

1999 SENATE JUDICIARY

SB 2413

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2413

Senate Judiciary Committee

Conference Committee

Hearing Date February 9, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - end
2-10-99 2	x		2355 - 3408
2-15-99		X	1382 - 2413

Committee Clerk Signature

Jackie Follman

Minutes:

SB2413 relates to actions, limitations, and mediation for discriminatory practices; to provide a penalty; and to provide an appropriation.

SENATOR STENEHJEM opened the hearing on SB2413 at 9:00 a.m.

All were present.

SENATOR BERCIER, District 9, testified in support of SB2413. I am introducing this bill to establish a Human Rights Commission in North Dakota. North Dakota is one of the last states who does not have a Human Rights Commission. I have experienced discrimination in my life. It has become less prevalent but it is still there. The Human Rights Commission would give me an opportunity to receive a remedy.

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Senate Judiciary Committee

Bill/Resolution Number SB2413

Hearing Date February 9, 1999

SENATOR TIM MATHERN, District 11, testified in support of SB2413. I feel this legislation is important to establish a Human Rights Commission in North Dakota. We need some mechanism to redress this issue.

SENATOR TRAYNOR asked about the appropriation on this bill.

SENATOR MATHERN stated that he did not know.

LARRY FISHER, Superintendent of Dead Coal Creek, testified in support of SB2413. We need someone to stand up for these people who have been discriminated against.

TOM DISSELHORST, Counsel for the United Tribes Technical College, testified in support of SB2413. Testimony attached.

SENATOR TRAYNOR asked if he knew of any specialist in discrimination cases.

TOM DISSELHORST stated that he did not know.

SENATOR TRAYNOR stated that the revenues are not what was expected and there is a reluctance to establish a commission to be paid out of the general fund.

SENATOR STENEHJEM stated that there is a House Bill that is similar, what is that number.

TOM DISSELHORST stated that it is number 1469, I don't know how to fashion the bill to do this.

DAVID GIPP, President of United Tribes Technical College, submitted written testimony in support of SB2413. Testimony attached.

AMY NELSON, North Dakota Fair Housing Council, testified in support of SB2413. Testimony attached.

SENATOR STENEHJEM asked about the \$100,000 a year that may be available if 1043 passes if it was the same \$100,000 that is anticipated income if 2413 were to pass.

AMY NELSON stated that she was not sure.

SENATOR STENEHJEM stated that we are going to have to find that information on who drafted the appropriation and the amount of income.

SENATOR BERCIER asked about what other agencies may be tapped into that would help fund this.

AMY NELSON stated there are private grants and foundation funds available. They may have been addressed in the appropriations. There also may be EEOC money available.

REBA WALKER, Tribal Business Council of the Three Affiliated Tribes, testified in support of SB2413. Testimony attached.

JEANETTE HICKMAN, Pastor at the First Presbyterian Church, testified in support of SB2413. Testimony attached.

CHRIS RUNGE, NDPEA, testified in support of SB2413. Testimony attached.

SENATOR WATNE asked if she knew about any sensitivity training that centers on discrimination.

CHRIS RUNGE says there may be some programs on this.

DOUG BAHR, Attorney General's Office, testified in support of SB2413. Testimony attached.

CHRIS DODSON, NDCC, testified in support of SB2413. Written testimony will be submitted this afternoon.

KEVIN KICONAS, NDAFSCME, testified in support of SB2413. Testimony attached.

CHUCK STEBBINS testified in support of SB2413. Testimony attached.

DON MORRISON, North Dakota Progressive Coalition Association, testified in support of SB2413. We believe we need to work together and further human rights in North Dakota.

SENATOR WATNE asked what is the purpose of his organization.

DON MORRISON stated that they work on community and common values.

DALE ANDERSON, GNDA, testified in opposition of SB2413. Testimony attached.

SENATOR NELSON asked how many businesses there are in North Dakota.

DALE ANDERSON stated there are 15,000 - 20,000.

SENATOR NELSON asked about his membership being about 950, I would assume that much of the discrimination is coming from the ones that don't get your brochure and there are more that aren't members than are.

DALE ANDERSON stated that the brochures are marketed and that a lot of businesses get exposed to these brochures.

SENATOR BERCIER asked that you profit from these brochures.

DALE ANDERSON stated that they contract with a company to produce these materials and we receive a small reimbursement.

SENATOR BERCIER stated that you are selling Civil Rights.

DALE ANDERSON stated that they are selling education.

SENATOR BERCIER stated that you are answering for 950 out of 20,000 businesses, that is hardly a good voice.

DALE ANDERSON stated that the brochure are marketed to businesses in general and Chambers of Commerce.

SENATOR TRAYNOR asked about the budgets of Human Rights Commissions in other states.

SENATOR STENEHJEM stated that we could get that from the Legislative Council.

SENATOR STENEHJEM asked what position that the GNDA takes on HB1043.

DALE ANDERSON stated that they are in support of HB1043.

WAYNE WENSTROM, Department of Labor, testified to explain some technical points in their department. He explained how a discrimination complaint is taken care of.

SENATOR STENEHJEM asked that the labor department is charged with dealing with all areas of discrimination that are covered under the existing Human Rights Act, but only with respect to employment. You don't have jurisdiction over other discrimination but you contract with the Federal Government and they provide funding for you to do the investigation and help defray expenses.

WAYNE WENSTROM stated that is correct. The funding we will receive for this year is for about 60 - 65 cases, about \$32,500. There is a remedy for employment discrimination.

SENATOR STENEHJEM CLOSED the hearing on SB2413.

February 10, 1999 Tape 2, Side A

SENATOR TRAYNOR discussed the proposed amendments.

SENATOR STENEHJEM stated that we need some serious amending to this bill. We need to take out the general fund money, take the employment and housing out, talk about gift money and talk about permitting gaming money to be donated.

SENATOR BERCIER, SENATOR TRAYNOR AND SENATOR NELSON will come up with some amendments.

February 15, 1999 Tape 1, Side B

SENATOR BERCIER proposed some amendments.

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Senate Judiciary Committee
Bill/Resolution Number SB2413
Hearing Date February 9, 1999

SENATOR TRAYNOR explained the amendments.

Discussion.

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

Motion carried. 6 - 0 - 0

Discussion. Tom Disselhorst has some concerns with the appropriation. He feels there needs to be an effective date. Senator Stenehjem stated that maybe this could be taken care of on House side.

SENATOR TRAYNOR made a motion for DO PASS AS AMENDED, SENATOR BERCIER seconded. Motion carried. 6 - 0 - 0

SENATOR BERCIER will carry the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: SB 2413

Requested by Legislative Council _____ Date of Request: 2-23-99

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

Narrative:

This fiscal note assumes four FTE's will be required: one director, two staff attorneys and one administrative assistant. Salaries and wages are funded at \$450,000, operating expenses are funded at \$275,000 and equipment at \$50,000. Also assumes that approximately one-third of the costs will be funded with general funds and two-thirds will be funded with other funds.

- 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:						
Expenditures:			250,000	525,000	250,000	525,000

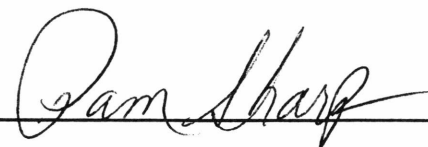
- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: _____
- For the 1999-2001 biennium: _____
- For the 2001-03 biennium: _____

- 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

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Pam Sharp

Date Prepared: 2/26/99

Department OMB

Phone Number 328-4606

PROPOSED AMENDMENTS TO SENATE BILL NO. 2413

Page 1, line 4, after the first semicolon insert "and" and replace "; and to provide an" with a period

Page 1, remove line 5

Page 3, line 30, after "law" insert "which are not authorized to be received and investigated by any other state agency"

Page 4, line 10, replace "or" with "and accept gifts and" and after "grants" insert "from any source"

Page 8, remove lines 17 through 29

Renumber accordingly

Date: 2-15-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2413

Senate Judiciary Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken motion on Amendments

Motion Made By Traynor Seconded By Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenchjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyne Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

Date: 2-15-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB3413

Senate Judiciary Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended.

Motion Made By Traynor Seconded By Bercier

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 Caroloyne Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Bercier

REPORT OF STANDING COMMITTEE

SB 2413: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2413 was placed on the Sixth order on the calendar.

Page 1, line 4, after the first semicolon insert "and" and replace "; and to provide an" with a period

Page 1, remove line 5

Page 3, line 30, after "law" insert "which are not authorized to be received and investigated by any other state agency"

Page 4, line 10, replace "or" with "and accept gifts and" and after "grants" insert "from any source"

Page 8, remove lines 17 through 29

Renumber accordingly

1999 HOUSE APPROPRIATIONS

SB 2413

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2413

House Appropriations Committee

Conference Committee

Hearing Date March 8, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-end
1		x	0-24.7
Committee Clerk Signature <i>Paulitt Gussman</i>			

Minutes:

A Bill for an Act to create and enact a new chapter to title 14 of the North Dakota Century Code, relating to a North Dakota human rights commission; to amend and reenact sections 14-02.4-19 and 14-02.4-21 of the North Dakota Century Code, relating to actions, limitations, and mediation for discriminatory practices; to provide a penalty; and to provide an appropriation.

0.0 Chairman Dalrymple opened committee hearing for SB 2413. All members present.

1.4 Senator Bersy (District 9) introduced Bill SB 2413.

5.8 Senator Bersy states that North Dakota found money for English Literacy Program.

10.9 Rep. Audrey Cleary spoke in support of SB 2413.

12.3 Senator Tim Mathern spoke in support of SB 2413 and had given an example of discrimination he has dealt with.

16.6 Rep. Merle Boucher spoke in support of SB 2413. See attached testimony.

26.4 Tom Disselhorst (Attorney at Law) handed out testimony and an amendment for the committee to consider.

39.6 Candice Priebe (Acting Solicitor General with the Office of Attorney General Heidi Heitkamp) spoke in support of the bill. See attached testimony.

40.0 David Gipp (President of United Tribal Technical College) spoke in support of the bill. See attached testimony.

54.7 Lola Huwe (Citizen) spoke in support of SB 2413.

Tape 1, B, 0.0 Amy Schauer Nelson (Executive Director of ND Fair Housing Council) testified in support of SB 2413. See attached testimony.

