed, bonding for ConnectND can still go forward.

In addition, you asked about the proposed revenue bonds for the Parks and Recreation Department. Parks and Rec. has submitted an amendment to remove the bonding for their department.

Director - Fourth Floor - (701) 328-4904

Fiscal Management - Fourth Floor - (701) 328-2680

State Radio - Fraine Barracks - (701) 328-8154

Central Services - Fourteenth Floor - (701) 328-2780

Central Personnel - Fourteenth Floor - (701) 328-3290

Facility Management - Fourth Floor - (701) 328-2471

Risk Management - Wells Fargo Bank Bldg, Suite 613 - (701) 328-6514

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## INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Commissioner of Agriculture

Testimony on House Bill No. 1162  
By Karlene K. Fine  
Executive Director & Secretary  
Industrial Commission of North Dakota  
January 21, 2003 - House Appropriations Committee

Mr. Chairman and members of the House Appropriations Committee, my name is Karlene Fine and I am Executive Director and Secretary for the Industrial Commission. The Industrial Commission by statute is also the North Dakota Building Authority.

Before I discuss what is proposed in HB 1162, I want to briefly comment on what the Building Authority does. The Building Authority was established by the 1985 Legislative Assembly to provide the Legislature with another option as it considers how to pay the costs of projects declared by the Legislature to be in the public interest. Since 1985 the Authority has provided financing for projects totaling over \$115,000,000. (Currently the Authority has \$92,275,000 of bonds outstanding.) They have included projects on all the University System campuses, State Penitentiary, Youth Correctional Center, Developmental Center at Grafton, State Hospital at Jamestown, Job Service North Dakota Service Centers, Veterans Home, etc.

House Bill 1162 was introduced by the Commission for two reasons. The main reason is to give the Building Authority the flexibility to arrange for financing in the most efficient manner for the projects authorized by the Legislature. For instance, if the Legislature should authorize bonding for ConnectND (HB 1022), the current lease structure in NDCC 54-17.2 would not really work well; there are more efficient methods of providing that financing rather than the lease structure. The lease structure was designed for construction and remodeling of buildings, not for other types of financing projects. The lease structure involves the sale or lease of a building (or part of a building) by the affected agency to the Building Authority; the Building Authority then issues its bonds, secured by the building and leases back the building to the affected agency. This is a somewhat complicated process that works satisfactorily for building projects but is cumbersome when applied to financing of energy-saving equipment or computer software and equipment. While we can make the lease structure work, it would be more

Karlene K. Fine, Executive Director and Secretary  
State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840  
E-Mail: [kfine@state.nd.us](mailto:kfine@state.nd.us)  
Phone: (701) 328-3722 FAX: (701) 328-2820  
"Your Gateway to North Dakota": [discovernd.com](http://discovernd.com)

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10/2/03  
Date

Testimony on HB 1162  
Page 2  
January 21, 2003

efficient to have the flexibility to look at simpler and more direct alternatives such as a loan structure in which the Building Authority would loan bond proceeds to the affected agency under a simple loan agreement.

Since we were proposing changes to NDCC 54-17.2 we thought it was also timely to slightly revise the name of the North Dakota Building Authority to be the North Dakota Building and Finance Authority. This title would more accurately reflect what the Authority may do.

The revisions we have proposed in HB 1162 do not change the Legislature's role. The Legislature must still authorize any project that is to be financed. This bill would allow the Commission/Authority the ability to select the most efficient financing method for fulfilling the wishes of the Legislature.

I do have one amendment to House Bill 1162 that is attached to my testimony. On Page 2, line 3, I offer an amendment to change the word "financing" to "undertaking". This suggestion was made by our bond counsel to eliminate confusion when using the word financing.

Thank you for the opportunity to present testimony on House Bill 1162.

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PROPOSED AMENDMENT TO HOUSE BILL NO. 1162

Page 2, line 3, replace "financing" with "undertaking"

Renumber accordingly

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