

**1999 HOUSE JUDICIARY**

**HB 1043**


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1043

House Judiciary Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature 			

Minutes:

VONETTE RICHTER: (LC) Explains the bill. North Dakota must be in substantial compliance with federal law to partake of federal programs. This bill will do that . Current law does not provide any state assistance in investigating and bringing an action. This law will do that.

MARK BACHMEIR (Interim labor commr) Presented written testimony, a copy of which is attached.

AMY NELSON (ND Fair Hsng Cncl) Presented written testimony, a copy of which is attached.

CLAUS LEMBKE (Realtors) Presented prepared testimony, a copy of which is attached.

TOM TUPA (NDHA) Supports this bill and supports Mr. Lambke's remarks about education and particularly supports education component this bill will create.

DAVID BRADEN (WF Pioneer) We have been though the mill on this. In January of 1996 we received 5 complaints from HUD for ads we ran from March to December. We carried ads that

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House Judiciary Committee

Bill/Resolution Number 1043

Hearing Date January 12, 1999

were discriminatory. We try to keep from these type of ads and we reject 20 to 30 ads a week.

We try to carry what is best for our readers. We never received a complaint until we got the formal complaints. The ad can describe the property but not the renter or buyer sought. The government itself discriminates. An owner can't say "no children" but can say "children welcome".

COMMITTEE ACTION: February 2, 1999

REP. FAIRFIELD moved that the bill be amended to include more restrictive type of discrimination. Rep. Cleary seconded and the motion passed on a unanimous voice vote.

REP. DELMORE moved that the committee recommend that the bill DO PASS AS AMENDED and be re-referred to Appropriations Committee. Rep. Maragos seconded and the motion was passed on a roll call vote with 13 ayes, 1 nay and 1 absent. Rep. Fairfield was assigned to carry the bill on the floor.

# FISCAL NOTE

(Return original and 10 copies)

Resolution No.: HB 1043 Amendment to: Reeng. HB 1043 – Conf. Comm.  
 Requested by Legislative Council Date of Request: 12/10/98 – original request  
1/13/99 – request for amended fiscal note  
4/12/99 – request for amended fiscal note

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** HB 1043 allows a federal contract with Housing & Urban Development (HUD) provided that its provisions are substantially equivalent to the Federal Fair Housing Act. HUD contracts require that 20% of total expenditures be paid with state funds for the administration of state laws.

Note: Estimated fiscal impact reported here does not include the bill's impact on the ND Attorney General's office.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$39,000.00	\$159,000.00	\$44,344.84	\$157,183.89

3. What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: \$0  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: \$198,000.00 (\$159,000.00 – federal, \$39,000.00 – general)  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)  
No portion is included in 1999-2001 executive budget.
- For the 2001-03 biennium: \$201,528.73 (\$157,183.89 – federal, \$44,344.84 – general)

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Signed: Mark D. Bachmeier  
 Typed Name: Mark D. Bachmeier  
 Department: North Dakota Department of Labor  
 Phone Number: (701)328-2660  
 Date Prepared: 4/12/99\*

\*This is a revision to the fiscal note originally completed on 1/11/99 and first revised on 1/14/99.

# FISCAL NOTE

(Return original and 10 copies)

Resolution No.: HB 1043 Amendment to: 12/10/98 – original request  
 Requested by Legislative Council Date of Request: 1/13/99 – request for amended fiscal note

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** HB 1043 allows a federal contract with Housing & Urban Development (HUD) provided that its provisions are substantially equivalent to the Federal Fair Housing Act. HUD contracts require that 20% of total expenditures be paid with state funds for the administration of state laws.

Note: Estimated fiscal impact reported here does not include the bill's impact on the ND Attorney General's office.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$39,895.09	\$159,580.37	\$44,344.84	\$157,183.89

What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: \$0  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: \$199,475.46 (\$159,580.37 – federal, \$39,895.09 – general)  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)  
No portion is included in 1999-2001 executive budget.
- For the 2001-03 biennium: \$201,528.73 (\$157,183.89 – federal, \$44,344.84 – general)

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Signed: Mark D. Bachmeier  
 Typed Name: Mark D. Bachmeier  
 Department: North Dakota Department of Labor  
 Phone Number: (701)328-2660  
 Date Prepared: 1/14/99\*

\*This is a revision to the fiscal note originally completed on 1/11/99.

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: HB 1043 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: December 10, 1998

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

HB 1043 allows a federal contract with Housing & Urban Development (HUD) provided that its provisions are substantially equivalent to the Federal Fair Housing Act. HUD contracts require that 20% of total expenditures be paid with state funds for the enforcement of state laws.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures:	\$0	\$0	\$39,895.09	\$0	\$44,344.84	\$0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \$0
- b. For the 1999-2001 biennium: \$199,475.46 (\$159,580.37-federal, \$39,895.09-gen.)
- c. For the 2001-03 biennium: \$201,528.73 (\$157,183.89-federal, \$44,344.84-gen.)

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

If additional space is needed, attach a supplemental sheet.

Signed Mark D Bachmeier

Typed Name MARK D BACHMEIER

Date Prepared: 1/11/99

Department ND DEPARTMENT OF LABOR

Phone Number (701) 328-2660

Date: 2/2  
Roll Call Vote #: \_\_\_\_\_

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1043**

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number Do Pass as Am.  
Action Taken & re referred to APP

Motion Made By Delmore Seconded By ~~Delmore~~ Maragos

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓	✓	REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD	✓		REP. MARAGOS	✓	
REP. GORDER		✓	REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN					

Total Yes 13 No 1

Absent 1

Floor Assignment Fairfield

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

REPORT OF STANDING COMMITTEE

HB 1043: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1043 was placed on the Sixth order on the calendar.

Page 3, line 15, after the second underscored comma insert "sexual preference,"

Page 3, line 20, after the fourth underscored comma insert "sexual preference,"

Page 7, line 8, after the second "members" insert ", unless membership in the club is restricted because of race, color, or national origin"

Renumber accordingly



**1999 HOUSE APPROPRIATIONS**

**HB 1043**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1043

House Appropriations Committee

Conference Committee

Hearing Date 2/10/99

Tape Number	Side A	Side B	Meter #
1	x		37.0-49.3
1		x	0.0-24.8
Committee Clerk Signature <i>Kevin Kaul</i>			

Minutes:

Chairman Dalrymple opened the hearing on HB 1043 in the Roughrider Room.

(37.7) Rep. Koppelman introduced, explained, and gave a brief history on HB 1043.

(0.3--side B) Mark Bachmeier, Interim Commissioner of Labor, for the state of North Dakota testified in support of HB 1043. ( see attached testimony)

(12.8) Dena Bucher appeared to give testimony on the reception of federal money.

(17.3) Amy Shower-Nelson testified in favor of the bill. (see attached testimony)

The hearing on HB 1043 closed, without the committee taking action.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1043

House Appropriations Committee

Conference Committee

Hearing Date 2/11/99

Tape Number	Side A	Side B	Meter #
2	x		0.0-5.6
Committee Clerk Signature <i>Kevin Zant</i>			

Minutes:

Chairman Dalrymple opened the hearing on HB 1418 in the Roughrider Room and introduced an amendment to the bill. He also explained the amendment.

The amendments to the bill were adopted.

(5.6) Rep. Carlson resisted the bill.

HB 1043 was carried as a DO PASS motion, and the hearing was closed.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1043

Page 1, line 4, after the second semicolon insert "to provide an appropriation;"

Page 3, line 15, remove "sexual preference,"

Page 3, line 16, remove "or public assistance"

Page 3, line 20, remove "sexual preference,"

Page 3, line 21, remove "or public assistance"

Page 3, line 29, remove "or public"

Page 3, line 30, remove "assistance"

Page 4, line 3, remove "or public assistance"

Page 4, line 8, remove "or public assistance"

Page 5, line 28, remove "or public assistance"

Page 6, line 6, remove "or public"

Page 6, line 7, remove "assistance"

Page 7, line 14, remove "or public assistance"

Page 16, line 16, remove "or public assistance"

Page 16, line 25, remove "or public assistance"

Page 16, line 30, remove "or public assistance"

Page 17, after line 3, insert:

**"SECTION 4. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$29,000, or so much of the sum as may be necessary, and federal funds of \$159,000 to the labor commissioner for the purpose of providing services to prevent discrimination in North Dakota, including employment discrimination and unfair housing practices, for the biennium beginning July 1, 1999, and ending June 30, 2001."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 406 - LABOR COMMISSIONER

HOUSE - This amendment adds an appropriation of \$29,000 from the general fund and \$159,000 from federal funds to the Labor Commissioner for the provision of services to prevent employment discrimination and unfair housing practices. It is the intent that \$10,000 of the amount appropriated to the Labor Commissioner in 1999 Senate Bill No. 2007 is also to be considered as matching funds for the \$159,000.

Date: 1  
Roll Call Vote #: 2/11/99

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1043**

House \_\_\_\_\_ Committee \_\_\_\_\_

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 10203

Action Taken D. Pass

Motion Made By Poolman Seconded By Delzer

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple			Nichols		
Vice-Chairman Byerly			Poolman		
Aarsvold			Svedjan		
Bernstein			Timm		
Boehm			Tollefson		
Carlson			Wentz		
Carlisle					
Delzer					
Gulleson					
Hoffner					
Huether					
Kerzman					
Lloyd					
Monson					

Total (Yes) 20 No 0

Absent \_\_\_\_\_

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

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

Date: 2/11/99  
 Roll Call Vote #: 7

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1043**

House \_\_\_\_\_ Committee \_\_\_\_\_

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Poolman Seconded By Byerly

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols	X	
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold	X		Svedjan	X	
Bernstein	X		Timm		X
Boehm	X		Tollefson	X	
Carlson		X	Wentz	X	
Carlisle	X				
Delzer		X			
Gulleson	X				
Hoffner	X				
Huether	X				
Kerzman	X				
Lloyd		X			
Monson	X				

Total (Yes) 16 No 4

Absent 0

Floor Assignment Dalrymple

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

REPORT OF STANDING COMMITTEE

HB 1043, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1043 was placed on the Sixth order on the calendar.

Page 1, line 4, after the second semicolon insert "to provide an appropriation;"

Page 3, line 15, remove "sexual preference,"

Page 3, line 16, remove "or public assistance"

Page 3, line 20, remove "sexual preference,"

Page 3, line 21, remove "or public assistance"

Page 3, line 29, remove "or public"

Page 3, line 30, remove "assistance"

Page 4, line 3, remove "or public assistance"

Page 4, line 8, remove "or public assistance"

Page 5, line 28, remove "or public assistance"

Page 6, line 6, remove "or public"

Page 6, line 7, remove "assistance"

Page 7, line 14, remove "or public assistance"

Page 16, line 16, remove "or public assistance"

Page 16, line 25, remove "or public assistance"

Page 16, line 30, remove "or public assistance"

Page 17, after line 3, insert:

**"SECTION 4. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$29,000, or so much of the sum as may be necessary, and federal funds of \$159,000 to the labor commissioner for the purpose of providing services to prevent discrimination in North Dakota, including employment discrimination and unfair housing practices, for the biennium beginning July 1, 1999, and ending June 30, 2001."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 406 - LABOR COMMISSIONER

HOUSE - This amendment adds an appropriation of \$29,000 from the general fund and \$159,000 from federal funds to the Labor Commissioner for the provision of services to prevent employment discrimination and unfair housing practices. It is the intent that \$10,000 of the



amount appropriated to the Labor Commissioner in 1999 Senate Bill No. 2007 is also to be considered as matching funds for the \$159,000.