2.9 Connie Hildebrand (Legislative Chair of ND Conference of Social Welfare) testified in support of SB 2413. See attached testimony.

5.2 Raylynn Hapip (Executive Director of People First of ND) spoke in support of SB 2413. See attached testimony.

8.6 Ann Summers (Attorney at Law) testified in support of the bill. See attached testimony.

11.2 Kevin Kuntz testified in support of bill SB 2413.

12.1 Austin Ingal (Attorney at Law) testified in support of SB 2413.

15.3 Joy Johnston (Corp. Council for the Greater ND Ass.) testified in opposition. See attached testimony.

Mark Johnson (M.A., ABD) testified in opposition. See attached testimony.

General Discussion

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

Date March 16, 1999			
Tape Number	Side A	B Side	Meter #
1	x		45.2-END
Committee Clerk Signature		<i>Roxanne Kone</i>	

Minutes:

Chairman Dalrymple opened the discussion on Senate Bill 2413.

Rep. Hoffner presented amendment 90822.0203 to committee. Rep. Hoffner moved the amendment. Rep. Delzer 2nd the motion.

1A: 50.6 Rep. Delzer commented the amendment would have to come under any administrative rules if the commission tried to adopt any rules. Commented he would vote no on the bill On a Voice Call Vote the motion carried.

Rep. Hoffner moved a DO PASS AS AMENDED. Rep. Guleson 2nd the motion. On a Roll Call Vote the motion failed.

5 voting Yes
13 voting No
2 voting Absent

Rep. Delzer moved for a DO NOT PASS. Rep. Carlson 2nd the motion. On a Roll Call vote the motion carried.

13 voting Yes

General Discussion
Page 2
House Appropriations
March 16, 1999

5 voting No
2 voting Absent
Carrier: Rep. Delzer

Date: 3.16.99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2413

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 90822.0203

Action Taken DO PASS AS AMENDED

Motion Made By Hoffner Seconded By Gulleson

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) 5 No 13

Absent 2

Floor Assignment _____

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

Date: 3/16/99
 Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2413

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 90822.0203

Action Taken DO NOT PASS AS AMENDED

Motion Made By Delzer Seconded By CARLSON

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) 13 No 5

Absent 2

Floor Assignment Rep. DELZER

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

REPORT OF STANDING COMMITTEE (410)
March 17, 1999 8:47 a.m.

Module No: HR-48-4956
Carrier: Delzer
Insert LC: 90822.0203 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2413, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (13 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2413 was placed on the Sixth order on the calendar.

Page 4, line 5, after "rules" insert "pursuant to chapter 28-32"

Renumber accordingly

1999 TESTIMONY

SB 2413

**Judiciary Committee
North Dakota Senate
56th Legislative Assembly**

**Testimony of Thomas M. Disselhorst
Attorney at Law
on SB 2413
Human Rights Commission
February 9, 1999**

Thank you, Mr. Chairman, for the opportunity to testify on SB 2413 concerning the need to establish a Human Rights Commission in North Dakota. First, for identification purposes, I should note that I am a staff attorney for the Three Affiliated Tribes, as well as counsel for United Tribes Technical College in Bismarck, North Dakota.

Second, I wish to note that I have a set of amendments to the bill, to ensure that the Human Rights Commission seeks all possible funding for its operations from sources other than the state. A copy of the amendment is attached to my testimony.

For more than 23 years, in a variety of settings, I have been an attorney representing Indian citizens of the state of North Dakota. When I first came to North Dakota in 1975, I was a VISTA volunteer attorney at United Tribes. As I looked for an apartment, and was asked where I was employed, more than once I had doors closed in my face, apparently simply because of where I worked. It was a stark introduction to racism in North Dakota, and at that time, I did not know where to turn for a remedy.

As I began assisting Indian citizens in various legal actions, I soon learned that it was highly unlikely for an Indian to ever appear on a jury panel, that the Bismarck Municipal Judge had different bail schedules for Indians and non-Indians, and that the local Clerk of Court had a different, and more difficult, set of requirements for identification cards for Indians than for non-Indians. Through pressure that myself and other attorneys working on behalf of Indian citizens were able to exert on these, and other, racist practices, some of them have now been eliminated.

Yet, I would suggest that Indians are still rarely selected to be on a jury panel and that their representation on jury panels is still proportionately far less than their population would warrant. While this is not an issue that a Human Rights Commission could easily remedy, it is indicative of larger racial problems in our state, problems that are costing this state both economically and socially, problems that undermine dramatically confidence that our state government is treating its citizens fairly.

Powers of a Human Rights Commission

What would a Human Rights Commission as established under SB 2413 do? It would have the power to investigate, mediate and resolve claims of violations of our state's Human Rights Act, contained in Chapter 14-02.4. These powers are listed on pages 3 and 4 of the SB 2413, and include, among other things, the right to issue orders, such as an order to cease and desist a discriminatory practice, to award actual damages and assess civil penalties for discriminatory conduct. The actions of the Human Rights Commission would be reviewable in state District Court as a final agency decision under the state's Administrative Procedures Act, N.D.C.C. chapter 28-32. Except for investigations of housing discrimination, these are powers that are not contained in the kind of agency created in HB 1043, under consideration in the House.

Human Rights Commission as Economic Boon to State

A Human Rights Commission that would provide education about the civil rights of all of our citizens and would enforce our Human Rights Act would begin to alleviate the social problems that racism causes and would eventually be a tremendous economic boon to our state. Why do I say that the Human Rights Commission would be an economic boon?

The North Dakota Legislature is in general understandably concerned about keeping government expenditure of public dollars at a minimum. But racial injustice almost always causes unnecessary economic dislocations. People who otherwise are qualified for work are unable to obtain it and have little remedy or do not seek such employment because they believe they will not get the job advertised. Such individuals often end up on the welfare rolls, costing the state untold millions of dollars. As representatives from the North Dakota Department of Human Services will tell you, Indians now represent approximately 55% of the all persons on welfare in the state of North Dakota. Unemployment rates are often artificially low on the Indian reservations because most unemployed people have not been employed recently enough or long enough to be able to be counted as looking for work.

I am not saying all tribal members on the reservations are victims of discrimination. However, those that are victims become discouraged, and often are afraid to speak out about discrimination because it sounds like an excuse.

Now, with welfare reform, individuals and families only have a limited time to find employment. Just 3 1/2 years from now, the 60 month time limit will begin affecting North Dakotans. Thus it is now critical that persons on welfare know that they will have fair chance to seek employment -- that if they are denied work because of their race, they

will have an adequate remedy right here in North Dakota, not in Denver, Colorado or in the Department of Justice in Washington, D.C. They need to know that if they are successful in finding employment, they will be able to obtain affordable housing, and if a landlord or real estate agent or bank denies them housing because of their race, that they will have a remedy right here in North Dakota, and not in Denver, Colorado or Washington, D.C. They need to know that if they find employment, and housing, they will be able to cash their paychecks without undue difficulty, and that they will be able to shop in the local malls and other shopping areas without feeling unwelcome. They need to know that state agencies will provide them services, such as housing financing, without regard to their race and that if they are denied state services, they will have a remedy that will not require them to hire an attorney to file a state court action that will be heard by an all-white jury.

Welfare services cost the state many millions of dollars. If a Human Rights Commission can help people secure adequate employment, housing and public services that otherwise might be denied to those on welfare, it will pay for itself in each year of its operation as persons on welfare become productive tax-paying citizens. That is why in the end a Human Rights Commission is a very cost effective agency and a boon to our state.

Further, it should be recognized that much of the funding for a Human Rights Commission can be supplied by the Federal government, and by grants from a variety of private funding sources. The appropriation asked for, \$190,000, is very modest investment of state resources that, as indicated above, will be more than paid for by allowing all state citizens to fully enjoy the rights and privileges of citizenship.

Many uses have been suggested for the tobacco settlement funds. I cannot think of a better use than for a Human Rights Commission.

Do statistics show that a Human Rights Commission is needed in North Dakota?

During the past two years, the North Dakota Advisory Committee to the U.S. Commission on Civil Rights held two hearings, in Fargo and Bismarck, concerning the need for a Human Rights Commission in North Dakota. Presenter after presenter provided graphic testimony of problems of discrimination in this state, against Indians, against single mothers, against foreign refugees and immigrants, against other minorities, against poor people, and against women, to name a few of the groups whose members suffered discrimination. It is my understanding that all of the information gathered at those hearings was available to the Interim Judiciary Committee, of which most of you were members.

Before this Committee acts on SB 2413, I would urge its members to carefully study the information provided at those hearings, particularly the testimony and information compiled by the Human Relations Office that was operated for approximately 4 years in Grand Forks, North Dakota. The Grand Forks office gives some indication of the level of discrimination present in just one of the four major cities in North Dakota, and some indication of the number of complaints a Human Rights Commission can be expected to receive when it is known that an office is available to handle and fully resolve such complaints in North Dakota.

What the Grand Forks office teaches us, in addition to the raw statistics about discriminatory acts, is that whenever a local office is established that can begin to offer real solutions to discriminatory practices locally, there will be cases. It is human nature, at times, to discriminate, and only when there is a concrete way to deal with it can its effects be minimized and the discriminatory acts reduced in number.

There is no doubt that someone from the Labor Department may tell you that there are no major employment discrimination problems in North Dakota of which it is aware. But the reason for this conclusion is not hard to find. It is not because there is no discrimination, but because there is very little the Labor Department can do about employment discrimination, and people have learned over the years that such is the case and they simply don't bother filing a complaint with the Labor Department.

The Labor Department provides only an initial investigation of employment discrimination complaints in North Dakota before the file is sent to the Equal Employment Opportunity Commission's regional office in Denver, Colorado. The Equal Employment Opportunity Commission takes usually more than one year, often two or three, to complete its investigation. Anyone with a real complaint will usually have long since gone on to other things; the remedy that can be provided two or three years after a person was denied a job, or a promotion, is generally not very satisfactory.

