

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4030

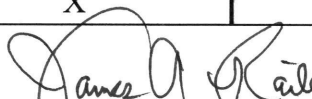
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR4030

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date FEBRUARY 11, 1999

Tape Number	Side A	Side B	Meter #
1	X		1 - 1735
1		X	1735 - end
2	X		0 - 230
Committee Clerk Signature 			

Minutes:

The hearing for SCR4030 was opened by SENATOR KREBSBACH. All Senators were present. SENATOR NELSON of the 22nd District testified in support of SCR4030. Requesting the Legislative Council to take a look at the duties of the Industrial Commission. There is discussion at this session that there be some realignment of other agencies within state government. It appears that there is a conflict of interest having the Attorney General representing the Industrial Commission, of which the Attorney General is a member.

SENATOR THANE Would you have a sense at this time of who you would put on that committee, assuming that you are going to be the chairman of the Legislative Council?

SENATOR NELSON I do not.

SENATOR THANE I would be a little concerned if this committee was slanted accidentally.

SENATOR NELSON We select people to be on committees. We ask the people what committee they would like to be on. If possible people are accommodated as to their wishes, as long as it stays within a reasonable parameter of numbers. If someone is afraid that there may be more of a particular party on the committee, you can assume that this will happen, because there is a 2 to 1 in the makeup of the entire legislature.

SENATOR THANE I hope that this committee will represent all three sides.

SENATOR NELSON This committee has a considerable responsibility when you are looking at changing the structure of state government.

ROBERT HARMS, Counsel to GOVERNOR SCHAFER testified on behalf of the Governor in support of SCR4030. The Industrial Commission responsibilities have grown over the last 80 years. Essentially there are 8 state agencies managed by the State Industrial Commission. The Governor feels that a study of this responsibility, the agencies that are under the purview of the Industrial Commission, the makeup of the Industrial Commission, all are worth an examination by the Legislature over the interim to consider what changes, if any, might be appropriate with all of those issues. The Governor also feels that an examination of the Attorney Generals responsibilities and membership is also worth considering. The Governor would like to have that debate take place so that there is not a partisan flavor to the study. The Attorney General is the lawyer to the state and a member of the board. Over the last 30 years the Attorneys General has made policy decisions on a board and later on are called upon to issue an Attorney Generals opinion. That lawyer is placed in the difficult position of making a legal examination or rendering a legal opinion without a decision of policy decisions that he or she may have been involved in.

SENATOR KREBSBACH I would like a rundown of the statute. What date did the other duties come on board?

ROBERT HARMS I would have to defer to Carleen, I think she has that information.

SENATOR DEMERS Was there a bill like this in the last session that was defeated?

ROBERT HARMS I think that is right. I do not know if it was in the Senate or the House.

SENATOR THANE Has anybody ever approached the idea that maybe a 3 member commission is not adequate because of the expanded duties of the ones that are on there now. That maybe a larger commission would be better.

ROBERT HARMS I do not know if this idea you have expressed has been identified. The Governor has talked about the need for examining the agencies within the commission itself.

SENATOR THANE It is an awesome amount of power in the hands of 3 people.

ROSELLEN SAND is a General Council for the Attorney Generals Office appeared on behalf of the Attorney General and the Agriculture Commissioner in a neutral position. They do not feel there is a need for this since there has not been a problem so far. These people have been elected and people know who to call. I do not feel her function on the board is adverse on the legal and policy positions.

SENATOR THANE Just a comment. From years of experience seeing study committees come and go, sometimes the best thing on an interim study is the fact that they find that things are OK.

SENATOR STENEHJEM There appears to be a conflict of interest.

SENATOR KILZER Are the Land Commission and the Industrial Commission the only commission on which the Attorney General participates?



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Senate Government and Veterans Affairs Committee

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ROSELLEN SAND I know the answer is no. Off the top of my head I do not know which ones for sure. I can get you a list.

The hearing was closed on SCR4030.