**1999 SENATE JUDICIARY**

**HB 1043**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1043

Senate Judiciary Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1	X		0 - END
1		X	0 - 1375
3-16-99 1	x		1900 - 3000
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1043 relates to discriminatory housing practices, actions for discrimination, and to unfair housing; to provide a penalty; to provide an appropriation; and to provide a continuing appropriation.

SENATOR STENEHJEM opened the hearing on HB1043 at 9:00 A.M.

All were present except Senator C. Nelson.

VONNETTE RICHTER, Legislative Council, testified to explain HB1043. We needed to study the level of discrimination in North Dakota and possible remedies to eliminate that discrimination. In order to receive Federal funding, North Dakota had to make some changes to meet federal requirements.

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Senate Judiciary Committee  
Bill/Resolution Number HB1043  
Hearing Date March 2, 1999

MARK BACHMEIR, Department of Labor, testified in support of HB1043. Testimony attached. I hope to have some comments by the end of the week from HUD on the national level. We would like to have some official word from them.

REPRESENTATIVE CLEARY testified in support of HB1043. I have a proposed amendment on this bill. This amendment would take the housing discrimination out of the Labor Department and put this into the Human Rights Commission.

AMY SCHAUER NELSON, North Dakota Housing Council, testified in support of HB1043. Testimony attached.

TOM DISSELHORST testified in support of HB1043. Testimony attached.

SENATOR TRAYNOR asked about the Labor Department handling the employment discrimination, you don't intend to take that away from them.

TOM DISSELHORST stated that SB2413 will do that if it is amended to put that back in. The Human Rights Commission is a dead letter office, if someone puts in a complaint there is no one to handle it and that has to be corrected. Employment and housing discrimination should be with this Commission.

BONNIE POLACEK, North Dakota Council on Abused Women, submitted written testimony in support of HB1043 but we need to take the House amendment off. Testimony attached.

DAVID BRATEN, Director of Publications Dave on Press, Inc., testified in support of HB1043. A complaint had been filed against us in our publications. We didn't know we were publishing discriminatory ads. We want to help educate people in this area. The issue is that people need to have someone locally to handle problems and issues.

MARK BACHMEIR stated that the bill as it stands does not have a specific requirement to provide for notification. It does call for an effort to educate. It also grants authority to make administrative rule with regard to implementation of notification. It is our effort to educate employers.

SENATOR WATNE stated she did not see anything as a particular directive to educate. The prevention word is toward education.

MARK BACHMEIR stated that absolutely, we try to work with people before litigation is done.

SENATOR STENEHJEM asked if maybe a Statement of Legislative Intent should be added to help give some direction on the administrative rules.

LORI BOEHM testified in support of HB1043. I am in disagreement with the amendment proposed by the House. Testimony attached.

TERESA LARSEN, Executive Director of the Protection and Advocacy Project, submitted written testimony in support of HB1043. Testimony attached.

ANN SUMMERS, ACLU, testified in support of HB1043.

GENE SHANNON testified in support of HB1043. I am a property rental business. We have lost the ability to provide a "quiet" place to rent. Bear in mind that fair is a subjective word.

DARYL FELAND testified in support of HB1043. There are all forms of discrimination in North Dakota. I am not necessarily in support of this bill, I want to see a bigger picture. We need to pass a full Human Rights Commission bill.

DOUG BAHR, Attorney General's Office, testified to explain HB1043. If a state agency has authority to prosecute some claims it would have to be done through a special assistant Attorney General because they would be representing the state although the interest would also be

representing the individual. We represent the department although the true benefit is to the person.

SENATOR BERCIER testified in support of HB1043.

VIVIAN SCHAFFER, Children's Caucus, testified they are bothered by the amendment with the public assistance being taken out.

SENATOR STENEHJEM CLOSED the hearing on HB1043.

**MARCH 16, 1999 TAPE 1, SIDE A**

SENATOR STENEHJEM stated that Mark Bachmeir has had an answer from HUD. He may have some proposed amendments. He has given me a sample copy of some amendments regarding the public assistance being added back in.

SENATOR TRAYNOR made a motion on Amendments, SENATOR WATNE seconded.

Discussion. Motion carried. 6 - 0 - 0

SENATOR WATNE made a motion for DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS, SENATOR TRAYNOR seconded. Discussion. Senator Nelson asked if we can still work on this. The purpose of this amendment is so that we can get this into a conference committee. There are further amendments that we need. We need to look at the latest HUD letter. Motion carried. 6 - 0 - 0

SENATOR WATNE will carry the bill.

**Proposed Amendments to HB 1043; Second Engrossment:**

**First, concerning reinserting "status with respect to public assistance" as a class of persons protected by the North Dakota Human Rights Act:**

**Page 3, Line 15:** Add, after the word "marriage", the words "or public assistance"

**Page 3, Line 19:** Add, after the word "marriage", the words "or public assistance"

**Page 3, Line 27:** Add, after the word "marriage", the words "or public assistance"

**Page 3, Line 30:** Add, after the word "marriage", the words "or public assistance"

**Page 4, Line 4:** Add, after the word "marriage", the words "or public assistance"

**Page 5, Line 24:** Add, after the word "marriage", the words "or public assistance"

**Page 6, Line 2:** Add, after the word "marriage", the words "or public assistance"

**Page 7, Line 9:** Add, after the word "marriage", the words "or public assistance"

**Page 16, Line 12:** Add, after the word "marriage", the words "or public assistance"

**Page 16, Line 25:** Add, after the word "marriage", the words "or public assistance"

**Amendments with respect to Human Rights Commission:**

Conform Section 1, the amendment to Section 14-02.4-19 of the N.D.C.C., to the amendment in SB 2413 to this section.

**Page 2, Line 8,** Insert the following definition, as 2., and renumber the definitions accordingly:

2. "Commission" means the human rights commission.

**Page 2, Line 16:** Delete all of line 16 and renumber the definitions accordingly.

Replace, wherever it occurs, the word "department" with the word "commission". --

Page 7, Lines 25, 25, 27, 30,

Page 8, Lines 1, 3, 5, 10, 12, 15, 16, 17, 22

Page 9, Lines 4, 8, 9, 10, 11, 17, 18, 20, 22, 24, 27, 30

**Proposed Amendments**  
**HB 1043**  
**March 2, 1999**

Page 10, Lines 4, 8, 9, 12, 14, 15, 21, 28, 30

Page 11, Lines 2, 3, 5, 6, 11, 15, 19, 21, 22, 25, 27 (twice), 29

Page 12, Lines 7, 9, 12, 18, 20, 23, 26, 29

Page 13, Lines 9, 13, 15, 17, 19, 23, 25, 27

Page 14, Lines 7, 8, 25,

Page 15, Lines 10, 16 (twice), 30

Page 16, Lines 1, 5.



Date: 3-16-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1043

Senate Judiciary \_\_\_\_\_ Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Motion on Amendments

Motion Made By Senator Traynor Seconded By Senator Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Carolynn Nelson	X				

Total (Yes) 6 No 0  
Absent 0  
Floor Assignment \_\_\_\_\_

Date: 3-16-99  
 Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB1043

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Do Pass As Amended + Referred

Motion Made By Senator Watne Seconded By Senator Traynor

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
SenatorCarolyn Nelson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Watne

REPORT OF STANDING COMMITTEE

HB 1043, as reengrossed: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1043 was placed on the Sixth order on the calendar.

Page 3, line 15, after "marriage" insert "or public assistance"

Page 3, line 19, after "marriage" insert "or public assistance"

Page 3, line 27, after "marriage" insert "or public assistance"

Page 3, line 30, after "marriage" insert "or public assistance"

Page 4, line 4, after "marriage" insert "or public assistance"

Page 5, line 24, after "marriage" insert "or public assistance"

Page 6, line 2, after "marriage" insert "or public assistance"

Page 7, line 9, after "marriage" insert "or public assistance"

Page 16, line 12, after "marriage" insert "or public assistance"

Page 16, line 21, after "marriage" insert "or public assistance"

Page 16, line 25, after "marriage" insert "or public assistance"

Renumber accordingly

**1999 SENATE APPROPRIATIONS**

**HB 1043**


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. REENGROSSED HB 1043

Senate Appropriations Committee

Conference Committee

Hearing Date 3/25/99; 3/30/99

Tape Number	Side A	Side B	Meter #
1	140-2330		
3/30/99 1	3360-3630		
Committee Clerk Signature 			

Minutes:

**SENATOR NETHING:** Opened the hearing on reengrossed HB 1043: A BILL for an Act to create and enact chapter 14-02.5 of the North Dakota Century Code, relating to discriminatory housing practices; to amend and reenact section 14-02.4-19 of the North Dakota Century Code, relating to actions for discrimination; to repeal sections 14-02.4-12 and 14-02.4-13, relating to unfair housing; to provide a penalty; to provide an appropriation; and to provide a continuing appropriation.

**MARK BACHMEIER:** Interim Commissioner, Department of Labor, to testify in support of HB 1043, and note House changes to the bill. (testimony attached #1) (tape 235-960)

**SENATOR NETHING:** How did the House arrive at the \$29,000 general fund appropriation?

**BACHMEIER:** They didn't address the cut on the House floor. I think there might have been some assumption that we could absorb a portion of it. This is based partly on speculation on my part. But, one of the amendments they made that deals with the amendment you're looking at, came out of the Judiciary Committee with regard to protection against discrimination based on public assistance. The House Appropriations Committee took that protection out of the current law. I think, again partly speculation, there was some assumption that happens to be a protection that is in our state law that doesn't exist in federal law. It is a state only protection. I think there was some assumption when I said the general fund portion of my projected budget was to enforce state law that if the protection were removed, or part of the state only protections were removed, that a corresponding reduction in that 20% figure be included. That is the only thing I've been able to surmise from talking with a couple of people. Other than that I really don't know where that figure came from. (tape 1, A, 1156)

**SENATOR HOLMBERG:** Based on the history of this federal HUD money, is this a stable source of funding or is it very volatile? In other words, are we concerned that we will approve

**BACHMEIER:** I believe it is pretty stable, and I would look in part to the Office of Intergovernmental Assistance who has worked with HUD programs. In my research, it's been stable in the period of time that I've looked at it. In fact, up to the first three years an agency is administering a new law, the funding comes out of a sort of startup program. After that, it goes into a contract. If this is any indication the funds for a startup agency, they call it a capacity building agency, the funds for that are continuing to increase annually. I'm optimistic the funds would consider to exist.

**SENATOR HOLMBERG:** We're focusing on the fiscal note, but for a historical reference what is the relationship of this bill to that West Fargo Pioneer case? Is this the bill that relates to that?

**BACHMEIER:** Yes, this is the bill that was largely motivated by that case. That case made many people think about what they perceived to be an overly punitive process, often under cases that get investigated by HUD. That's what led to the idea that maybe we need some local control of this kind of investigation so we would have more discretion over trying to be able to resolve complaints with other means.

**SENATOR ANDRIST:** Does anything happen under this bill to this Fair Housing Commission that was a party to that West Fargo case?