Further, without a real remedy available after the initial investigation, there is little incentive to go to the Labor Department to report cases of discrimination. But the alternative enforcement mechanism is not any better, and sometimes worse. A person who does not want to go through the Equal Employment Opportunity Commission must go to court, either under Federal or state law. Either way, the person must hire an attorney and hope that there are enough actual damages to keep the attorney interested in the case. The case may end up in front of a jury, and for a minority person, that means that the jury will almost always be all white. I am not saying that an all-white jury cannot make an impartial decision, but it definitely makes it harder to see the problem facing the minority person who has suffered from an act or acts of discrimination.

As the testimony before the North Dakota Advisory Committee to the U.S. Commission on Civil Rights indicated, a real Human Rights Commission will undoubtedly receive far more employment discrimination complaints, many with more substance to them, than the Labor Department generally has received.

(Finally, I want to note that in the House Appropriations Committee, considering an identical bill to SB 2413, the Chairman asked whether the Commission could work if it was authorized but received no state appropriation. Because of the Federal and even private funds available, I believe that is possible.) Initially, without other sources of funds other than Federal funds, such a Commission would not be able to provide a remedy for discriminatory acts covered solely by the existing state Human Rights Act. But it could exist as an independent agency, and handle such cases as it had Federal funds to handle. Possibly it could, using some of the existing Federal funds for employment discrimination, or a very modest state appropriation, seek private funds as seed money for enforcing state claims.

Such a Commission would, I believe, be somewhat different than that envisioned by this bill, and thus I have not drafted any amendments. But I stand ready to assist should the Committee, and the bill's sponsors, want to go that route. I know the deadline is upon us for making such changes, but I would need your help to make sure the Commission was still useful.

This testimony could continue for many more pages, outlining many examples of discriminatory treatment I have observed in recent years or which have been described to me by many persons, clients and otherwise. A Human Rights Commission located in North Dakota cannot solve all of the problems of generations of racial discrimination. But it can began the process of showing people how harmful discrimination really is, and what it costs the state of North Dakota and its citizens. It can help restore faith to many persons who simply do not now have a reasonable remedy when they suffer from harmful acts of discrimination in our state of North Dakota.

I urge a DO PASS recommendation for SB 2413.

HB 1469

Proposed Amendments to SB 2413

On Page 4, Line 8: Replace the word "may" with the words "shall, to the extent possible,"

On Page 4, Line 10: Replace the word "may" with the words "shall, as it may have resources to do so,"

On Page 4, after Line 11, add a new paragraph as follows:

4. The commission may accept donations to help fund the commission's activities.

Testimony for SB 2413

Prepared by Larry Fischer

February 9, 1999

For the record, my name is Larry Fischer. I was Park Manager for Dead Colt Creek in Lisbon, North Dakota. I want to introduce you to a man called David. He first showed up at Dead Colt Creek Park in 1993. At this time the head of our Water Board, the board addressing the park, called the sheriff and had David checked out and found nothing wrong. The sheriff did not do a thing, and David left.

In 1995, David showed up again and asked for work. He said he had lived on one can of pork and beans a day for almost a month. I asked the head of our Water Board if we could hire him since my other worker was on leave to take his brother to Seattle for heart surgery. The Water Board chairman refused to hire David and said, and I quote word for word, "Get rid of him, he is undesirable."

David again came by the park in the spring of 1998 and asked for work. I hired David out of my own pocket for 2 days. David then volunteered to work for free as he was so happy that someone would even hire him or let him work even for free.

About six o'clock in the evening, David was mowing grass when the head of our Water Board came by and proceeded to question David. He asked David who hired him and how he was being paid, all in a very sarcastic tone and wording. He then told David, "Get out, you are not wanted here."

The next morning when I came in to work, David was all packed and ready to leave. David told me what had happened the evening before. He thanked me for hiring him, saying he had enjoyed just being able to work. It gave him a sense of pride. Further conversation led to the fact that David was tired of being treated this way. The medics in Vietnam did not do him a favor by saving his life. He further stated that I probably would not see him again as he was getting older, tired of the fight, and would probably commit suicide. You see, David has only one arm and about 20 percent use of one leg, but the other leg is okay. He cannot walk very good but is still clean cut, has clean clothes, and is clean shaven; but still, our Water Board chairman was prejudiced beyond belief, and treated him with total contempt.

Our previous Park Manager witnessed the first event, I witnessed the second time, and David told me about the third time he was treated badly. Through it all, there is not anything anyone can do except David, the person it happened to. David cannot afford an attorney and just accepts the abuse. This, to me, is a travesty.

Larry Fischer



Greater North Dakota Association

STATEMENT BY DALE O. ANDERSON, PRESIDENT, GREATER NORTH DAKOTA ASSOCIATION, REGARDING SB 2413; NORTH DAKOTA SENATE JUDICIARY COMMITTEE; FEBRUARY 9, 1999.

Chairman Stenehjem and members of the Senate Judiciary Committee. I am Dale O. Anderson, President, Greater North Dakota Association. Thank you for this opportunity to provide testimony in opposition to SB 2413. This bill calls for the establishment of a North Dakota Human Rights Commission.

The Greater North Dakota Association is the voice for business and principal advocate for positive change for North Dakota. GNDA was organized in 1925 as a statewide, general business organization. The organization's membership of 950 is an economic and geographic cross section of North Dakota's private sector, including statewide associations and local chambers of commerce, development organizations and convention and visitors organizations

I present the following points as a base for GNDA's opposition to the formation of a North Dakota Human Rights Commission:

- 1. GNDA believes the North Dakota Legislature has established appropriate measures to address discrimination which include:**
 - A state policy to prohibit discrimination;**
 - A law defining discrimination;**
 - A law defining consequences of discrimination;**
 - A process through which issues of employment can be investigated through the ND Department of Labor;**
 - A process through which issues of housing can be investigated through the ND Fair Housing Council; and**
 - The court system provides a process for resolving discriminatory practices.**

- 2. GNDA does not support or condone actions that discriminate. GNDA believes it is very important to provide members with educational opportunities to help them unravel today's complex discrimination laws and issues. One educational program is entitled: "Employment Discrimination – An Employer's Guide." (A flyer describing the 1998 guide is included with this testimony.)**
- 3. SB 2413 creates the new human rights commission as an independent commission within the executive branch of state government. We believe the commission would essentially perform duties available through the district court system and the Department of Labor.**
- 4. SB 2413 carries a price tag of \$560,000 from all funds for the 1999-2001 biennium. However, on Section 4, line 28, the proponents of the bill believe the program will generate \$370,000 in income. It is important to note that the sponsors are silent as to how the income will be generated. One option for generating income is to levy a fine for each civil penalty that is assessed. It would take just over 3 complaints per month fined at the maximum penalty of \$5,000 each to generate \$370,000 in income over the 24-month period.**
- 5. SB 2413 requests \$190,000 from the general fund for the 1999-2001 biennium. GNDA believes there are many higher priorities for general fund spending.**

In summary, SB 2413 creates a new special independent commission within state government that duplicates the services of the Department of Labor, several housing authorities and the judicial system. The special commission acts as investigator, attorney, judge and enforcer of what they think is discrimination.

Chairman Stenehjem and members of the Senate Judiciary Committee, GNDA recommends a do not pass for SB 2413. I am available for your questions.

SB 2413

Mr. Chairman and members of the Judiciary committee. For the record my name is Chuck Stebbins and I am here in support of SB 2413.

In 1990 the Americans with Disabilities Act (ADA) was passed into law giving, at the time, 49 million people with disabilities their civil rights. Today the number of people with disabilities has risen to over 53 million, and is still climbing. More and more people will be covered under the ADA. Disability is a part of, and will continue to be a part of, the whole life experience.

The ADA is a civil rights law! Drafted with the intent to prohibit discrimination against people with disabilities in areas of employment, access to public and private business, and access to housing. Discrimination against people with disabilities is being addressed and deliberated on even as we speak. Law suits and the subsequent litigation is clarifying the law. But it takes some time.

ADA complaints can be filed with the various Federal agencies given the responsibility to enforce all the Titles of the ADA: employment, public services, public accommodation operated by private entities, and telecommunications. For example an employment complaint filed with the Equal Employment Opportunities commission could take as long as three years to even get a notice that you have a valid case. Creation of a Human Rights Commission would give people with disabilities a local resource to address discriminatory practices on a much more timely basis.

People with disabilities have come a long way since the passage of the ADA. But we still have a long way to go. Although accessibility to buildings and services has improved, it is still not where it needs to be if we are to truly even the playing field. Especially in the area of employment where there is still an over 70% unemployment rate in the disability community.

Creating a Human Rights Commission improves access for people with disabilities to right the wrongs without the discouragement of a lengthy wait, and it allows the opportunity of resolution on the State and local levels.

Thank you.



NORTH DAKOTA
AFSCME

THE UNION FOR PUBLIC EMPLOYEES

Post Office Box 2423, Bismarck, North Dakota 58502

Telephone: (701) 223-5979

February 9, 1999

Chairman: Sen. W. Stenehjem & Judiciary Committee Members:

My name is Kevin Kiconas. I am with ND AFSCME (American Federation State County Municipal Employees), the public employees union. We are proud to be here this morning in support of SB 2413 the ND Human Rights Commission.

Why is this bill necessary? From the perspective of public employees, two reasons the first being that there is no protection now. When public employees have a grievance, they don't have a place to go where they can get an independent decision where they feel their voice can be heard. Fear is the second reason. Supervisors can be intimidating. They can harass and scare employees. Every day we ask our public employees to do some of the most dangerous jobs we have. They are given very little support. Passage of SB 2413 would say that we want to treat them like first class citizens!

There is a much larger reason to pass this bill. If we look back at our states history, what is it that we see? The pioneers who came to this state came to be free from oppression. They came because they did not want to have rights determined by a King or Queen. They came because they did not want to live in a system where they were judged by who their father was. They came because they did not want to be judged by how much land their family had. They came because they wanted **FREEDOM**. It was not the land out here that drew them. It was **FREEDOM**. When they came from western Europe, they left thier friends and families. They came out as homesteaders and settlers, as farmers and workers and as business people and church leaders and teachers. Blacks came too and they were successful at everything they did.