Discussion was reopened on SCR4030

SENATOR MUTZENBERGER Whereas which includes Lines 17, 18 and 19 seems to be contentious. I move to remove that Whereas which includes Lines 17, 18 and 19.

SENATOR DEMERS seconded the motion.

SENATOR STENEHJEM I would like to see some version to remain in it. I would prefer to clean it up to say There may appears to be a conflict or something along those lines.

SENATOR THANE I would prefer to have it left in, but I also do not like the way it is worded.

Appears is an implication that there is, and I think there are better ways of wording it.

SENATOR DEMERS suggested an amendment that would delete all three lines.

SENATOR KREBSBACH Senator DeMers and Senator Mutzenberger do have a motion on the floor. Senator DeMers, do you wish to reinstate any of your suggested motion in that portion.?

SENATOR DEMERS I have some sort of agreement if Senator Mutzenberger would agree to it. a replacement motion. Both Senator DeMers and Senator Mutzenberger agreed to a change of language in the amendment.

The motion was made to accept the bill with the amendment. The motion was carried with a vote of 7 Yes, 0 No, 0 Absent.

SENATOR WARDNER moved a Do Pass on SCR4030 as amended. SENATOR STENEHJEM seconded the motion. The motion for a Do Pass with the amendment was carried with a vote of 5 Yes, 2 No, 0 Absent. SENATOR KILZER will carry the bill to the floor.

Date: 3-11-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB R 4030

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments

Motion Made By Mutzenberger Seconded By Demers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	X				
SENATOR WARDNER	X				
SENATOR KILZER	X				
SENATOR STENEHJEM	X				
SENATOR THANE	X				
SENATOR DEMERS	X				
SENATOR MUTZENBERGER	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2-11-99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SCR 4030

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Wardner Seconded By Stenehjem

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	X				
SENATOR WARDNER	X				
SENATOR KILZER	X				
SENATOR STENEHJEM	X				
SENATOR THANE	X				
SENATOR DEMERS		X			
SENATOR MUTZENBERGER		X			

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Kilzer

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

**REPORT OF STANDING COMMITTEE**

**SCR 4030: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4030 was placed  
on the Sixth order on the calendar.

Page 1, line 17, replace "is a" with "serves the dual roles of"

Page 1, line 18, remove "also has the responsibility of acting as" and replace "there appears  
to" with "the responsibilities of these roles may"

Page 1, line 19, remove "be a" and replace "of interest with respect to the responsibility of the  
Attorney General" with "at times"

Renumber accordingly

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SCR 4030

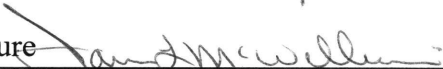
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4030

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-11-1999

Tape Number	Side A	Side B	Meter #
1	X		50.5 - 60.1
1		X	0 -2.7
2		X	6.7 - 13.4
Committee Clerk Signature 			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing March 11, 1999.

Summary of the Resolution: Directing the legislative council to study management responsibilities of the Industrial Commission. The mission and location of each entity within and under the directions of the Industrial Commission, the membership of the Industrial Commission, and the voting structure of the Industrial Commission.

Testimony in Favor:

Senator G. Nelson, Appeared before the committee to introduce the resolution. Asking the interim legislative council to take a look at the makeup and duties of the industrial commission. I am in no way indicating that the industrial commission hasn't been doing a good job. We need to take a look at all areas of state government at some point along the line. Having the attorney

general serving on the industrial commission and also being the legal council for the commission, that could be a conflict of interest. Depending what the question is before the attorney general at that point.

Representative Dorso, I do want to encourage you to leave the senate amendments on. The beginning farmer loan bonds that were sold, the FHA was suppose to guarantee the loans, but they didn't. It became the total responsibility of the state when those loans were not paid off. The BND was left holding the bag on that. The industrial commission never reported that loss of equity in the bank. Attorney General Speath at that time wrote an opinion that said they didn't have to. Later Attorney General Heitkamp came along and we had a new president at the bank and all of a sudden everybody said we have 50 million dollars hanging around here that nobody wants to recognize. The industrial commission had to recognize it and in 95 we recognized it also and it had to be taken out. This affected the state greatly. This shows what can happen when the legal council is also sitting on the commission.