**BACHMEIER:** The ND Fair Housing Council is funded under a different program than this agency would be funded under. The activities of that organization being primarily education and outreach would continue as a separate funding program.

**SENATOR ANDRIST:** Do you know the nature of that one? I'm trying to sort out if we need both of them. Could save some money by moving the other into the sunset?

**BACHMEIER:** I can't tell you that there wouldn't be any duplication at all in the activities, but I think very little in what they do. In fact, our projected budget sort of counted on the fact that they would continue to do intakes on complaints, refer complaints to us, continue to do education on fair housing because that is very critical, we think to reducing violations of housing discrimination. My presumption and hope would certainly be that we would work together to do the job effectively.

**SENATOR ANDRIST:** Is the other agency stripped of the power to levy civil penalties?

**BACHMEIER:** That entity has no such power presently.

**SENATOR ANDRIST:** Where did this West Fargo thing come from then, who had the power?

**BACHMEIER:** That was the federal department of Housing and Urban Development (HUD) that actually filed the charge.

**SENATOR ANDRIST:** And, they would still have that power no doubt?

**BACHMEIER:** We would be investigating those complaints filed under federal law within the Department of Labor. HUD would no longer investigate those directly themselves. That was sort of the logic - we would have local enforcement here in the state government for those complaints. It would be under a contract with HUD that we would investigate those complaints. There would be some oversight, but we would certainly have much greater discretion here and control over how an investigation would be managed.

**SENATOR KRAUTER:** On the fiscal note when you talk about 80/20, I want to make sure--the way the bill has been amended with the \$29,000 and you talk 80/20, that doesn't come up to \$159,000 that is still on the federal side - that comes up to about \$116,000. Your understanding is that if the state puts up 20%, HUD puts up the other 80% so we won't be able to maximize or even go after the \$159,000, is that correct? (tape 1, A, 1600)

**BACHMEIER:** That is correct. The maximum federal dollars available to a startup agency is for this federal year is \$100,000; for next federal year \$115,000. So even my budget didn't maximize those entirely, but it was what I thought was realistic, and it maximized them to the extent we used 80% of federal funds to fund what we think is a realistic budget for the agency. If the investment we were willing to make is \$29,000 that would be 20% of the total we would be able to get.

**JACK McDONALD:** ND Newspaper Association, in support of HB 1043. I have a handout that explains some of the background of the West Fargo Pioneer Newspaper case that was mentioned earlier. This bill comes from an interim judiciary committee that looked in the whole matter of discrimination. The problems and the frustrations that surrounded the West Fargo newspaper case are somewhat outlined in the brief article I'm distributing today. (attachment #2) This bill addresses the need for funding this type of legislation and we urge support of the bill. (tape 1, A, 1730-2070)

**AMY SCHAUER NELSON:** Executive Director of the ND Fair Housing Council to testify in support of HB 1043. I have written testimony which I urge you to read and request your support of funding for the bill. I want to clarify we have a different funding source than what the Labor Department has currently. It is 2 different funding grants. In my experience this is a very stable grant every year, and has been increasing every year for the past 4 years. (testimony #3) (tape 1, A, 2100-2210)

**SENATOR ANDRIST:** What is the funding source for the Fair Housing Council?

**SCHAUER NELSON:** We are under a Fair Housing Initiatives Program Grant. The Labor Department will be a client in our Fair Housing Administrative Grant. Our organization receives funds to assist individuals in filing complaints and in doing education and outreach. The Labor Department's funds come from a separate pool and are only for enforcement. Instead of Denver now receiving the complaint, the local agency here in Bismarck would receive those complaints and make determinations of no cause, probable cause, or conciliation. We don't have any of that

now receiving the complaint, the local agency here in Bismarck would receive those complaints and make determinations of no cause, probable cause, or conciliation. We don't have any of that type of enforcement so we apply to different grants which deal with education outreach and assisting individuals in their complaint process.

**SENATOR NETHING:** Assigned HB 1043 to the subcommittee: Senator Holmberg, Chair; Senator Grindberg, and Senator Lindaas and closed the hearing on reengrossed HB 1043. (tape 1, A, 2745)

=====

3/30/99                      tape 1, A, 3360-3630

**SENATOR NETHING:** Reopened the hearing on reengrossed HB 1043

**SENATOR HOLMBERG:** Presented and explained proposed amendments, and moved do pass # 90192.0304 amendments.

**SENATOR GRINDBERG:** Seconded the motion.

**ROLL CALL:** Unanimous voice vote to accept amendments to reengrossed HB 1043

**CARRIER: SENATOR HOLMBERG**

**SENATOR HOLMBERG: Moved do pass reengrossed HB 1043, as amended.**

**SENATOR LINDAAS:** Seconded the motion.

**ROLL CALL:** 13 yeas; 0 nays; 1 absent & not voting.

**MOTION CARRIED:** To do pass reengrossed HB 1043, as amended.

Yeas: Nething, Naaden, Solberg, Lindaas, Tomac, Robinson, Krauter, St. Aubyn, Grindberg, Holmberg, Kringstad, Bowman, Andrist  
Absent & Not voting: Tallackson

**CARRIER:** Back to referral.

**SENATOR NETHING:** Closed the hearing on HB 1043.



Date: 3/30/99  
Roll Call Vote #: \_\_\_\_\_

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. Reengrossed HB 1043

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 90192.0304

Action Taken DO PASS AMENDMENTS

Motion Made By Senator Holmberg Seconded By Senator Grindberg

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) Unanimous Voice Vote No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Senator Holmberg

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

Date: 3/30/99  
Roll Call Vote #: \_\_\_\_\_

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. Reengrossed HB 1043

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 90192.0304

Action Taken DO PASS REENGROSSED HB 1043, AS AMENDED

Motion Made By Senator Holmberg Seconded By Senator Lindaas

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson					
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Senator Holmberg

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

**REPORT OF STANDING COMMITTEE**

**HB 1043, as reengrossed, and amended: Appropriations Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1043, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on page 740 of the Senate Journal, Reengrossed House Bill No. 1043 is further amended as follows:

Page 16, line 31, replace "\$29,000" with "\$39,000"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 406 - LABOR COMMISSIONER

SENATE - This amendment increases the general fund appropriation to the Labor Commissioner by \$10,000, from \$29,000 to \$39,000. The funds are for the provision of services to prevent employment discrimination and unfair housing practices.

**1999 HOUSE APPROPRIATIONS**  
**CONFERENCE COMMITTEE**  
**HB 1043**

## General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date April 7, 1999			
Tape Number	Side A	B Side	Meter #
1	x		0-15.0
Committee Clerk Signature <i>Paulitt Cassias</i>			

Minutes:

### CONFERENCE COMMITTEE ON HOUSE BILL 1043

**0.0 DELZER** opened the conference committee on HB 1043 with Senator Stenehjem, Watne, Nelson, Representative DeKay, Nichols present.

**.6 STENEHJEM:** We worked with Mark Bachmeier from the Labor Department, striving to get an answer from HUD on the questions of our statute if it was in compliance to the federal regulations required in order to access federal money. Mark didn't get a response until cross over time. I told him what we would do is put some kind of amendments on the bill so we could get the bill into conference committee. Although there was an amendment that we put on to include a corrobation on discrimination.

**1.6 DELZER:** We are the ones that took out public assistance. If I remember the testimony right, we wanted to make it as close to exactly minimum standard that the feds wanted. Our understanding at that time public assistance is not in the federal code and we did not want it in there.

**2.1 BACHMEIER:** There are actually 3 protections under state law that do not exist under the federal law. They are public assistance, age and marital status. The existence of those 3 doesn't effect the substantial equivalence of the bill.

**2.7 STENEHJEM:** Are you satisfied or what additional work and things do we need to look at in your opinion to make sure we are equivalent.

**2.9 BACHMEIER:** As I discussed with you on a number of occasions. I did get a response from HUD, they had twenty comments. Some were suggestions for amendments. Then they thought we could deal in rules. So we went through the process of looking at there comments to us and making amendments were needed. These are made on the comment of HUD from the bill draft. Some better definitions, definitions that are more in line with federal regulations.

**5.9 DEKREY:** A lot of that I have been hearing in the house is what brought this whole bill about and we have heard it in our inerum committee is the fact of the private out fit that has been doing this is become a cash deal, to go out and look for violators.

**6.2 STENEHJEM:** I think the same. I think it is bad policy. The grant has sever significant penalties that are possible. The amounts commendable to federal rules.

**6.6 BACHMEIER:** That is a issue raised by a couple of people. Unfortunately, the equivalence regulations stipulate that e the bill has to have similar penalties as the federal law.

**9.7 STENEHJEM:** Note for the record that I'm nerves about some of the large amounts of fines in there. I don't think that we are serving our citizens well, when we rush off to collect those kinds of fines.

**11.3 DELZER:** I see that you put 10,000 dollars more in there, what was the reason.

**11.3 STENEHJEM:** That was the appropriations committee. It had to do with leveraging several moneys because the labor department is a very small operation.

**11.7 BACHMEIER:** If you look at the operating line item for the Department of Labor for the next biennium it is 110,000 dollars. So 10,000 taken out is 10% of our budget.

**12.7 DELZER:** We still have a problem with public assistance. I would still like to take that out.

**12.8 STENEHJEM:** Well, here is my position. I think perhaps we should have a vote on that. I know what the houses decision is on that. In fairness to the senate we need to promote to the hose how we passed it as well.

**13.3 WATNE:** What was the reason for taking out the public assistance.

**13.3 DEKREY:** There is a lot of fear in general in the house. A lot of it has to do with the stiff penalties that are in the bill. There is a fear if we dump everything into the bill, it will cause problems that we will do something to North Dakota citizens.

**14.1 DELZER:** A lot of the feeling from the appropriations committee was that they wanted it as reasonable as possible and the more we put in the more chance there might come out that we want to come out.

**15.0 DELZER:** Adjourned conference committee.

(Bill Number) HB 1043 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Stenehjem y  
Sen. Watne y  
Sen. Nelson y

For the House:

Rep. DeLozier y  
DeKrey y  
Rep. Nichols N

recommends that the (SENATE/HOUSE) (ACCEDE to) ((RECEDE from)  
the (Senate/House) amendments on (SJ/HJ) page(s) 740 & 1024

and place HB on the Seventh order.

, adopt (further) amendments as follows, and place HB 1043 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) HB 1043 was placed on the Seventh order of business on the calendar.

DATE: 4/18/99  
CARRIER: DeLozier  
LC NO. 90192 0306 of amendment  
LC NO. 90192 . 0300 of engrossment  
Emergency clause added or deleted \_\_\_\_\_  
Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1043, as reengrossed:** Your conference committee (Sens. W. Stenehjem, Watne, C. Nelson and Reps. Delzer, DeKrey, Nichols) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 0740-1024 and place HB 1043 on the Seventh order.