Over the years, statehood came. When there were questions about who rights were granted to and who should be protected, our legislators stood up for the rights of its citizens. They protected small family farms. They set up the state mill and the bank. In the 1980's. They passed one of the most progressive human rights legislation in the nation, but they did not complete the job because they left the enforcement mechanisms out. That is why we are here today. The mediation procedures in this bill are designed to get the two parties to sit down and compromise a little to work together.

The intent of SB 2413 is to bring all of us together and that is why it is important to pass it. Over the years we have been divided. Business vs. labor, corporate farmers vs. family farmers, employee vs. management, tenants vs. land lords, senior citizens vs. nursing homes, native Americans vs. whites and public employees vs. their employers.

Passage of SB 2413 will put an end to this wage, social and political competition. This will complete the job of giving all of our citizens the rights they deserve. When Abraham Lincoln freed the slaves, he was asked why he did it, and he said, "If I am ever remembered in history, it will be for this single act. Overtime I came to the realization that if one of us is a slave, we are all slaves and if one of us are free, we are all free."

Today you have the opportunity to free us all. We are one of the last states in the nation to pass a Human Rights Commission, but passage would show that if we go into the new millennium that you would free all of us, that you would give all of us dignity and respect and that would be a powerful way to start the 21st century.

Thank you for your time and I would be glad to answer any questions.



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director and
General Counsel

To: Senate Judiciary Committee
From: Christopher T. Dodson, Executive Director
Subject: Senate Bill 2413 (Human Rights Commission)
Date: February 9, 1999

The North Dakota Catholic Conference supports Senate Bill 2413.

Every person is made in the image of God. As such, each person possesses an inherent dignity that cannot be taken away and does not depend upon what the person does or who they are. Respect for this dignity demands that basic human rights be respected by all. Indeed, the primary purpose of government is to protect and respect human dignity by insisting that the human rights of all be protected, especially the rights of the most vulnerable and less power among us. If government fails in this regard, it fails to meet its most important moral obligation.

This, presumably, is the premise behind the North Dakota Human Rights Act. However, as testified to on many occasions, the mere passage of the Human Rights Act is not enough to ensure that human rights are actually protected. The state's obligation does not rest solely or even primarily on enforcing laws against discrimination. Government has the duty to assist in the creation of a positive, proactive, environment where discrimination does not occur. This is why we need a human rights commission. This is why virtually every state has a human rights commission.

This is not the first attempt at creating a human rights commission and we can anticipate some of the opposing arguments. We may hear that it is too costly, could hurt economic growth, and could increase civil rights litigation. We must, however, remember that the economy exists to serve persons -- all persons. People do not exist to serve the economy. Any economic system that accepts the denial of human rights for the sake of the economy is morally flawed. There is no moral justification for accepting discrimination, no matter how much occurs, because of fear of lawsuits or the alleged effects on the economy.

Thank you for your consideration. We urge a **Do Pass** recommendation.

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TESTIMONY BEFORE SENATE JUDICIARY COMMITTEE
IN SUPPORT OF SENATE BILL NO. 2413

Douglas A. Bahr
Acting Solicitor General
Office of Attorney General

February 9, 1999

My name is Doug Bahr. I am the Acting Solicitor General with the Office of Attorney General. I am appearing today on behalf of Attorney General Heidi Heitkamp in support of Senate Bill No. 2413.

State and federal law contain provisions to address violations of state and federal discrimination laws. However, the mechanisms currently available to remedy those violations do not provide effective relief for many North Dakotans who are victims of unlawful discrimination.

In particular, there is no governmental body with authority to enforce the North Dakota Human Rights Act, N.D.C.C. ch. 14-02.4. The Labor Commissioner may encourage parties to resolve a dispute under that Act informally, but he has no formal enforcement authority.

The Office of Attorney General receives many calls and visits from citizens who believe the Office of Attorney General is "their" lawyer and who have nowhere else to turn. Because we have no authority to enforce discrimination laws, we do not keep statistics on the number of these contacts that involve discrimination complaints. However, I can tell you this is not an infrequent occurrence.

Because there is no state governmental agency with any authority to enforce the antidiscrimination laws, in many instances we have to advise these citizens that the only real option open to them is to bring a lawsuit. That is a lengthy, costly process, and often not a viable option for an individual subject to discrimination.

For these reasons, the Attorney General supports the creation of some governmental mechanism – other than a lawsuit – through which a North Dakota citizen who is the victim of discrimination can have that discrimination redressed. Because this bill would provide that mechanism, the Office of Attorney General supports passage of SB 2413.

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NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATION



AMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO

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NDPEA TESTIMONY IN SUPPORT OF SB 2413

**Before the Senate Judiciary Committee
North Dakota Public Employees Association, AFT Local 4660 AFL-CIO**

February 9, 1999

Chairman Stenehjelm, members of the Senate Judiciary Committee, my name is Chris Runge and I represent the North Dakota Public Employees Association, AFT Local 4660. NDPEA supports SB 2413, the establishment of a Human Rights Commission.

It has long been the policy of this state to prohibit discrimination and to deter those who aid, abet or induce discrimination or coerce others to discriminate. But where does a person go to have their grievances redressed? Well, not to the North Dakota Human Rights Commission because it doesn't exist. It doesn't exist for what reason, I simply don't know. It can't be that we don't care about our citizens and their right to be free from discrimination. Because we have a human rights law, have had it for many years now. It can't be a matter of money. Discrimination and the eradication of discrimination transcend money and budget considerations. It can't be because it is a partisan issue. Discrimination knows no political party. Discrimination has no boundaries.

The establishment of a Human Rights Commission is necessary. It is the right thing to do. We must provide our citizens with a place to go to have their grievances redressed. Not every one has access to the courts. And now with continued attacks on legal services funding which previously had gone to

Quality Services from Quality People

Testimony

combat discrimination, more than ever this commission is needed. The only solution a person has right now is to sue. Not every case of discrimination is screaming for a lawsuit. This bill will allow for other avenues of solution. It is the right thing to do.

It is a sad fact that discrimination exists but it does and it exists in North Dakota. This state must take a strong stand and assist its citizens when it occurs. This bill will do that. It is the right thing to do. NDPEA strongly supports SB 2413 and urges a **DO PASS**.

Thank you and I am available to answer any questions you may have.

Feb. 8, 1999, Senate Hearing on Human Rights Bill

My name is Jeannette Hickman, I am the Associate Pastor at the First Presbyterian Church here Bismarck. Our church is located downtown near the Post Office. About a month ago our adult ed. committee invited you to come to TownHall meeting on Human Rights.

I wish you could have been there. Seventy five of us heard about the experiences of the homeless, and those turned away when they could afford housing. They were turned away because of their wheel chairs, seeing eye dogs or because of their color. We heard from those injured at work, those singled out by law enforcement. We hear about disrespectful and threatening treatment of Gays and Lesbians and Native Americans.

The speakers were provided by an interfaith group of Methodists, Episcopalians, Unitarians, Presbyterians, United Church of Christ and Catholics. It made up almost entirely of lay persons. We are working together to dismantle racism and discrimination of all kinds. A new panel will tell their personal stories this Thursday, 8 P.M. at St Mary Grade School. It is located at 7th and Thayer, behind St Mary's Catholic Church.

Please come and hear for yourself. Most of those who have jobs, can not leave them to be here, or may not have transportation to come. We all need to learn first hand what life is like for some who live in North Dakota. I was warmly welcomed when I move here 19 months ago. Yet some who were born here are treated as outsiders.

Because they are shut out of housing, jobs, many of have lost hope and are not able to take care of their families, even in the most basic ways. This includes battered wives, single moms, the disabled, and mentally ill.

I am here this morning because this is a matter of faith for me. Christ Jesus came to help all people understand and accept God's great love for them. His whole life was one of reaching out and healing those who were ill, rejected, and mistreated.

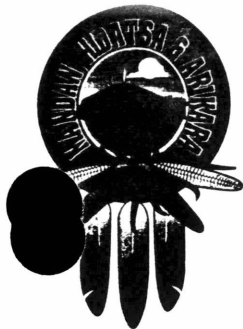
I know the people of North Dakota, to generally be a people of love and care for one another. It is only fear of differences, misunderstandings, and sometimes greed which keeps us from treating **all** people as if they are persons of great value.

On Thursday evening you each will have an opportunity to learn about the realities of life for a great number "hidden" North Dakotans who are in desperate circumstances because someone has refused to rent to them, hire them, or respectfully serve their social service needs.

Today, you each have an opportunity live faithfully and really make a difference for dear people who are trying to do the best they can as individuals and for their families.

Please honor the God and all the people you serve. Live out your faith by passing a bill which will make sure all are motivated to do what is right for all North Dakotans.

152 aperson - 50 little for justice



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

HC3 Box 2 • New Town, North Dakota 58763-9402

February 8, 1999

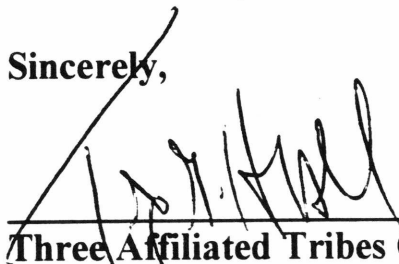
TRIBAL BUSINESS COUNCIL
701-627-4781
Fax 701-627-3805

TO: Whom it may concern

RE: Creation of ND Human Rights Commission

Reba Walker, a member of the Mandan tribe, is authorized to testify on behalf of the Three Affiliated Tribes at the Human Rights Commission hearings.

Sincerely,



**Three Affiliated Tribes Chairman
Tex G. Hall**

Statement for the Three Affiliated Tribes in support of SB 2413 by
Reba Walker

My name is Reba Walker, I'm representing the Tribal Business Council of the Three Affiliated Tribes. The Three Affiliated Tribes support passage of SB 2413. Although over 50% of the tribes enrolled members reside off the reservation the tribe's jurisdiction is within the reservation boundaries and focus their efforts to improving the conditions on the reservation where unemployment, the need for adequate housing are among the serious problems. Tribal members do express their concerns about the problems encountered when they leave the reservation including the need for fair housing, equitable treatment in employment opportunities as well as the prevailing problems with the treatment experienced from the focus of the Highway Patrol on Indian drivers. There is a clear need for an agency within the state government where tribal members can have their complaints heard.