Representative Winrich, Why single out the attorney general, it seems like the other members of the commission have special responsibilities for many of these agencies that are governed by the commission and may also develop conflict of interests at times. Have the clause say study the responsibilities of all members of the industrial commission?

Dorso, No. There is a clear difference between legal council for a commission and the others on it. Only the attorney general renders opinions that have the force of law.

Representative Klein, In that eight year period, the legislature knew nothing about the 50 million dollars?

Dorso, We had no idea.

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House Government and Veterans Affairs Committee  
Bill/Resolution Number SCR 4030  
Hearing Date 3-11-1999

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SCR 4030.

Committee Action:

Representative Devlin, Made a motion for a Do Pass.

Representative Grande, Seconded the motion.

Representative Fairfield, How many times are they going to keep bringing this back.

Representative Kroeber, Regarding the comment on the attorney generals opinion we heard earlier, that was more of a bookkeeping error at the BND than it was an Industrial Commission problem.

Representative Klemin, I think this should be studied. The legislative assembly does change over the years and some of us newly elected legislators bring a different perspective to the assembly.

Representative Thoreson, We have never studied this before, so maybe it should be done so we can find out if indeed it's needed.

Motion Passes: Do Pass 8-7.

Representative Klemin, Is the carrier for the bill.



Date: 3-11-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 4030

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By DEVLIN Seconded By GRANDE

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	✓
VICE-CHAIR KLINISKE		✓			
REP. BREKKE	✓	✓			
REP. CLEARY		✓			
REP. DEVLIN	✓				
REP. FAIRFIELD		✓			
REP. GORDER		✓			
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER		✓			
REP. METCALF		✓			
REP. THORESON	✓				

Total (Yes) 8 No 7

Absent 0

Floor Assignment KLEMIN

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

REPORT OF STANDING COMMITTEE (410)  
March 11, 1999 4:16 p.m.

Module No: HR-44-4617  
Carrier: Klemin  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SCR 4030, as engrossed: **Government and Veterans Affairs Committee (Rep. Klein, Chairman)** recommends **DO PASS** (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4030 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SCR 4030



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

Edward T. Schafer  
Governor

Heidi Heitkamp  
Attorney General

Roger Johnson  
Commissioner of Agriculture

## North Dakota Industrial Commission Responsibilities

Industrial Commission created in 1919 consisting of the Governor, Attorney General and the Commissioner of Agriculture and Labor

1919 - Entities reporting to the Commission were:

North Dakota State Mill and Elevator Association

Bank of North Dakota

Home Building Association (ended in early 1920's)

1953 – Oil and Gas regulatory authority placed with the Industrial Commission utilizing the staff of the State Geologist (located at the University of North Dakota). In 1981 – Legislature authorized a separate division for Oil and Gas regulatory responsibility and located the office in Bismarck.

1975 – Legislature created the Municipal Bond Bank and placed it under the Industrial Commission. The Bond Bank was within the Bank of North Dakota until 1989 when it became a separate agency with its own staff.

1980 – Initiated measure created the Housing Finance Agency placing it under the Industrial Commission.

1985 – Legislature authorized the Industrial Commission to be the North Dakota Building Authority (bonding for the state capital building projects)

1987 – Lignite Research Council created and responsibility for the funding of research was placed under the Industrial Commission.

1989 – Legislature transferred the Geological Survey from the University of North Dakota and placed it under the Industrial Commission.

### Bonding Programs

The Legislature has placed the responsibility for bonding in several areas under the Industrial Commission

- 1971 the **Student Loan Trust** was established to issue bonds to provide a secondary market for student loans. This Trust is still active.
- 1981 the Agricultural Development Act was passed. Bonds were issued in the mid-80's. This program is no longer active.
- 1997 the Industrial Commission was named as the **Farm Finance Agency** and this responsibility was placed within the Bank of North Dakota