That the Senate recede from its amendments as printed on page 1168 and pages 1298 and 1299 of the House Journal and page 740 and page 1024 of the Senate Journal and that Reengrossed House Bill No. 1043 be amended as follows:

Page 1, line 1, after "enact" insert "a new section to chapter 14-02.4 and"

Page 1, line 4, remove the second "and"

Page 1, line 5, after "appropriation" insert "; and to provide an effective date"

Page 1, after line 6, insert:

**"SECTION 1.** A new section to chapter 14-02.4 of the North Dakota Century Code is created and enacted as follows:

**Discriminatory housing practices.**

1. It is a discriminatory practice for an owner of rights to housing or real property or the owner's agent or a person acting under court order, deed or trust, or will to:
  - a. Refuse to transfer an interest in real property or housing accommodation to a person because of the person's status with respect to public assistance;
  - b. Discriminate against a person in the terms, conditions, or privileges of the transfer of an interest in real property or housing accommodation because of the person's status with respect to public assistance; or
  - c. Indicate or publicize that the transfer of an interest in real property or housing accommodation by persons is unwelcome, objectionable, not acceptable, or not solicited because of the person's status with respect to public assistance.
2. It is a discriminatory practice for a person, or agent or employee of the person, who lends or provides other financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of real property to discriminate in lending or financial assistance decisions, or in the extension of services in connection with those decisions, based on the status with respect to public assistance of the person seeking the loan or financial assistance.
3. Any person claiming to be aggrieved by a discriminatory practice in violation of this section may bring an action in district court under the procedure provided in section 14-02.4-19."

Page 2, line 10, replace "14-02.5-19" with "14-02.5-18"

Page 2, line 23, replace "14-02.5-03" with "14-02.5-02"



Page 2, line 24, replace "14-02.5-09" with "14-02.5-08" and replace "14-02.5-46" with "14-02.5-45"

Page 2, line 29, after the first underscored period insert:

""Familial status" means one or more minors being domiciled with a parent or another person having legal custody of the minor or minors; or the designee of the parent or other person having such custody with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any minor.

10."

Page 2, line 30, replace "10" with "11"

Page 3, line 1, replace "14-02.5-22" with "14-02.5-21"

Page 3, line 3, replace "11" with "12"

Page 3, remove lines 5 through 10

Page 3, line 11, replace "14-02.5-03" with "14-02.5-02"

Page 3, line 23, replace "14-02.5-04" with "14-02.5-03"

Page 3, line 28, replace "14-02.5-05" with "14-02.5-04"

Page 4, line 1, replace "14-02.5-06" with "14-02.5-05"

Page 4, line 5, replace "14-02.5-07" with "14-02.5-06"

Page 4, line 13, replace the second "the" with "that"

Page 4, line 15, replace "the other" with "that"

Page 4, line 20, after "premises" insert ", except that, in the case of a rental, the landlord may condition, when it is reasonable to do so, permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted"

Page 5, line 9, replace "ANSI A 117.1" with "ANSI A 117.1 (1986)"

Page 5, line 20, replace "14-02.5-08" with "14-02.5-07"

Page 5, line 27, after the underscored period insert "For the purposes of this section, a person is in the business of selling residential real property if within the preceding twelve months, the person has participated as principal in three or more transactions involving the sale of any dwelling or any interest in a dwelling or has participated as agent, other than in the sale of the person's own personal residence, in providing sales facilities or sales services in two or more transactions involving the sale of any dwelling or any interest in a dwelling."

Page 5, line 28, replace "14-02.5-09" with "14-02.5-08"

Page 6, line 3, replace "14-02.5-10" with "14-02.5-09"

Page 6, line 4, replace "14-02.5-03" with "14-02.5-02" and replace "14-02.5-09" with "14-02.5-08"

Page 6, line 15, replace "14-02.5-04" with "14-02.5-03"

Page 6, line 16, replace "14-02.5-03" with "14-02.5-02" and replace "14-02.5-09" with "14-02.5-08"

Page 6, line 24, replace "14-02.5-11" with "14-02.5-10"

Page 7, line 1, after the second "not" insert "in fact"

Page 7, line 10, replace "14-02.5-12" with "14-02.5-11" and after the third underscored period insert:

"1."

Page 7, line 15, after the underscored period insert "In determining whether housing qualifies as housing for elderly under this section, the department shall adopt rules that require at least the following factors:

- a. The existence of significant facilities and services specifically designed to meet the physical or social needs of older individuals or, if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older individuals;
  - b. That at least eighty percent of the units are occupied by at least one individual fifty-five years of age or older per unit; and
  - c. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for individuals fifty-five years of age or older.
2. Housing may not be considered to be in violation of the requirements for housing for elderly under this section by reason of:
- a. Individuals residing in the housing as of the effective date of this Act who do not meet the age requirements of this section, provided that new occupants of the housing meet the age requirements; or
  - b. Unoccupied units, provided that the units are reserved for occupancy by individuals who meet the age requirements of this section.

Page 7, line 16, replace "14-02.5-13" with "14-02.5-12"

Page 7, line 22, replace "14-02.5-14" with "14-02.5-13"

Page 7, line 25, after the underscored period insert "Within the limits of legislative appropriations the department shall foster prevention of discrimination under this chapter through education for the public, landlords, publishers, realtors, brokers, lenders, and sellers on the rights and responsibilities provided under this chapter and ways to respect those protected rights. The department shall emphasize conciliation to resolve complaints."

Page 7, line 26, replace "14-02.5-15" with "14-02.5-14", replace "14-02.5-19" with "14-02.5-18", and replace "14-02.5-36" with "14-02.5-35"

Page 7, line 29, replace "14-02.5-16" with "14-02.5-15"

Page 8, line 3, replace "14-02.5-17" with "14-02.5-16"

Page 8, line 7, replace "14-02.5-18" with "14-02.5-17"

Page 8, line 8, remove "gifts and", replace "any source" with "the federal government", and remove "Gifts"

Page 8, line 9, replace "and grants" with "Grants"

Page 8, line 12, replace "14-02.5-19" with "14-02.5-18"

Page 8, line 22, replace "twentieth" with "tenth"

Page 8, line 24, replace "14-02.5-23" with "14-02.5-22"

Page 8, line 28, replace "14-02.5-20" with "14-02.5-19"

Page 8, line 30, replace "14-02.5-19" with "14-02.5-18"

Page 9, line 5, replace "14-02.5-21" with "14-02.5-20"

Page 9, line 11, replace "unable" with "impracticable"

Page 9, line 18, replace "14-02.5-22" with "14-02.5-21"

Page 9, line 20, replace "should be accused of a" with "is alleged to be engaged or to have engaged in the"

Page 9, line 21, after "practice" insert "upon which the complaint is based"

Page 9, line 22, replace "14-02.5-19" with "14-02.5-18"

Page 9, line 24, replace "14-02.5-23" with "14-02.5-22"

Page 10, line 10, replace "14-02.5-24" with "14-02.5-23"

Page 10, line 18, replace "14-02.5-32" with "14-02.5-31"

Page 10, line 19, replace "14-02.5-25" with "14-02.5-24"

Page 10, line 25, replace "14-02.5-26" with "14-02.5-25"

Page 11, line 5, replace "14-02.5-28" with "14-02.5-27"

Page 11, line 7, replace "14-02.5-27" with "14-02.5-26"

Page 11, line 8, replace "14-02.5-26" with "14-02.5-25"

Page 11, line 13, replace "Not later than the twentieth day after the date the department issues" with "Upon issuing"

Page 11, line 15, replace "14-02.5-31" with "14-02.5-30"

Page 11, line 18, replace "14-02.5-32" with "14-02.5-31"

Page 11, line 19, replace "14-02.5-28" with "14-02.5-27"

Page 11, line 23, replace "14-02.5-29" with "14-02.5-28"

Page 11, line 27, replace "14-02.5-30" with "14-02.5-29"

Page 12, line 1, replace "14-02.5-31" with "14-02.5-30"

Page 12, line 3, replace "14-02.5-37" with "14-02.5-36"

Page 12, line 5, replace "14-02.5-27" with "14-02.5-26"

Page 12, line 9, replace "14-02.5-32" with "14-02.5-31"

Page 12, line 10, replace "14-02.5-31" with "14-02.5-30"

Page 12, line 15, replace "14-02.5-33" with "14-02.5-32"

Page 12, line 16, replace "14-02.5-32" with "14-02.5-31"

Page 12, line 23, replace "Ten" with "Eleven"

Page 12, line 26, replace "twenty-five" with "twenty-seven"

Page 12, line 29, replace "fifty" with "fifty-five"

Page 13, line 10, replace "state treasury to the credit of the fair housing" with "general"

Page 13, line 12, replace "14-02.5-34" with "14-02.5-33"

Page 13, line 13, replace "14-02.5-33" with "14-02.5-32"

Page 13, line 16, replace "14-02.5-35" with "14-02.5-34"

Page 13, line 22, replace "14-02.5-36" with "14-02.5-35"

Page 13, line 24, replace "14-02.5-34" with "14-02.5-33"

Page 13, line 25, replace "14-02.5-37" with "14-02.5-36"

Page 13, line 26, replace "14-02.5-31" with "14-02.5-30"

Page 14, line 1, replace "14-02.5-40" with "14-02.5-39" and replace "14-02.5-45" with "14-02.5-44"

Page 14, line 5, replace "14-02.5-38" with "14-02.5-37"

Page 14, line 23, replace "14-02.5-39" with "14-02.5-38"

Page 14, line 26, replace "14-02.5-40" with "14-02.5-39"

Page 15, line 6, replace "14-02.5-19" with "14-02.5-18"

Page 15, line 16, replace "14-02.5-41" with "14-02.5-40"

Page 15, line 19, replace "14-02.5-42" with "14-02.5-41"

Page 15, line 21, replace "14-02.5-43" with "14-02.5-42"

Page 15, line 25, replace "14-02.5-43" with "14-02.5-42" and replace "14-02.5-40" with "14-02.5-39"

Page 15, line 26, replace "14-02.5-45" with "14-02.5-44"

Page 15, line 30, replace "14-02.5-44" with "14-02.5-43"

Page 15, line 31, replace "14-02.5-40" with "14-02.5-39" and replace "14-02.5-45" with "14-02.5-44"

Page 16, line 3, replace "14-02.5-38" with "14-02.5-37"

Page 16, line 4, replace "14-02.5-45" with "14-02.5-44"

Page 16, line 5, replace "14-02.5-32" with "14-02.5-31"

Page 16, line 7, replace "14-02.5-46" with "14-02.5-45"

Page 16, line 31, replace "\$29,000" with "\$39,000"

Page 17, after line 4, insert:

**"SECTION 6. EFFECTIVE DATE.** This Act becomes effective on October 1, 1999."

Renumber accordingly

Reengrossed HB 1043 was placed on the Seventh order of business on the calendar.

**1999 TESTIMONY**

**HB 1043**

# State of North Dakota



State Capitol  
600 East Boulevard - 6th Floor  
Bismarck, North Dakota 58505

## North Dakota Department of Labor

### Testimony on HB 1043 Prepared for the House Judiciary Committee

January 12, 1999

Chairman DeKrey and members of the House Judiciary Committee, good morning. For the record, my name is Mark Bachmeier and I am the Interim Commissioner at the Department of Labor.

HB 1043 attempts to accomplish two things. First, it establishes a regulatory authority and administrative process for receiving and investigating charges of housing discrimination under state law. The only redress for such charges under the current statute is through civil action in district court. Secondly, it provides for state enforcement of federal fair housing law, provided that its provisions are "substantially equivalent" to the those in the Federal Fair Housing Act. State and local government agencies enforcing substantially equivalent laws are eligible to investigate charges filed under federal law under cooperative agreement with Housing and Urban Development (HUD).