One of the tribal council members, during a brief meeting yesterday, indicated that he had had a difficult time when he sought work off the reservation. The Chairman, Tex Hall, found it difficult to understand why the state of North Dakota has been reluctant in the past to provide a mechanism to enable its most vulnerable citizens a place to redress wrongs and that North Dakota is the only state in the Union without a Human Rights Commission.

Tribal members leave the reservation to go to college & to find employment. The Tribe created a scholarship program with some of one of the Garrison Dam settlements to assist those who wanted to attend college. One of the first problems these students encounter is difficulty in finding suitable off campus housing. Being considered for employment is also often a problem.

The Highway Patrol seems to focus its efforts on stopping Indian drivers. Indian survival skills include the following:

- men with long hair will cover their hair with their collars or hats to escape detection by the Highway Patrol
 - remove mirror ornaments which are clearly Indian
 - Not use their names on license plates when the name is unmistakably Indian
 - But it is impossible to disguise an older car
- Although these survival skills are often used the Highway Patrol is highly skilled in identifying & stopping Indians

Indians continue to receive unfair treatment from the Highway Patrol, those renting apartments and houses as well as the reluctance of some employers to hire Indians. It is therefore not surprising that there is such a high incidence of stress related condition such as hypertension among Indians – daily survival is stressful.

Indian people need a place in the state government where they can receive a fair hearing of their complaints. The Tribal Business Council of the Three Affiliated Tribes urges passage of SB 2413.
Thank you

NORTH DAKOTA Fair Housing Council, INC.

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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 Senate Judiciary Committee by
the North Dakota Fair Housing Council
February 9, 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 SB 2413 because it will provide a Human Rights Commission 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.

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.

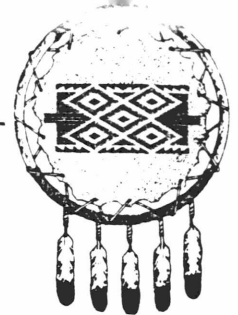
The HUD process is the preferred mechanism for most of our clients because it is a free process and attorneys need not be hired. However, when it comes to ruling on a complaint, HUD's resources are extremely limited in staff and travel budgets. When a complaint is filed with HUD, there is typically a 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 another bill, 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, conciliate, mediate, and enforce complaints of federal housing discrimination. Should a Human Rights Commission be created and HB 1043 passes, the Commission would be eligible for these funds. At this time, the House Judiciary Committee has referred HB 1043 as "do pass" to the House Appropriations Committee.

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.

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.



**Appropriations Committee
North Dakota Senate
56th Legislative Assembly**

**Testimony of David Gipp
President, United Tribes Technical College
on SB 2413
Human Rights Commission
February 9, 1999**

Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today on the need for a Human Rights Commission in North Dakota. For your information, I am President of United Tribes Technical College, a post-secondary vocational technical school which serves primarily Indian persons from throughout Indian country.

This is an issue about which I personally feel very strongly, and which is also supported by the Board of Directors of United Tribes Technical College. The Board of Directors is composed of the Chairman and a representative from each of the five tribes which have a presence in North Dakota, the Standing Rock Sioux Tribe, the Turtle Mountain Band of Chippewa, the Spirit Lake Nation, the Three Affiliated Tribes and the Sisseton-Wahpeton Sioux Tribe. On Saturday, January 23, 1999 our Board of Directors, with representatives of all five tribes, including three Tribal Chairmen and a Vice-Chairman present, unanimously passed a resolution supporting the creation of a Human Rights Commission to enforce both state and Federal civil rights laws in North Dakota.

To give you an idea of why a Human Rights Commission is so important to us, let me give you a brief description of United Tribes Technical College "United Tribes". United Tribes was founded in 1969 by the North Dakota Indian tribes as the United Tribes of North Dakota Development Corporation. Soon, United Tribes was operating a vocational training center on the grounds of Fort Lincoln, an army base constructed in the early years of this century to replace the old Fort Lincoln across the river. The old buildings of the fort became our classrooms, dormitories and administrative buildings which have now become United Tribes Technical College, serving more than 300 Indian students per year from more than 45 tribes and providing vocational training and two year degrees in a broad variety of disciplines.

Our students are mostly housed on our campus, in dormitories, apartments and single family dwellings. We have a number of facilities and services for our students on campus, including child care, a cafeteria, gymnasium, library, a chemical health center, counselors, both academic and personal, a financial aids office, an arts and

cultural center and a bookstore. United Tribes also seeks to provide placement services for our students as they graduate and seek employment.

Nevertheless, our students are often off campus seeking many services in the local city of Bismarck. It is in this vein that I want to discuss issues that make plain the need for a Human Rights Commission in North Dakota.

Bismarck has long been a very typical near reservation community, viewed by most Indian persons who have lived there as discriminatory, or racist. Just a little more than twenty years ago the Bismarck's Patterson Hotel, now an apartment complex for senior citizens with a popular bar and restaurant on the ground floor, had a notice under the glass that said "We do not rent to Indians." Students couldn't cash our checks at local establishments, and we still have problems with that. Our employees sometimes had difficult times finding housing, a problem that continues. Our local city judge had different bail schedules for Indians and non-Indians, with the Indian persons more likely to spend the night in jail rather than being released on their own recognizance. The gift shop at the airport sold a shot glass that depicted an Indian person in various stages of drunkenness on the side of the glass.

While a few of the more egregious examples of racist behavior have largely been eliminated, problems remain. Although we have not conducted a formal survey of our students about adverse discriminatory experiences they have had in Bismarck, we are aware generally of several problems locally. One has already been brought to the attention of the Justice Department in the past several years involving discriminatory placement of Indian children special education classes in local schools. Although this situation did not involve our students, and to my knowledge has now been largely corrected, it was indicative to me of larger problems within our community that do affect our students.

Now, just this past month, some our students and their children are dealing with racial incidents at a middle school in Bismarck. These incidents are not isolated, and are not all coming from students, but are in fact in part coming from the teachers themselves, who sometimes show a lack of sensitivity or even hostility to the persons of different cultures in their classrooms.

Another example: Our students and their families frequent the malls and various stores of Bismarck. Consistently for a number of years, students have complained that they are followed and occasionally harassed by security forces at such establishments. In the past, security personnel have told people that they watch Indian persons more closely for possible shoplifting.

Like many other Indian people, our students, and sometimes the Indian members of our faculty and administration, are unable to cash checks locally. At least one lawsuit has been filed about such practices, with mixed results. Credit opportunities can also be limited, especially in the area of housing, for both off-campus students and our Indian employees.

Each year our college sponsors a four day pow-wow which is now popularly associated with United Tribes and the end of summer. Despite our best efforts, and despite the fact that the United Tribes International Pow-wow brings in several million dollars to the City of Bismarck each year, incidents of discrimination occur almost every year against some of our out-of-town guests. For example, two years ago a guest of our pow-wow was eating with his spouse at a local restaurant. When he paid with a fifty dollar bill, he was returned only a few dollars in change. When he went to complain, in an unthreatening fashion, the waitress commented with words to the effect "This is always the way you people act." The racial reference was completely uncalled for and certainly sullied our visitor's stay in Bismarck.

Most serious have been problems with housing discrimination. One of our faculty members, from Sri Lanka, was discriminated against several times in his efforts to find housing for himself and his family. The stories are many of landlords who vow not to rent to Indian persons because of an unfortunate incident with an Indian tenant. While we are thankful for the presence of the North Dakota Fair Housing Council, we know that its efforts are limited by a lack of resources. In the past, some lawsuits have been filed but with little result. To be sure, realtor's associations do help and discrimination in housing is not uniformly present among all rental units in Bismarck, but we know it remains a problem.

Perhaps most troubling in the capital of North Dakota is the lack of Indian employees in state government. Except for positions that relate directly to Indians and tribal issues, there are almost no Indian employees at major state agencies headquartered in Bismarck. While one can, to some degree, say that few Indian people apply for positions at the state capitol building, that does not entirely explain the lack of Indian employees there. Is this a case of systemic discrimination? Without a Human Rights Commission to investigate, it is very hard to prove one way or the other, but the lack of Indian employees suggests the answer.

Because we are constantly seeking to place our graduates in productive jobs, employment opportunities are critical for us. Complaining to the State Labor Department about employment discrimination in state government does not seem likely to produce adequate results, in part because of the long wait for any determination, and in part because of a lack of enforcement capabilities. This is

unacceptable when someone applies for a job, is qualified, and yet is not hired on account of race.

I am certain that many acts of discrimination against our students and faculty go unreported and no effort is made to seek a remedy, primarily because of the remoteness of the agencies charged with handling these cases. Given the history of treatment of Indian people by our government, it has been difficult for me to understand why our state legislators do not believe a state human rights commission is necessary, in a state where Indian people are the only significant racial minority. It is especially difficult to understand because a state human rights commission would essentially be locally controlled, appointed, presumably, by our governor or some other combination of political and community leaders. The advantage for United Tribes and its students would be immediate access to an agency that could produce relatively quick results.

I would also like to point out that with the tobacco settlement funds nearly a reality, North Dakota could find no better use for those funds than setting up a Human Rights Commission.

This committee can assist greatly the process of healing between Indians and non-Indians in North Dakota, by giving a DO PASS recommendation on SB 2413. Our students and staff have suffered long enough. Shouldn't it be a top priority of this legislative body that all of the citizens of North Dakota be treated fairly and equally?

**TESTIMONY ON BEHALF OF THE NORTH DAKOTA ADVISORY COMMITTEE ON
CIVIL RIGHTS**

Delivered by
Carole Barrett
In Reference to
S.B.2413

*given to committee
by
Senator Mike Zambberger*

My name is Carole Barrett. I am speaking on behalf of the North Dakota Advisory Committee to the United States Commission on Civil Rights. I feel it is important to stress this committee is comprised of citizens of the state of North Dakota. We all live and work in this state, and our work on the Advisory Committee reflects individual and collective commitment to human rights. The Advisory Committee on Civil Rights stresses balance in terms of race, gender, political affiliation, and religion in order to best represent and reflect the needs of the people of North Dakota. I say this so there is no misperception of the North Dakota Advisory committee as a bunch of malcontent outsiders who don't understand North Dakota.

During the past several years the Advisory Committee has conducted a study on the nature and extent of possible discrimination in North Dakota with focus on the adequacy and effectiveness of provisions of the various statutes comprising what is often termed the North Dakota Human Rights Act. In large part, our study is derived from testimony of individual North Dakota citizens, elected and appointed government officials, business owners, spokespersons for private and public agencies, and leaders of various organizations. A preliminary study report based on the findings of this committee will be released later this year. Highlights of the findings of the North Dakota Advisory Committee on Civil Rights follows.

*There is both overt and covert discrimination in North Dakota. Particularly noted are problems in the areas of accessibility, housing and employment—basic issues which strike at the heart of individual and family security and well-being.

*Those particularly feeling the sting of discrimination in housing and employment are handicapped, single women with children, and racial minorities (particularly American Indian, Hispanic, and non-white immigrants).

*In all cases, personal stories of discrimination based around these issues were verified by statistics and other data from studies, government agencies, or private organizations. There are significant and real issues of discrimination in the state, a reality that will not go away.

*The frustration level of individual citizens of the state, heads of agencies, and even elected officials is high, because there is no clear way for individuals to seek redress of grievances. Except for employment discrimination, complaints of discrimination in violation of federal statutes must be lodged with agencies in Denver or Kansas City.

*The North Dakota Department of Labor receives a grant from the federal government (EEOC) to investigate complaints of employment discrimination based on federal statutes, however, no funds are provided to the NDDOL to investigate complaints under state statutes. Additionally, many individuals, inside and outside of government, forthrightly stated significant dissatisfaction with the limited ability of the NDDOL to receive, investigate, mediate, and resolve cases satisfactorily.

*The collection of statutes referred to as the North Dakota Human Rights Act lack meaning and effectiveness for North Dakota citizens and for state government because there is a deep void in enforcement and no single state agency or commission is charged with the responsibility to investigate complaints or enforce the Act.

There is a need for leadership from the state to insure basic human rights protections for all citizens of North Dakota, and so the North Dakota Advisory Committee on Civil Rights urges a “do pass” on **SB2413**. A Human Rights Commission does not threaten a state, it does not add layers of government, it does not subvert business—it affirms all citizens of the state and insures a healthy climate in which to live, work, educate and raise children.

NORTH DAKOTA FAIR HOUSING COUNCIL, INC.

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Testimony before the House Appropriations Committee by the North Dakota Fair Housing Council March 8, 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 SB 2413 because it will provide a Human Rights Commission 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.

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. These complaints are not decreasing, they are increasing year after year.

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 another bill, 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, conciliate, mediate, and enforce complaints of federal housing discrimination. Should a Human Rights Commission be created and HB 1043 passes, the Commission could be eligible for these funds.

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.

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.B

Testimony in Support of Senate Bill 2413
Lola Huwe
428 North 15th Street, Bismarck, 223-7773

Chairman Dalrymple and members of the Committee

My name is Lola Huwe. I was born in Bismarck over sixty years ago and have spent my entire life in North Dakota. I am here in support of SB 2413.

My mother was a teacher and, as often happened in rural and small town schools, she was my teacher for several years. I am glad she was my teacher because she passed on to me, as she did to all of her students, the love of country and the state of North Dakota. Every morning, as we stood to say the "Pledge of Allegiance", as devoutly as a prayer, I believed the words we were saying. In my child's mind, I thought there was "liberty and justice for all." But that is not the reality of life, is it. Where is the liberty when someone, because of her race, is followed through a Bismarck supermarket, told to leave as soon as she is through and then escorted out? Where is the justice when she has no place to turn for help? Where is the liberty when a young mother, raising her children by herself, cannot live in the apartment she has chosen because she has no husband and therefore, is told the apartment is rented. Where is the justice when the government officials look the other way. I could give many more example of the "liberty and justice" that many of our fellow North Dakotans have everyday, but I am sure you can understand why, when I recite the Pledge of Allegiance today, the words do not ring true.

My mother also taught us the state song "North Dakota Hymn". Until her death, that remained her "state song." None of the peppy, easier to sing songs for her, and that is appropriate because she loved to sing the praises of North Dakota. Some of you may remember that old song. What comes to my mind is the phrase, "all thy sons and daughters love thee, fairest state from sea to sea. That, like the "Pledge of Allegiance" has lost credence with me. For many of North Dakota's sons and daughters, there isn't much to love. They can't wait to grow up, so they can leave the state. They look forward to going to a place where they won't be looked down on because of the color of their skin, because there accent is Lakota, and not German or Norwegian., because of the person they love. They want to go to a place where they know they won't lose their job, have trouble getting a place to live, or be treated like dirt, because they are different. They go in search of "liberty and justice."

It is very difficult for me to feel the pride my mother had in North Dakota. So much gets in the way. The way we put prisons ahead of education, the way our teachers have the lowest salaries in the nation; the way we are the only state in the Union that does not have any sort of Human Rights Commission; the lack of opportunity for employment that provides a living wage. All which help give us the distinction of having the highest out migration of any state. Sometimes it is hard to find very much good to say about our state. Wide open spaces, good clean air, and a good place to raise a family, just doesn't cut it anymore, especially when so many of our families are discriminated against and the good clean air is becoming contaminated with factory farm odors.

I once again ask you to vote in support of SB 2413. Please help make our state a place that our grandchildren, and all future generations, can love and be proud of. We do not have to be afraid of becoming slaves to mutliculturism and diversity because there is "liberty and justice" for all of our citizens.

Thank you

Lola Huwe

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**Appropriations Committee
North Dakota House of Representatives
56th Legislative Assembly**

**Testimony of Thomas M. Disselhorst
Attorney at Law
on SB 2413
Human Rights Commission
March 8, 1999**

Thank you, Mr. Chairman, for the opportunity to testify on SB 2413 concerning the need to establish a Human Rights Commission in North Dakota. First, for identification purposes, I should note that I am a staff attorney for the Three Affiliated Tribes, as well as counsel for United Tribes Technical College in Bismarck, North Dakota.

Second, I wish to note that I have several recommended amendments to the bill. These amendments do five major things:

- 1) To ensure that the Human Rights Commission seek all possible funding for its operations from sources other than the state;
- 2) Require the Office of Management and Budget to find office space for the Commission in Bismarck;
- 3) Rescind the senate amendments which took away the power of the Commission to handle housing and employment discrimination matters;
- 4) Allow the Commission to determine when it has sufficient funds to begin its work; and
- 5) Provide a modest appropriation to the Commission to allow it to start its work.

Since this bill, having passed the Senate without an appropriation, is back before the House Appropriations Committee, I would hope that means that your committee is considering an appropriation for the Human Rights Commission. However, to minimize the need for an appropriation, it is very plain that the Human Rights Commission needs to have all sources of Federal funding available to it, including the ability to handle housing and employment discrimination complaints. This is critical, if the Human Rights Commission is to succeed.

The remainder of this testimony is similar to what has been provided to you already with regard to HB 1469 and is provided for your reference.

For more than 23 years, in a variety of settings, I have been an attorney representing Indian citizens of the state of North Dakota. When I first came to North Dakota in 1975, I was a

VISTA volunteer attorney at United Tribes. As I looked for an apartment, and was asked where I was employed, more than once I had doors closed in my face, apparently simply because of where I worked. It was a stark introduction to racism in North Dakota, and at that time, I did not know where to turn for a remedy.

As I began assisting Indian citizens in various legal actions, I soon learned that it was highly unlikely for an Indian to ever appear on a jury panel, that the Bismarck Municipal Judge had different bail schedules for Indians and non-Indians, and that the local Clerk of Court had a different, and more difficult, set of requirements for identification cards for Indians than for non-Indians. Through pressure that myself and other attorneys working on behalf of Indian citizens were able to exert on these, and other, racist practices, some of them have now been eliminated.

Yet, I would suggest that Indians are still rarely selected to be on a jury panel and that their representation on jury panels is still proportionately far less than their population would warrant. While this is not an issue that a Human Rights Commission could easily remedy, it is indicative of larger racial problems in our state, problems that are costing this state both economically and socially, problems that undermine dramatically confidence that our state government is treating its citizens fairly.

Powers of a Human Rights Commission

What would a Human Rights Commission as established under SB 2413 do? It would have the power to investigate, mediate and resolve claims of violations of our state's Human Rights Act, contained in Chapter 14-02.4. These powers are listed on pages 3 and 4 of the SB 2413, and include, among other things, the right to issue orders, such as an order to cease and desist a discriminatory practice, to award actual damages and assess civil penalties for discriminatory conduct. The actions of the Human Rights Commission would be reviewable in state District Court as a final agency decision under the state's Administrative Procedures Act, N.D.C.C. chapter 28-32. These are powers that are not contained in the kind of agency created in HB 1043, also under consideration in the House.

Human Rights Commission as Economic Boon to State

A Human Rights Commission that would provide education about the civil rights of all of our citizens and would enforce our Human Rights Act would begin to alleviate the social problems that racism causes and would eventually be a tremendous economic boon to our state. Why do I say that the Human Rights Commission would be an economic boon?

The House Appropriations Committee of the North Dakota Legislature is understandably concerned about keeping government expenditure of public dollars at a minimum. But racial injustice almost always causes unnecessary economic dislocations. People who otherwise are

qualified for work are unable to obtain it and have little remedy or do not seek such employment because they believe they will not get the job advertised. Such individuals often end up on the welfare rolls, costing the state untold millions of dollars. As representatives from the North Dakota Department of Human Services will tell you, Indians now represent approximately 55% of the all persons on welfare in the state of North Dakota. Unemployment rates are often artificially low on the Indian reservations because most unemployed people have not been employed recently enough or long enough to be able to be counted as looking for work.