Given these objectives, there are a number of questions that I believe need to be addressed: Is the bill substantially equivalent to the Fair Housing Act; are its provisions reasonable to implement and enforce; what would be the impact on the Department of Labor; is the Department of Labor the proper agency to enforce the law?

First, I have submitted the bill draft to HUD for a substantial equivalency review but have not yet received the results. Secondly, with regard to enforcement of the bill's provisions, I believe there are some areas that could be cumbersome. For example, Section 14-02.5-32 provides for administrative hearings under Chapter 28-32, which can be time consuming and costly. Section 14-02.5-37 provides that the Attorney General, under certain conditions, will file suit on behalf of an aggrieved person. Is this appropriate or would it be preferable to advise persons of their rights to take civil action on their own behalf? These are not necessarily issues upon which the bill should pass or fail but items that could effect how complicated and cost effective enforcement might be. I have addressed several such issues to HUD in my request for review of the bill since any amendments we propose may effect the substantial equivalency status of the bill. I would ask permission from the committee to report back the results of the substantial equivalency review and to be allowed to introduce amendments at that time.

I assume you have received a fiscal note identifying the estimated impact of the bill on the Department of Labor. Attached to my testimony is a breakdown of the total expenditures identified in the fiscal note.

Finally, is the Department of Labor the appropriate agency to enforce fair housing law? This is, of course, is a decision for the legislative assembly, I just want to let you know what we bring to the table. Fair housing is substantively outside of employment-related laws we currently enforce. The logic for naming the Department of Labor in this bill is, I believe, based on our experience and expertise in investigating charges of discrimination. Our Equal Employment Opportunity Division receives and investigates charges of employment discrimination under both state and federal law utilizing administrative processes that are similar to the proposed guidelines for fair housing.

With that, I will thank you for your time and answer any questions you may have.



# FISCAL NOTE

# COPY

(Return original and 10 copies)

Bill/Resolution No.: HB 1043 Amendment to: \_\_\_\_\_  
 Requested by Legislative Council Date of Request: 12/10/98 – original request  
1/13/99 – request for amended  
fiscal note

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

**Narrative:** HB 1043 allows a federal contract with Housing & Urban Development (HUD) provided that its provisions are substantially equivalent to the Federal Fair Housing Act. HUD contracts require that 20% of total expenditures be paid with state funds for the administration of state laws.

Note: Estimated fiscal impact reported here does not include the bill's impact on the ND Attorney General's office.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$39,895.09	\$159,580.37	\$44,344.84	\$157,183.89

- What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: \$0  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: \$199,475.46 (\$159,580.37 – federal, \$39,895.09 – general)  
(Indicate the portion of this amount included in the 1999-2001 executive budget:)  
No portion is included in 1999-2001 executive budget.
- For the 2001-03 biennium: \$201,528.73 (\$157,183.89 – federal, \$44,344.84 – general)

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Signed: Mark D. Bachmeier  
 Typed Name: Mark D. Bachmeier  
 Department: North Dakota Department of Labor  
 Phone Number: (701)328-2660  
 Date Prepared: 1/14/99\*

\*This is a revision to the fiscal note originally completed on 1/11/99.

**North Dakota Department of Labor  
Fiscal Note Calculations for HB 1043**

Expense Category	1997-99 Biennium	1999-01 Biennium	2001-2003 Biennium
Salaries & Benefits (2 FTE)	\$0.00	\$149,265.90	\$153,743.88
Data Processing	\$0.00	\$3,357.00	\$2,942.71
Telecommunications	\$0.00	\$5,571.15	\$5,738.28
Travel	\$0.00	\$11,142.80	\$11,477.08
Postage	\$0.00	\$2,928.43	\$3,016.28
Rent/Lease Office	\$0.00	\$7,382.00	\$7,603.46
Dues & Professional Development	\$0.00	\$1,714.20	\$1,765.63
Operating Fees & Services	\$0.00	\$857.10	\$882.81
Repairs	\$0.00	\$142.85	\$147.14
Professional Services	\$0.00	\$4,057.10	\$4,178.81
Office Supplies	\$0.00	\$2,571.30	\$2,648.44
Printing	\$0.00	\$1,999.95	\$2,059.95
Professional Supplies & Materials	\$0.00	\$942.84	\$971.13
Equipment < \$750	\$0.00	\$1,542.84	\$353.13
Equipment > \$750	\$0.00	\$6,000.00	\$4,000.00
<b>Total Fiscal Impact</b>	<b>\$0.00</b>	<b>\$199,475.46</b>	<b>\$201,528.73</b>
Federal Funds	\$0.00	\$159,580.37	\$157,183.89
General Funds	\$0.00	\$39,895.09	\$44,344.84

Note:

The estimated expenditures reported here do not include an estimate of the bill's impact on the Office of the Attorney General.

January 12, 1999

# NORTH DAKOTA Fair Housing Council, INC.

3 Airport Road  
Bismarck, ND 58504  
Equal Housing Opportunity

TDD 1-800-927-9275  
ND Relay 1-800-366-6889 (Voice)  
Telephone 701-221-2530  
Toll Free 1-888-265-0907  
Fax 701-221-9597

## Testimony before the House Judiciary Committee by the North Dakota Fair Housing Council January 12, 1999

Good morning. Mr. Chairman, and members of the Committee, my name is Amy Schauer Nelson. I am Executive Director of the North Dakota Fair Housing Council. The Fair Housing Council supports HB 1043 because it will provide an in-state mechanism for enforcement of federal and state fair housing complaints and create a substantially equivalent fair housing law.

The North Dakota Fair Housing Council is a non-profit organization designed to provide support, encouragement, and assistance to those seeking equal access to housing in the State of North Dakota. Our purposes are to provide education and outreach explaining fair housing to both housing providers and users of the services and to investigate complaints of housing discrimination. The federal Fair Housing Law states that it is illegal to discriminate in the sale, rental or lending of housing based upon race, color, religion, gender, national origin, disability and familial status. A victim may file a complaint with the U.S. Department of Housing & Urban Development's (HUD) Denver Office or in court. When filed with HUD, HUD is then required to review and rule on the complaint.

The North Dakota Human Rights Act provides all the federal protections and also protects individuals based upon marital status, source of income and age. However, a victim under the North Dakota Human Rights Act can only file in court. A complaint under a state issue cannot be filed with HUD.

In 1998, the Fair Housing Council registered or received 332 complaints of alleged housing discrimination. Our organization investigates these complaints and if the investigation supports the allegations, we then assist individuals in filing their complaint. In cases in which discrimination falls under the federal act, complainants have one year to file a complaint with HUD and two years to file with district court. In cases in which we do not find support to the allegations, we notify the complainant. The complainant still has the option of filing a complaint with HUD or in court, but the Fair Housing Council will not assist in the process. We received the largest number of complaints in 1998 based upon familial status and disability.

In cases in which discrimination falls only under the state act, complainants currently have six months to file in court. Again, they do not have the option of filing with HUD. Of the 332 complaints received in 1998, 104 were based on state protected

classes (marital status, age and source of income). These are complaints where the only remedy is filing in court and hiring attorneys. As you know, attorneys are expensive. The Fair Housing Council has a limited budget and if we are unable to hire attorneys for a complainant, complainants typically let the discrimination continue to occur because they do not have the funds to hire an attorney on their own. As a result, individuals discriminated against under the North Dakota Human Rights Act have few options and are not being adequately served by the State. Victims believe there is little they can do to end discrimination.

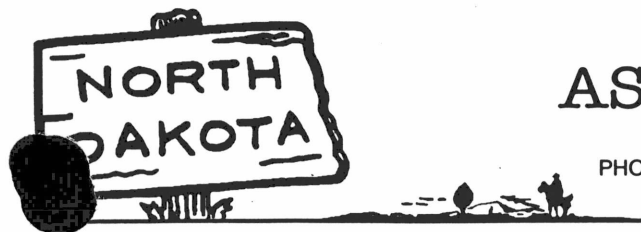
The HUD process is the preferred mechanism for most of our clients because it is a free process and attorneys need not be hired. However, when it comes to ruling on a complaint, HUD's resources are extremely limited in staff and travel budgets. When a complaint is filed with HUD, there is typically a two-three year lapse before there is a "no cause," "conciliation," or "enforcement" agreement, whereas, the court process typically only takes one year for a ruling. We sympathize with HUD's budget and staff cut-backs. We know that it is expensive for HUD to fly staff from Denver to North Dakota to investigate so that HUD can rule on filed complaints. However, it is difficult for our clients to understand this lengthy process when they continue to be a victim of discrimination.

Since 1995, the Fair Housing Council and/or its clients have filed seventy complaints with HUD. Of these complaints, the Fair Housing Council and/or its clients have thirty-three complaints still pending with HUD, some having been filed in 1995.

It is my understanding that if HB 1043 passes as it is currently written, HUD would deem North Dakota to have a substantially equivalent fair housing law. As such, a North Dakota agency or department would then be eligible to receive federal funding to review, rule and enforce complaints of housing discrimination. This agency or department would also have the capability to review, rule and enforce state complaints, thus, providing an option to the court process. Because a ruling agency would be here within the State, complaints should be processed in a quicker manner than the two-three years it currently takes with HUD's Denver Office. It is our hope this process would rival the one year court process within the State. North Dakota would then be more adequately meeting the needs of its citizens. North Dakota would also have the exclusive right to process a complaint from one of its citizens, instead of that citizen having to look outside the State for needed assistance.

When discrimination occurs, it tears at the community fabric, encourages an environment where disputes escalate and encourages racism and bigotry. Discrimination tends to be invisible unless you happen to be among the groups whose freedom is restricted. Providing an agency or department capable of ruling on both federal and state housing discrimination complaints, improves the quality of life for North Dakota citizens. This legislation would be a positive step forward in providing a free and open housing market and further show North Dakota's commitment to equal housing opportunities for its citizens. We are anxious to work with another organization to eliminate the obstacles found at every step of the housing consumer's search for a decent and safe home that they can afford.

Thank you for hearing my testimony and I appreciate your time.



# North Dakota ASSOCIATION of REALTORS®

1120 COLLEGE DR., SUITE 112 • BISMARCK, NORTH DAKOTA 58501  
PHONE: (701) 258-2361 or 1-800-279-2361 • FAX: 701-223-8746 or 701-258-7211  
e-mail: [realtors@btigate.com](mailto:realtors@btigate.com) • Website: <http://nd.living.net>

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ASSISTANT  
Jill Beck

Testimony HB 1043  
H JUD  
January 12, 1999

Mr. Chairman, Members of the House Judiciary Committee, my name is Claus Lembke and I appear on behalf of the North Dakota Association of REALTORS®.

NDAR recognized long ago the need to stamp out discrimination in housing. We have a strong Code of Ethics and a regulatory body (The Real Estate Commission) that would not ever condone any form of discrimination.

In the 31 years that I have been affiliated with NDAR, as a REALTOR® and Executive Director, we have not experienced a single complaint against a member of our REALTOR® organization.

We have all but eliminated any discrimination by educating our members on the issue of fair housing. We feel that discrimination will happen out of ignorance and the answer to ignorance is education.

For over 25 years now our Association has demonstrated an ongoing commitment in education and training efforts. A few examples are:

1. Before you become a member of our organization one must attend a special indoctrination seminar which teaches among other things fair housing
2. We requested a rule from the Real Estate Commission that mandated Fair Housing as a mandatory portion for every real estate licensee in the continuing education program.
3. We vigorously enforce the REALTORS® Code of Ethics, which specifically states that REALTORS® can have nothing to do with any plan or agreement to discriminate with respect to any real estate transaction.
4. All our local Boards and State Association have participated for decades in a voluntary affirmative marketing agreement with the Department of HUD. This program has since changed to a program called Fair Housing Partnerships and we are working to develop this new affirmative approach. This new program commits us to a community partnership that identifies barriers to fair housing and then provide education and fair housing training.

Our success in dealing with fair housing issues has been meaningful education. We are proud of our efforts and remain committed to provide equal professional service regardless of race, color, religion, sex, disability, age, familial status, national origin or status with respect to marriage or public assistance.



# MEMORANDUM

Mark D. Bachmeier  
Interim Commissioner of Labor  
North Dakota Department of Labor  
Phone: 328-2660  
Fax: 328-2031  
Email: bachmeie@pioneer.state.nd.us

[REDACTED]

**To:** Representative Dalrymple, Chair, House Appropriations Committee  
**From:** Mark Bachmeier, Interim Labor Commissioner *MB*  
**Subject:** Employment Discrimination  
**Date:** January 27, 1999  
**CC:**

---

While I didn't feel it appropriate to interject a defense of one of my programs into the testimony before your committee on HB 1469, I fear that you and the members of the committee were left with misconceptions about the procedures and record of the Equal Employment Opportunity Division of the Department of Labor. I would like you to have accurate information.

First, testimony provided might have left you with the idea that the Department of Labor does only limited investigative work on employment discrimination charges and then forwards the cases to the Federal EEOC for full investigation—that we do not provide timely and adequate redress for persons discriminated against in employment. In fact, we do full and complete investigations of equal employment complaints, including gathering evidence, conciliating cases, making determinations, negotiating settlements, and closing cases. The EEOC requires that we send copies of our completed cases to them for review as a condition of our contract. This is the process by which they monitor the activities of agencies receiving federal funds to investigate discrimination charges filed under federal law.

Secondly, you may have been left with the impression that our record of handling equal employment complaints is less than stellar. This would be categorically untrue by any standard. We completed investigations of over eighty cases in each of our last two contract years, completing cases in an average of less than 250 days. During the tenure of our current Equal Employment Director, we have not had a single determination rejected by the EEOC and have had just two instances in which they have suggested additional evidentiary work. We have been notified that our record of accurate determinations over time has made our agency eligible for certification by the EEOC. Status as a certified agency would mean that the EEOC would review only a random sample of our completed cases, rather than all of them.

Finally, reference was made, by someone providing testimony, to HB 1043, which proposes to place enforcement of housing discrimination law with the Department of Labor. The individual suggested that the Department of Labor was not the appropriate place for housing discrimination complaints and that the Department of Labor did not want to enforce such laws. The question of appropriateness is an opinion and an issue for the legislative assembly at this point. In my testimony on HB 1043 before the House Judiciary Committee, I noted that fair housing was

substantively outside of our current range of employment issues but that North Dakota would not be unique if the Department of Labor was responsible for enforcing fair housing law. To the question of whether the Department of Labor wants to enforce fair housing law, my response is that if the responsibility were placed with us by the legislative assembly, we would enforce the provisions of the law to the best of our ability. This response, too, is in the record of my testimony before the House Judiciary Committee.

Thank you for allowing me to clarify these issues and please contact me if you or members of the committee have further questions.

# **NORTH DAKOTA FAIR HOUSING COUNCIL, INC.**

533 Airport Road  
Bismarck, ND 58504  
Equal Housing Opportunity

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Toll Free 1-888-265-0907  
Fax 701-221-9597

## **Testimony before the House Appropriations Committee by the North Dakota Fair Housing Council February 10, 1999**

Good morning. Mr. Chairman, and members of the Committee, my name is Amy Schauer Nelson. I am Executive Director of the North Dakota Fair Housing Council. The Fair Housing Council supports HB 1043 because it will provide an in-state mechanism for enforcement of federal and state fair housing complaints and create a substantially equivalent fair housing law.

The North Dakota Fair Housing Council is a non-profit organization designed to provide support, encouragement, and assistance to those seeking equal access to housing in the State of North Dakota. Our purposes are to provide education and outreach explaining fair housing to both housing providers and users of the services and to investigate complaints of housing discrimination. The federal Fair Housing Law states that it is illegal to discriminate in the sale, rental or lending of housing based upon race, color, religion, gender, national origin, disability and familial status. A victim may file a complaint with the U.S. Department of Housing & Urban Development's (HUD) Denver Office or in court. When filed with HUD, HUD is then required to review and rule on the complaint.

The North Dakota Human Rights Act provides all the federal protections and also protects individuals based upon marital status, source of income and age. However, a victim under the North Dakota Human Rights Act can only file in court. A complaint under a state issue cannot be filed with HUD.

In 1998, the Fair Housing Council registered or received 332 complaints of alleged housing discrimination. Our organization investigates these complaints and if the investigation supports the allegations, we then assist individuals in filing their complaint. In cases in which discrimination falls under the federal act, complainants have one year to file a complaint with HUD and two years to file with district court. In cases in which we do not find support to the allegations, we notify the complainant. The complainant still has the option of filing a complaint with HUD or in court, but the Fair Housing Council will not assist in the process. We received the largest number of complaints in 1998 based upon familial status and disability.

In cases in which discrimination falls only under the state act, complainants currently have six months to file in court. Again, they do not have the option of filing with HUD. Of the 332 complaints received in 1998, 104 were based on state protected



classes (marital status, age and source of income). These are complaints where the only remedy is filing in court and hiring attorneys. As you know, attorneys are expensive. The Fair Housing Council has a limited budget and if we are unable to hire attorneys for a complainant, complainants typically let the discrimination continue to occur because they do not have the funds to hire an attorney on their own. As a result, individuals discriminated against under the North Dakota Human Rights Act have few options and are not being adequately served by the State. Victims believe there is little they can do to end discrimination.

The HUD process is the preferred mechanism for most of our clients because it is a free process and attorneys need not be hired. However, when it comes to ruling on a complaint, HUD's resources are extremely limited in staff and travel budgets. When a complaint is filed with HUD, there is typically a two-three year lapse before there is a "no cause," "conciliation," or "enforcement" agreement, whereas, the court process typically only takes one year for a ruling. We sympathize with HUD's budget and staff cut-backs. We know that it is expensive for HUD to fly staff from Denver to North Dakota to investigate so that HUD can rule on filed complaints. However, it is difficult for our clients to understand this lengthy process when they continue to be a victim of discrimination.

Since 1995, the Fair Housing Council and/or its clients have filed seventy complaints with HUD. Of these complaints, the Fair Housing Council and/or its clients have thirty-three complaints still pending with HUD, some having been filed in 1995.

It is my understanding that if HB 1043 passes as it is currently written, HUD would deem North Dakota to have a substantially equivalent fair housing law. As such, a North Dakota agency or department would then be eligible to receive federal funding to review, rule and enforce complaints of housing discrimination. This agency or department would also have the capability to review, rule and enforce state complaints, thus, providing an option to the court process. Because a ruling agency would be here within the State, complaints should be processed in a quicker manner than the two-three years it currently takes with HUD's Denver Office. It is our hope this process would rival the one year court process within the State. North Dakota would then be more adequately meeting the needs of its citizens. North Dakota would also have the exclusive right to process a complaint from one of its citizens, instead of that citizen having to look outside the State for needed assistance.

When discrimination occurs, it tears at the community fabric, encourages an environment where disputes escalate and encourages racism and bigotry. Discrimination tends to be invisible unless you happen to be among the groups whose freedom is restricted. Providing an agency or department capable of ruling on both federal and state housing discrimination complaints, improves the quality of life for North Dakota citizens. This legislation would be a positive step forward in providing a free and open housing market and further show North Dakota's commitment to equal housing opportunities for its citizens. We are anxious to work with another organization to eliminate the obstacles found at every step of the housing consumer's search for a decent and safe home that they can afford.

I have one correction, I believe that page 6, line 6 needs to have "sexual preference" added. I believe that was missed because this was added to the other areas of interest.

Thank you for hearing my testimony and I appreciate your time.

A091

# State of North Dakota



State Capitol  
600 East Boulevard - 6th Floor  
Bismarck, North Dakota 58505

## North Dakota Department of Labor

### Testimony on HB 1043 Prepared for the Senate Judiciary Committee

March 2, 1999

Chairman Stenehjem and members of the Senate Judiciary Committee, good morning. For the record, my name is Mark Bachmeier and I am the Interim Commissioner at the Department of Labor.

I would like to address three issues related to HB 1043 this morning: Substantial equivalency, the bill's fiscal note, for which I am responsible, and the differences between the current engrossed version and the original version of the bill.

As you are aware, in addition to establishing an administrative process for the resolution of housing discrimination complaints filed under state law, HB 1043 attempts to make our state fair housing law "substantially equivalent" to the Federal Fair Housing Act. The reason for this is that agencies enforcing state or local laws with provisions substantially equivalent to those of the Fair Housing Act are eligible to receive federal funds from the Department of Housing and Urban Development (HUD) to investigate charges of housing discrimination filed under federal law.

The original bill draft has been in the hands of the HUD legal department for substantial equivalency review since December but I still have yet to received the results of that review. I am on the telephone frequently with people at both the regional and national offices of HUD to impress upon them the importance of getting the results very soon and have been assured that comments from the reviewer are forthcoming. I believe that the bill will be deemed substantially equivalent. I addition to that, however, I have posed questions to HUD about several specific provisions and, at the request of a state representative, have asked that they review the bill for any extraneous provisions contained in the bill but not required for equivalency. I need to ask permission from the committee to report back the results of the substantial equivalency review and to be allowed to introduce amendments at that time.

You will note that the current version of HB 1043 contains a general fund appropriation of \$29,000 for the 1999-01 biennium. If you do not already have it, my original fiscal note and a breakdown of the projected fair housing budget are attached to my testimony. The general fund expenditure projected there is \$39,895.09 or twenty percent of the total projected fair housing budget for the biennium. HUD requires that twenty percent of the

enforcing agency's budget for fair housing be funded with state or local dollars for the enforcement of state or local law. The Department of Labor's total projected operating budget for 1999-01 is only \$110,000. It would take ten percent of that to make up the difference between the original projection and the amount appropriated by the House of Representatives.

The other amendment to the original bill passed by the House was to remove the protection from discrimination in housing based on the receipt of public assistance. Currently, the North Dakota Human Rights Act prohibits discrimination on three bases not covered by the Fair Housing Act: Age, marital status, and status with regard to public assistance. The logic given for removing this protection was that it is necessary to make the bill more substantially equivalent to the Fair Housing Act. I believe this is a misconception. The existence of "state-only" protected classes does not effect the substantial equivalency of the bill. The issue may be tied to the reduction in funding, as I sense some belief that removing one or more of the "state-only" protections allows a corresponding reduction in the general fund requirement under the HUD regulation. This too is a misconception. I wanted to call your attention to this because I believe that this long standing protection needs to continue to exist in our law.