Now, with welfare reform, individuals and families only have a limited time to find employment. Just 3 1/2 years from now, the 60 month time limit will begin affecting North Dakotans. It is critical that persons on welfare know that they will have fair chance to seek employment -- that if they are denied work because of their race, they will have an adequate remedy right here in North Dakota, not in Denver, Colorado or in the Department of Justice in Washington, D.C. They need to know that if they are successful in finding employment, they will be able to obtain affordable housing, and if a landlord or real estate agent or bank denies them housing because of their race, that they will have a remedy right here in North Dakota, and not in Denver, Colorado or Washington, D.C. They need to know that if they find employment, and housing, they will be able to cash their paychecks without undue difficulty, and that they will be able to shop in the local malls and other shopping areas without feeling unwelcome. They need to know that state agencies will provide them services, such as housing financing, without regard to their race and that if they are denied state services, they will have a remedy that will not require them to hire an attorney to file a state court action that will be heard by an all- white jury.

Welfare services cost the state many millions of dollars. If a Human Rights Commission can help people secure adequate employment, housing and public services that otherwise might be denied to those on welfare, it will pay for itself in each year of its operation as persons on welfare become productive tax-paying citizens. That is why in the end a Human Rights Commission is a very cost effective agency and a boon to our state.

Further, it should be recognized that much of the funding for a Human Rights Commission can be supplied by the Federal government, and by grants from a variety of private funding sources. The appropriation asked for, \$190,000, is very modest investment of state resources that, as indicated above, will be more than paid for by allowing all state citizens to fully enjoy the rights and privileges of citizenship.

Do statistics show that a Human Rights Commission is needed in North Dakota?

During the past two years, the North Dakota Advisory Committee to the U.S. Commission on Civil Rights held two hearings, in Fargo and Bismarck, concerning the need for a Human Rights Commission in North Dakota. Presenter after presenter provided graphic testimony of problems of discrimination in this state, against Indians, against single mothers, against foreign refugees,

against other minorities, against poor people, and against women, to name a few of the groups whose members suffered discrimination. Before this Committee acts on HB 1469, I would urge the Appropriations Committee to carefully study the information provided at those hearings, particularly the testimony and information compiled by the Human Relations Office that was operated for approximately 4 years in Grand Forks, North Dakota. The Grand Forks office gives some indication of the level of discrimination present in just one of the four major cities in North Dakota, and some indication of the number of complaints a Human Rights Commission can be expected to receive when it is known that an office is available to handle and fully resolve such complaints in North Dakota.

There is no doubt that someone from the Labor Department will tell you that there are no major employment discrimination problems in North Dakota of which it is aware, since it provides an initial investigation of employment discrimination complaints in North Dakota before the file is sent to the Equal Employment Opportunity Commission's regional office in Denver, Colorado. As an attorney, I am also aware that making a complaint to the Labor Department is basically a futile act for the person seeking any kind of prompt remedy for a discriminatory act. Since the Labor Department lacks the ability to provide a complete resolution of a discrimination complaint, many legitimate complaints of employment discrimination will simply not be filed or acted upon by the person who suffered the discrimination, in large part because of the inordinate amount of time it takes to get any kind of just resolution in a case, and the unlikelihood that any satisfactory resolution will be obtained. As the testimony before the North Dakota Advisory Committee to the U.S. Commission on Civil Rights indicated, a real Human Rights Commission will undoubtedly receive far more employment discrimination complaints, many with more substance to them, than the Labor Department generally has received.

This testimony could continue for many more pages, outlining many examples of discriminatory treatment I have observed in recent years or which have been described to me by many persons, clients and otherwise. A Human Rights Commission located in North Dakota cannot solve all of the problems of generations of racial discrimination. But it can begin the process of showing people how harmful discrimination really is, and what it costs the state of North Dakota and its citizens. It can help restore faith to many persons who simply do not now have a reasonable remedy when they suffer from harmful acts of discrimination.

I urge a DO PASS recommendation for SB 2413, as amended. If, however, proper funds for the startup of a Human Rights Commission are not restored, then I do not recommend passage of SB 2413.

Proposed Amendments to SB 2413 (These are in addition to the appropriation amendment request proposed by Rep. Audrey Cleary. References are to the page and line numbers in the **ORIGINAL BILL**)

The purpose of these amendments is:

- 1) To make mandatory that the commission seek additional federal and private funding;
- 2) To allow the commission to handle housing and employment discrimination complaints;
- 3) To make sure that the commission has adequate office space;
- 4) To make sure that the commission is not authorized to operate generally, except in specific areas for which it will have funds immediately, or in specific areas for which it may have funds later in the biennium, until it has sufficient funds; and
- 5) To provide an initial appropriation.

Proposed Amendments:

On Page 3, Line 30, Delete words added by Senate amendment: "which are not authorized to be received and investigated by any other state agency".

On Page 4, Line 8: Replace the word "may" with the words "shall, to the extent possible,"

On Page 4, Line 10: Replace the word "may" with the words "shall, as it may have resources to do so,"

On Page 6, after Line 26: Insert a new subsection entitled

"Location. The director of the office of management and budget is directed to find, and if necessary, contract for and obtain, sufficient office space either within the city of Bismarck or in the Bismarck area as is necessary to accommodate the human rights commission. Any lease or rental agreement for office space for the human rights commission, and any renewal thereof, shall be subject to the provisions of Chapter 54-21."

On Page 8, after line 29: Add a new section 5, entitled:

SECTION 5. EFFECTIVE DATE.

1. Until the commission has determined that it has sufficient funds to carry out all of the purposes of the act during the biennium commencing July 1, 1999 and ending June 30, 2001, or during such part of the biennium remaining when the funds are received, and notwithstanding

anything to the contrary contained in Sections 2 and 3 of this act, the commission shall not be authorized to accept, investigate or act upon the complaint of any person claiming to be aggrieved by any discrimination prohibited by law, except for complaints regarding employment and housing discrimination as defined by federal law and except for complaints regarding discrimination of a particular type prohibited by law or complaints regarding discrimination against a particular class of persons prohibited by law for which sufficient funds have been provided to the commission.

2. Upon receipt by the commission of sufficient funds to accept, investigate and act upon the complaint of any person regarding discrimination of a particular type prohibited by law or a complaint regarding discrimination against a particular class of persons prohibited by law, or upon the receipt by the commission of sufficient funds to carry out all of the purposes of the act during the biennium commencing July 1, 1999 and ending June 30, 2001, or such part of the biennium remaining when the funds are received, the commission shall make reasonable efforts to notify the public of the kinds of complaints alleging discrimination that may be filed with the commission and the date after which a complaint may be filed.

3. In no event shall the lack of sufficient funds by the commission to carry out the purposes of the act toll any applicable statute of limitation contained in chapter 14-02.4, as amended by this act.

4. Except as stated in subsections 1 and 2 of this section, this act shall become effective July 1, 1999.

In reference to the Engrossed Bill (First Engrossment) (providing an appropriation)

Page 1, Line 4, remove the second "and" and after "penalty" insert "; and to provide an appropriation."

Page 8, Line 16, insert:

"SECTION 4. APPROPRIATION. There is hereby appropriation out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, and federal funds of \$159,000 to the human rights commission for the purpose of providing services to prevent discrimination in North Dakota, for the beinnium beginning July 1, 1999, and ending June 30, 2001.

Testimony for Senate Bill 2413
Prepared by Representative Merle Boucher
Monday, March 08, 1999

Chairman Dalrymple and members of the House Appropriations Committee, for the record I am Representative Merle Boucher from District 9.

Senate Bill 2413 lays the ground work to create a North Dakota Human Rights Commission. It only stands to reason, that such entity should exist and should have been created some time ago.

A Human Rights Commission would create an entity that citizens, who have reason, or cause, to believe their rights as citizens have been violated could go to seek (a, remedies) for their situation. The Commission would have the mission of protecting the rights of all citizens, from the young, minorities, disabled citizens, displaced citizens and seniors and citizen in general.

A Human Rights Commission is the right thing to do. I would appreciate a Due Pass recommendation. Thank you.



Opposing Testimony for SB 2413
House Appropriations Committee
March 8, 1999

Mr. Chairman, members of the House Appropriations Committee

My name is Joy Johnston. I am the Corporate Counsel for the Greater North Dakota Association. I am providing testimony in opposition of SB 2413 on behalf of GNDA.

GNDA is the North Dakota State Chamber of Commerce. It is the voice of business and the principal advocate for positive change for North Dakota.

I appreciate the Committee allowing me to testify. Because this is such a volatile issue, most people will tune out and draw their own conclusions without listening to the testimony. GNDA's reasons for opposing SB 2413 will probably be overshadowed by just being opposed to the bill.

I cannot imagine anyone being a proponent of discrimination. GNDA does not condone discrimination.

Then why is GNDA opposed to SB 2413? Because SB 2413 provides for something we do not need. An independent Human Rights Commission is noble, but it is duplicative.

Section 1 of the bill provides for the structure of the Commission, its members, its staff, its powers and duties. It requires the Commission once instituted on January 1, 2000 to hire a director. The duties of the Commission are to educate, investigate, report, conduct hearings, resolve disputes, correct, punish and assess penalties.

The Commission is to educate. The ND Department of Labor, professional organizations and other various private enterprises currently offer education on rights and responsibilities regarding discrimination concerns. Associations like GNDA make material available to its members. GNDA has provided conferences and seminars dealing with discrimination. I know the Realtors Association does the same for its members. I have taken continuing legal education seminars on discrimination offered by the State Bar Association. The general public has access to education opportunities too. All seminars offered by the state are open to the public. Employers provide educational opportunities to their employees. The issue of discrimination has received much coverage in the media. And if you think you've been discriminated against, the Department of Labor and Fair Housing Commission are able and equipped to handle your complaint. And if you wish to seek an attorney, the State Bar Association provides referral service.

In SB 2413 the Commission is granted the authority to be investigators. They are to investigate all discrimination in general and are required to report it to the Governor. It would require gathering, analysis and dissemination of some rather complex information. The Commission is 5 volunteers with limited staff. Presently they can gather information from agencies and court records.

Analysis may require significantly more resources than available in this bill. What is the Governor to do with the information?

The Commission is granted authority to receive and investigate complaints of illegal discrimination that are not covered by some other agency. Two problems. I always assumed the complaints would be of alleged discrimination. The language in SB 2413, page 3, line 29 convicts before an investigation has even begun. Secondly there is a problem with the language that states that the Commission will only investigate when some other agency is not authorized to do so. SB 2413 excuses the Labor Department from investigating labor complaints and the Fair Housing Commission from investigating accommodation complaints in Sections 2 and 3. The Department of Labor and Fair Housing Commission have the expertise, knowledge and structure to do their missions. This bill removes their authority.