With that, I will thank you for your time and answer any questions you may have.

# **NORTH DAKOTA FAIR HOUSING COUNCIL, INC.**

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## **Testimony before the Senate Judiciary Committee by the North Dakota Fair Housing Council March 2, 1999**

Good morning. Mr. Chairman, and members of the Committee, my name is Amy Schauer Nelson. I am Executive Director of the North Dakota Fair Housing Council. The Fair Housing Council supports HB 1043 because it will provide an in-state agency which could conciliate, mediate and enforce complaints of housing discrimination.

The North Dakota Fair Housing Council is a non-profit organization designed to provide support, encouragement, and assistance to those seeking equal access to housing in the State of North Dakota. Our purposes are to provide education and outreach explaining fair housing to both housing providers and users of the services and to investigate complaints of housing discrimination. The federal Fair Housing Law states that it is illegal to discriminate in the sale, rental or lending of housing based upon race, color, religion, gender, national origin, disability and familial status. A victim may file a complaint with the U.S. Department of Housing & Urban Development's (HUD) Denver Office or in court. When filed with HUD, HUD is then required to review and rule on the complaint.

Currently, the North Dakota Human Rights Act provides all the federal protections and also protects individuals based upon marital status, source of income (public assistance) and age. However, a victim under the North Dakota Human Rights Act can only file in court. A complaint under a state issue cannot be filed with HUD.

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In cases in which discrimination falls only under the state act, complainants currently have six months to file in court. Again, they do not have the option of filing with HUD. Of the 332 complaints received in 1998, 104 were based on state protected

classes (marital status, age and source of income or public assistance). These are complaints where the only remedy is filing in court and hiring attorneys. As you know, attorneys are expensive. The Fair Housing Council has a limited budget and if we are unable to hire attorneys for a complainant, complainants typically let the discrimination continue to occur because they do not have the funds to hire an attorney on their own. As a result, individuals discriminated against under the North Dakota Human Rights Act have few options and are not being adequately served by the State. Victims believe there is little they can do to end discrimination.

The HUD process is the preferred mechanism for most of our clients because it is a free process and attorneys need not be hired. However, when it comes to ruling on a complaint, HUD's resources are extremely limited in staff and travel budgets. When a complaint is filed with HUD, there is typically a two-three year lapse before there is a "no cause," "conciliation," or "enforcement" agreement, whereas, the court process typically only takes one year for a ruling. We sympathize with HUD's budget and staff cut-backs. We know that it is expensive for HUD to fly staff from Denver to North Dakota to investigate so that HUD can rule on filed complaints. However, it is difficult for our clients to understand this lengthy process when they continue to be a victim of discrimination. Since 1995, the Fair Housing Council and/or its clients have filed seventy complaints with HUD. Of these complaints, the Fair Housing Council and/or its clients have thirty-three complaints still pending with HUD, some having been filed in 1995.

It is my understanding that if this bill passes as it is currently written, HUD would deem North Dakota to have a substantially equivalent fair housing law. As such, a North Dakota agency or department would then be eligible to receive federal funding to review, conciliate, mediate, and enforce complaints of federal housing discrimination.

This agency or department would then also have the capability to mediate, conciliate and enforce state complaints, thus, providing an option to the court process. North Dakota would then be more adequately meeting the needs of its citizens. North Dakota would also have the exclusive right to process a complaint from one of its citizens, instead of that citizen having to look outside the State for needed assistance.

In my discussions with HUD, it is my understanding that there are capacity building funds available at a rate of \$100,000 per year. To receive these funds, the agency must commit to activities such as: HUD-sponsored training, case processing, education and outreach, implementation of data and information systems and other fair housing activities. For each complaint processed, the agency would receive \$1,700-2,200 in support. Additional funding of up to 20% of a cooperative agreement is available if an agency meets certain guidelines. For a staff of 3-6, the agency is also eligible for up to \$15,000 in HUD training for that staff. Additional funding is available for larger staffs. Funding at varying rates is also available for outreach and data and information training for the staff.

The North Dakota Fair Housing Council does request one amendment to this bill. Since 1983, protection from housing discrimination for individuals on public

assistance has been in the North Dakota Human Rights Act. However, the House Appropriations Committee, for whatever reason, removed this protection. We request the Committee do the right thing and put this protection back into the bill. Otherwise, single mothers with children and the disabled, will be victims of legal discrimination since they are the primary recipients of public assistance.

Discrimination tends to be invisible unless you happen to be among the groups whose freedom is restricted. Providing an agency or department capable of ruling on both federal and state housing discrimination complaints, improves the quality of life for North Dakota citizens. This legislation would be a positive step forward in providing a free and open housing market and further show North Dakota's commitment to equal housing opportunities for its citizens. We are anxious to work with another organization to eliminate the obstacles found at every step of the housing consumer's search for a decent and safe home that they can afford.

Thank you for hearing my testimony and I appreciate your time.

A091.E

BISMARCK  
Abused Adult Resource Center  
222-8370  
BOTTINEAU  
Family Crisis Center  
228-2028  
DEWIS LAKE  
Alternatives for  
Families  
662-7378  
DICKINSON  
Domestic Violence and  
Rape Crisis Center  
225-4506  
ELLENDALE  
Kedish House  
349-4729  
FARGO  
Rape and Abuse Crisis Center  
800-344-7273  
FORT BERTHOLD RESERVATION  
Coalition Against  
Domestic Violence  
627-4171  
FORT YATES  
Tender Heart Against  
Domestic Violence  
854-3402  
GRAFTON  
Tri-County Crisis  
Intervention Center  
352-4242  
GRAND FORKS  
Community Violence  
Intervention Center  
405  
TOWN  
Shelter  
353-7233  
MCLEAN COUNTY  
McLean Family  
Resource Center  
800-657-8643  
MERCER COUNTY  
Women's Action and  
Resource Center  
873-2274  
MINDOT  
Domestic Violence Crisis  
Center  
852-2258  
RANSOM COUNTY  
Abuse Resource Network  
683-5061  
STANLEY  
Domestic Violence Program,  
NW, ND  
623-3233  
VALLEY CITY  
Abused Persons Outreach  
Center  
345-0078  
WADSWORTH  
Rivers Crisis Center  
15  
ON  
Family Crisis Shelter  
572-0757

Testimony HB1043  
Senate Judiciary  
March 2, 1999

Chair Stenehjem and Members of the Committee:

The ND Council on Abused Women's Services offers its support of HB1043.

We also wish to express a serious concern over an amendment passed by the House Appropriations Committee which removes protections from discrimination in housing for people on public assistance.

For the most part, victims of domestic violence are women with children who, when they leave abusive situations, become single heads of households with children. Most need some type of public assistance to establish themselves independently. The legislation as it now stands would allow landlords to discriminate against a group of people our network of service providers work with every day and who are often in life and death situations. We don't understand why this protection is being removed at this point in time, after serving us well since 1983.

We also wish to register our concern for the impact removing protections will have on people with disabilities. It is our understanding that up to 80% of this population receives public assistance, particularly in Section 8 housing.

We urge your consideration for reinstating these protections.

Thank you.





March 2, 1999

Chairman Stenehjem and Members of the Committee:

My name is Lori Boehm and I am a single person with a disability. I live in an apartment by myself in north Bismarck. I have been on housing assistance since April 1, 1992.

I have some thoughts about HB 1043 that deals with Housing Discrimination. I was very disappointed to hear that the House said this bill would not protect people on public assistance. I feel the people who make less money at their jobs and have low income to pay for their rent and other bills should be treated equal and have equal protection.

I need to be on housing assistance because I need help paying my rent. If I was not on housing assistance I would probably be out on the street. When I go to renew my housing assistance each year they would look at my income from work and also check to see if I had doctor bills that I pay out of my own pocket. I work and try very hard to pay my own way. The only help I get is with my rent.

I am a very good renter. I keep my apartment very nice and clean. I do not break or damage anything in the apartment. If I need something fixed I call my landlord so they come over to fix it. I am very quiet and I mind my own business. Someone from Housing Assistance comes and checks my apartment every year to make sure it is okay. I do not think a landlord should worry about renting to me just because I am on housing assistance. The way HB 1043 is written now landlords may be able to refuse to rent to people on public assistance. I do not like this and it isn't fair to those of us who try hard to be good renters.

Please change House Bill 1043 so that people on public assistance would be protected from housing discrimination also.

Thank you for your time.

Testimony of Teresa Larsen, Executive Director  
Protection and Advocacy Project

Good morning, Chairman Stenehjem and members of the committee. My name is Teresa Larsen. I am the executive director of the Protection and Advocacy Project, a state agency that provides protection and advocacy services to individuals with disabilities.

It is gratifying to see the Legislature seriously consider a vehicle for addressing allegations related to discriminatory housing practices. Our agency does, on occasion, receive complaints with respect to this issue. While we sometimes deal with these problems ourselves, more often than not we refer the complainant to others, such as the North Dakota Fair Housing Council.

While agencies such as the Protection and Advocacy Project, the Fair Housing Council, and Legal Assistance may have the ability to investigate such matters, the concern is that there is currently no State entity that has enforcement authority to provide relief if, in fact, discrimination does occur. Complainants are left with options such as using the federal administrative system or court action, methods which are not often timely or consumer-friendly. Providing the Department of Labor with enforcement authority will help resolve matters in a timely and fair fashion for both the complainant and the landlord.

As amended, the bill eliminates individuals on "public assistance" as a protected class. This is a concern. Many of the individuals who receive public assistance are people with disabilities. While the bill specifies that a landlord may not discriminate against an individual because of a disability, it appears that the landlord would not be prohibited from discriminating against

an individual with a disability because he or she is on public assistance.

Housing that is accessible to individuals with physical disabilities, such as those who use wheelchairs, can be difficult to find. If landlords can discriminate against such individuals in need, simply because they receive public assistance, it could have the impact of making accessible housing even more scarce for those who need it.

I ask that you consider providing protection to individuals on “public assistance” as a part of this bill. Thank you for your attention. I will be glad to answer any questions you might have.

THOMAS M. DISSELHORST  
ATTORNEY AT LAW

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TELEFAX: 701-258-0502

**State of North Dakota  
56th Legislative Assembly**

**Testimony of Thomas M. Disselhorst  
Senate Judiciary Committee  
In Support of HB 1043  
March 2, 1999**

Mr. Chairman, members of the Committee: For your information, I am Thomas M. Disselhorst, an attorney. In my practice, I represent United Tribes Technical College and am a staff attorney for the Three Affiliated Tribes. Today I am offering this testimony in support of HB 1043, but with some amendments, as attached.

First, I want to commend the efforts of the Interim Judiciary Committee in developing this legislation. Housing discrimination, as Amy Nelson of the North Dakota Fair Housing Council has told you, still exists in North Dakota. What has been lacking to date is an effective, relatively quick, self-contained remedy for discrimination. By self-contained and relatively quick, I mean a remedy that is available in North Dakota, potentially without cost to the victim, in which the discriminatory act complained can be investigated, a hearing held, if needed, and appropriate sanctions given, all within the state of North Dakota.

In my 23 years of practice, I have been told of, and experienced first hand as a housing "tester", discrimination in housing in Bismarck that I thought only existed in the South. There is no question that a mechanism for handling such complaints needs to be developed, and I believe HB 1043 does that.

As Committee members know, now, in order to obtain any official investigation of a housing discrimination complaint in North Dakota, the case must be referred to the U.S. Department of Housing and Urban Development in Denver, Colorado, which may take several years to complete. That is simply unacceptable, and HB 1043 goes a long way to remedy that situation by creating a system which provides an investigation, alternative dispute resolution mechanism, a hearing if needed, and civil penalties for discriminatory acts.

However, as the Committee also knows, I am in favor of a Human Rights Commission that would have the power to take the actions that have been assigned to the Labor Department. First, the Labor Department is simply not the right place for housing discrimination complaints to be filed. It will discourage some complaints from being filed at all, and it is not at all clear how the housing complaints portion of what they currently do will be staffed. Therefore, we have proposed amendments which would place the enforcement mechanisms of HB 1043 with the Human Rights Commission, which would also receive the appropriation now placed with HB 1043.

**Testimony of Thomas M. Disselhorst**  
**Senate Judiciary Committee**  
**HB 1043**  
**March 2, 1999**

Second, I do not understand why the class of people on "public assistance" are now fair game to be discriminated against. In HB 1043 as initially introduced, persons on "public assistance" may not be discriminated against. It is precisely the persons on public assistance who are often the most vulnerable to housing discrimination. While I realize that such a class is not part of federal law, it is part of the North Dakota Human Rights Act, and since housing discrimination is now to be handled in a different way in North Dakota, those on those on public assistance who are discriminated against in finding housing have no remedy at all unless they are included in this bill, whereas before at least they had the remedy of going to court when they suffered from discrimination. I have proposed an amendment that would restore that class to those protected by HB 1043 and I urge the Committee to restore that class to this bill.

Again, in summary, I support HB 1043, with the amendments as suggested herein, and urge the Committee to consider carefully the amendments suggested and to give a DO PASS to HB 1043.

HB 1043  
3/16/99  
Jack McDonald #2

# What's fair about fair housing

by David Braton, General Manager  
West Fargo Pioneer

Most publishers I know do everything they can to make sure that ads published are in the best interest of their readers. We check out claims, we police questionable offers, and even turn down revenues when ads don't meet our criteria. We do this, not because we are required by law, but because we want to be fair to our readers. Then when an organization with "fair" as their middle name handles an issue the way North Dakota Fair Housing did with us, you begin to wonder!

In January of 1997 Don and Betty Witham, publishers of the weekly West Fargo Pioneer and free distribution shopper Midweek, received a certified letter containing a discrimination complaint from Housing and Urban Development (HUD). The complaint originated from Paula Strom-Sell of the Fargo Office of North Dakota Fair Housing Council. They had monitored the Midweek beginning in March of 1996 and filed the complaint in November of 1996. The alleged discriminatory ads contained phrases such as "ideal for students" or "mature adults" or simply "adults." Use of these descriptive words are deemed by 400 guidelines to indicate advertising discrimination. As a rule of thumb

you can describe the unit not the person. Rather than a rental property stating "ideal for students" that could be interpreted that only students should respond, it is better to state "close to NDSU."

The goals of The North Dakota Fair Housing Council include informing, educating and eliminating potential discrimination as quickly as possible; thus, they have an odd way of going about it. Notifying us in March would have eliminated continuous printing of ads that could be deemed discriminatory. As required, we answered the complaint in a letter to HUD in January of 1997. We outlined the training we provided our staff, and published a more detailed Fair Housing statement in every issue and agreed to provide adver-

tising space in our publications to promote fair housing.

Spring and summer passed, and finally on September 9, 1997, we got a response. The Council, in addition to training and advertising, wanted \$25,000. Immediately we contacted Bill Garcia of HUD. He seemed as surprised as we to the Council's request. He recommended we attempt to conciliate directly with the Council. That's when the musical chairs began.

Paula Strom-Sell was no longer with Fair Housing and the Fargo Fair Housing's office was closed. When we contacted the Bismarck office, we were told the state director Linda Johnson was on administrative leave of absence. A week later we called back and found she, too, was no longer with Fair Housing and someone would call us back. A few days, later Pam Bean called and notified us that she was director of Montana Fair Housing and had been temporarily assigned to North Dakota. In asking her of Montana's practice of working with publishers she stated Montana would file a complaint as a last resort. That would be done after failed attempts to train, educate and monitor any alleged violators. She recommended we provide her with our response that she could present to the ND Fair Housing Board at their next monthly meeting.

On September 24th we called to acknowledge their receipt of our response and found Ms. Bean had been replaced by Sue Fifield, another staff person from Montana. Following the Fair Housing Board meeting, we were informed they would accept \$15,000, along with

staff training, publishing of the fair housing statement, attorney fees, and an eighth page ad in our publication every week for a year that Fair Housing could use to promote. Again, we felt this was unacceptable and contacted ND Fair

and federal offices plus Senator Dorgan's office. All have been supportive, yet none, not even HUD, has jurisdiction over the Fair Housing Council. It seems they have federal funding with no guidelines on "fair" operating procedures. From our investigation we have found newspapers around the country have had similar complaints filed against them including Lee Newspapers (owners of The Bismarck Tribune) in both Montana and North Dakota. Money seems to be their motive rather than education or advocating fair housing. None of the landlords that placed the ads with us has ever been contacted. There has not been follow up to our request for materials or training. And finally, we have yet to find anyone who claims to have been discriminated against.

We have made every effort to work with the ND Fair Housing Council. In our contracts with North Dakota Newspaper Association we find comfort that publishers around the state are supportive and encouraging. In a special meeting with the NDNA Government Affairs committee it was voted to support our fight for "fair" treatment by the North Dakota Fair Housing Council. Denise Bjornson, NDNA Executive Director, and I have met with Jack McDonald, NDNA Legal Counsel, to review our strategy. North Dakota newspapers are fortunate to have a strong organization that supports membership and has the expertise of Jack McDonald available for legal concerns.



Housing Council. We found the entire staff had been replaced and the executive director is now Amy Nelson.

The last communication from The North Dakota Fair Housing Council was a letter from a Montana attorney saying the Council was going to sue us. They filed a civil complaint against us in federal court in Bismarck in November.

In our pursuit to settle this complaint we have contacted state

**"Then when an organization with 'fair' as their middle name handles an issue the way North Dakota Fair Housing did with us, you begin to wonder!"**

On September 24th we called to acknowledge their receipt of our response and found Ms. Bean had been replaced by Sue Fifield, another staff person from Montana. Following the Fair Housing Board meeting, we were informed they would accept \$15,000, along with

staff training, publishing of the fair housing statement, attorney fees, and an eighth page ad in our publication every week for a year that Fair Housing could use to promote. Again, we felt this was unacceptable and contacted ND Fair



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# MEMORANDUM

Mark D. Bachmeier  
Interim Commissioner of Labor  
North Dakota Department of Labor  
Phone: 328-2660  
Fax: 328-2031  
Email: bachmeie@pioneer.state.nd.us

**To:** The Honorable Senator Wayne Stenehjem  
**From:** Mark Bachmeier, Interim Labor Commissioner *Mark B*  
**Subject:** Statement of Legislative Intent for HB 1043  
**Date:** March 3, 1999  
**CC:**

---

Following is possible language for a statement of legislative intent for HB 1043 per your request. It was suggested by Robert Lane, our Assistant Attorney General. He included a possible location for it if you would want to codify such a statement in an amendment.

Please contact me if you have any questions or if I can be of further assistance (328-2660).

**Page 7, line 25, after the period insert:**

**“Within the limits of legislative appropriations the department shall foster prevention of discrimination under this chapter through education for the public, landlords, publishers, realtors, brokers, lenders, and sellers on the rights and responsibilities provided under this chapter and ways to respect those protected rights. The department shall emphasize conciliation to resolve complaints.”**

Attachment



# State of North Dakota

HB 1043 #1  
3/16/99  
Mark Bachmeier



State Capitol  
600 East Boulevard - 6th Floor  
Bismarck, North Dakota 58505

## North Dakota Department of Labor

### Testimony on HB 1043 Prepared for the Senate Appropriations Committee

March 25, 1999

Chairman Nething and members of the Committee, good morning. For the record, I am Mark Bachmeier and I am the Interim Commissioner at the Department of Labor.

First, let me provide just a bit of background on HB 1043 for any of you that may not know the bill's history. HB 1043 is the product of an interim study conducted by the Interim Judiciary Committee. Its intent is to establish a local administrative process to resolve complaints of housing discrimination. Currently, the only recourse under state law for persons who believe they have been discriminated against in the rental or sale of housing is to file suit in state court. Alternatively, an aggrieved person can file a complaint under federal law directly with the Department of Housing and Urban Development (HUD). Complaints filed with HUD regularly take years to be resolved and some people believe that the federal department is overly punitive in its determinations. The hope is that local enforcement would both provide more adequate redress than current state law and give us the discretion to be less punitive in resolving complaints.

Two issues remain partly unresolved with respect to HB 1043, both of which relate to its funding. First, "substantial equivalency" is the key to the federal portion of funding. Agencies enforcing state or local laws with provisions substantially equivalent to those of the Federal Fair Housing Act are eligible to receive federal funds from HUD to investigate charges of housing discrimination filed under federal law.

The substantial equivalency status of this bill is critical and also very tricky. HUD will not issue an official substantial equivalency determination on a bill draft, only on an enacted law. This obviously creates a certain amount of risk of enacting a law that could be ineligible for the federal funds upon which we are counting. HUD will, however, provide an informal legal analysis of a bill draft. I submitted the original version of this bill to the national office in December and very recently received an extensive list of comments back from them. We have been working as quickly as possible to sort through the comments and to communicate with HUD officials about which concerns require amendments, which can be addressed with rules, and which are simply recommendations that may not require any response at all. We are going to need to make a few amendments that add definitions, clarify language in a few sections where they feel it is



currently ambiguous, and reword a couple of provisions to make them more clearly equivalent to the federal law, but none of the changes will substantively change the bill in any significant way. We are very close to having these amendments drafted and are only awaiting responses on two remaining points. I was promised yesterday that I could speak to someone about these items today.

I want to be clear that, while this all seems like a great deal of trouble and I realize that we are running into some impending deadlines, I firmly believe that a modest set of amendments addressing the most critical of the HUD comments will ensure a positive substantial equivalency determination and allow us to secure the necessary federal funding.

The second unresolved issue relates to the bill's fiscal note and the general fund portion of the proposed budget. You will note that the current version of HB 1043 contains a general fund appropriation of \$29,000 for the 1999-01 biennium. If you do not already have it, my original fiscal note and a breakdown of the projected fair housing budget are attached to my testimony. The general fund expenditure projected there is \$39,895.09 or twenty percent of the total projected fair housing budget for the biennium. HUD requires that twenty percent of the enforcing agency's budget for fair housing be funded with state or local dollars for the enforcement of state or local law. The House Appropriations Committee reduced the general fund appropriation by \$10,895.09. I am not certain of the logic for the cut but the Department of Labor budget for 1999-01, as passed by both the Senate and House, contains an operating line item of \$110,000. It would take ten percent of that to absorb the reduction in this bill. In preparing the fiscal note, I projected what I believed to be an honest, realistic budget for a fair housing office and divided the total by an 80-20 split per the HUD regulation.

With that, I will thank you for your time and happily answer any questions you may have.