In SB 2413 a person alleging discrimination may file a complaint. Or the staff of the Commission is also authorized to file a complaint when discrimination comes to the attention of staff. The way the sentence reads, I don't know if the alleged victim has say or is consulted if the staff decides to file a complaint?

The Commission staff investigates the complaints on behalf of the complainant and Commission.

The Commission staff is immediately empowered to eliminate the alleged discrimination. There is no hearing at this time. There is no due process. The Commission doesn't even know about the outcome of the investigation. It is totally up to staff.

Only after the Commission staff does not get results are notice of a hearing filed. The Commission staff files the notice. The Commission staff is authorized to present the complaint at the hearing. If a complainant is indigent, the Commission covers his or her expenses. And the Commission may recover those costs if the complainant prevails by using a court-authorized judgement,

The hearing is heard by a hearing officer appointed by the Commission. The qualifications of a hearing officer do not require a legal background.

The hearing officer makes a recommendation to the Commission. However, the Commission has the power to conduct its own hearings and resolve conflicts. The Commission has the power to resolve conflicts through conference, conciliation or persuasion. None of those terms are defined. I am not sure what it means for the Commission to "conference, conciliate or persuade."

The Commission can issue orders and assess damages. The Commission may also assess civil penalties payable to the Commission in the amount of to \$5,000 each.

The Commission's order is enforceable in district court.

Of course, the Commission cannot preclude anyone from filing an action of alleged discrimination in court. It can only delay it for 60 days after a hearing or disposition of the case by the Commission whichever comes first.

In a nutshell, the Commission of volunteers appointed by the Governor has the authority to act as legal experts in matters of discrimination. The Commission hires the staff that files the complaints on behalf of a person. Or, if the Commission staff comes upon something it determines is

discriminatory, it can file its own complaint with the Commission. The Commission staff investigates the complaint it files. Without a hearing or any due process, the Commission staff is empowered to determine discrimination occurred and conciliate or persuade a defendant to make changes. If the Commission staff is thwarted, it files the notice of a hearing. The Commission staff presents the complaint it filed and investigated at a hearing to a hearing officer appointed by the Commission. The Commission also has the direct power to conduct its own hearings. The Commission acts as the judge and makes a decision based on the evidence provided in the complaint filed by its staff, investigated by its staff and presented at a hearing by its staff. The Commission of volunteers is then authorized to issue the punishment which can include injunctive relief, backpay and the ability for the Commission's staff undefined access to the alleged perpetrator's future behavior, books, or anything else the Commission deems necessary to monitor compliance for up to three years. And the Commission can also assess a penalty against the guilty party in an amount up to \$5,000. The penalty doesn't go to the alleged victim. It goes to the Commission. The order and judgement of the Commission is enforceable in court. And if any of the Commission's order is not complied with, and I assume that includes that unfettered access to your life for three years, it is a criminal Class B misdemeanor.

Now how are we going to pay for this? The Senate removed a total fund appropriation of \$560,000 with a general fund appropriation of \$190,000. Recognizing the special funds of \$370,000 mean income, where is that coming from? Grants and income that once went to the Department of Labor or Fair Housing Commission for their services now removed to the Commission make up some of it. But how much of that will be fines? Even at \$250,000, that's a minimum of 50 cases in the biennium -- or one every other week complained of, filed, investigated, failed to be conciliated, heard, adjudicated and penalized. The Commission has to pay its bills. I fear the maximum of \$5,000 will become the minimum.

SB 2413 is a noble idea in a bad vehicle. SB 2413 creates an additional layer in the system already addressed by others. The Department of Labor, the Fair Housing Commission, private and public organizations and the judicial system address the mechanisms needed to eliminate discrimination. I urge the House to allow the current providers of services to do what they do and defeat SB 2413.

Testimony of *Mark L. Johnson; M.A., ABD*, in opposition to SB 2413
House Appropriations Committee – March 8, 1999

Mr. Chairman, Members of the Committee:

My name is Mark Johnson – I am a free-lance educational consultant and instructor of History and Government for two on-line college prep academies, from Oakes, ND. I am a Doctoral candidate in Political Theory at Louisiana State University, and have written extensively both on current educational and cultural issues, as well as in my trained expertise area of American Political Thought.

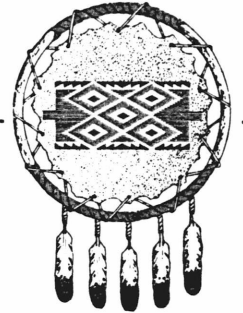
I feel somewhat awkward coming before this particular committee today because I intend not to argue particularly about the financial aspects of this legislation, but to argue instead about the philosophical and ideological issues which surround it. SB 2413 is, to put it bluntly, bad legislation. It is an idea whose time has not come, but whose time has passed. The fundamental problem with this proposed Human Rights Commission, and this is the same problem that plagues boards of this type all throughout our nation, is that they are not really dealing with issues of “human rights”, but rather with the political and ideological concerns of self-identified groups. We already possess all of the legal mechanisms necessary to confront real and perceived discrimination in the form of executive departments such as Labor, Corrections, Public Instruction, and the like. Furthermore, in the unlikely event that one of those departments fails to do its job properly in the correction of discrimination, then we possess judicial institutions which are charged with the ultimate adjudication of such cases. All that remains, then, for a Human Rights Commission to do is to order studies, call press conferences, and generally usurp functions which properly belong either in executive departments or judicial courts.

Although I doubt that any of the proponents of SB 2413 would admit this, their real purpose seems to be not to protect some elusive “human rights” or even “civil rights”, but rather to create an institution which would upset the balance of majority-minority politics in this state. Now, I want to be very clear about this: when I use the terms “majority” and “minority” in this context, I am NOT speaking in terms of race, gender, religion, or any of the other popular categorizations which tend to dominate so much of our discussion in today’s political climate. Rather, I am using those terms in a much broader sense: that is, the language of majority rule. As Madison so presciently argued in *Federalist* 10, majorities form themselves out of factions (or, to use our current parlance, “interests”) in order to create ruling coalitions for the present time. Those coalitions are not designed to be permanent, and, as history has shown us, they rarely are. Each faction or interest comes to the process without any pre-arranged advantages within the system, and each relies solely on its numerical membership as its contribution to the coalition. No single faction or set of factions has a built-in advantage. Special advisory commissions like the proposed Human Rights Commission of SB 2413 upset that delicate balance because they pre-assume either an advantage for one group that needs to be torn away, or a pre-conceived disadvantage for another group that needs to be rectified. If some factions feel themselves disadvantaged by a lack of political power, then they possess the ability to form coalitions which would then control the legislative, executive, and/or judicial levers of power. All SB 2413 would serve to do is short-circuit that process by improperly inserting an extra-judicial and extra-legal layer of political institution.

I thank you, Mr. Chairman and members of the Committee, for the opportunity to speak to you, and I would be happy to answer any questions that you may have.



UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-255-1844



**Appropriations Committee
North Dakota House
use of Representatives
56th Legislative Assembly**

**Testimony of David Gipp
President, United Tribes Technical College
on SB 2413
Human Rights Commission
March 8, 1999**

Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today on the need for a Human Rights Commission in North Dakota. For your information, I am President of United Tribes Technical College, a post-secondary vocational technical school which serves primarily Indian persons from throughout Indian country.

Similar testimony to this was provided to you when HB 1469 was submitted for your consideration earlier this session. I want to add some comments concerning SB 2413, as amended by the Senate.

As you know, the appropriation for this bill was taken out, as well as the ability of the Human Rights Commission to handle any matter already handled by another state agency. This amendment was made to refer to the Labor Department, and to eliminate any confusion with HB 1043, which I understand provides a Housing Discrimination Act and places enforcement of that act in the North Dakota Department of Labor. Both of these amendments should be reversed, in order to allow a Human Rights Commission the opportunity to actually work. Without appropriations and the Federal funds for handling housing and employment discrimination complaints, a Human Rights Commission will not be able to function as SB 2413 requires it to. There is no reason a Human Rights Commission cannot handle housing discrimination complaints and employment discrimination complaints, and no reason the present expertise of the Labor Department in handling employment discrimination complaints cannot be transferred to the Human Rights Commission. If HB 1043 needs further amendment, then it should be appropriately amended.

Civil rights is an issue about which I personally feel very strongly, and which is also supported by the Board of Directors of United Tribes Technical College. The Board of Directors is composed of the Chairman and a representative from each of the five tribes which have a presence in North Dakota, the Standing Rock Sioux Tribe, the Turtle Mountain Band of Chippewa, the Spirit Lake Nation, the Three Affiliated Tribes and the Sisseton-Wahpeton Sioux Tribe. On Saturday, January 23, 1999 our Board of Directors, with representatives of all five tribes, including three Tribal Chairmen and

a Vice-Chairman present, unanimously passed a resolution supporting the creation of a Human Rights Commission to enforce both state and Federal civil rights laws in North Dakota.

To give you an idea of why a Human Rights Commission is so important to us, let me give you a brief description of United Tribes Technical College "United Tribes". United Tribes was founded in 1969 by the North Dakota Indian tribes as the United Tribes of North Dakota Development Corporation. Soon, United Tribes was operating a vocational training center on the grounds of Fort Lincoln, an army base constructed in the early years of this century to replace the old Fort Lincoln across the river. The old buildings of the fort became our classrooms, dormitories and administrative buildings which have now become United Tribes Technical College, serving more than 300 Indian students per year from more than 45 tribes and providing vocational training and two year degrees in a broad variety of disciplines.

Our students are mostly housed on our campus, in dormitories, apartments and single family dwellings. We have a number of facilities and services for our students on campus, including child care, a cafeteria, gymnasium, library, a chemical health center, counselors, both academic and personal, a financial aids office, an arts and cultural center and a bookstore. United Tribes also seeks to provide placement services for our students as they graduate and seek employment.

Nevertheless, our students are often off campus seeking many services in the local city of Bismarck. It is in this vein that I want to discuss issues that make plain the need for a Human Rights Commission in North Dakota.

Bismarck has long been a very typical near reservation community, viewed by most Indian persons who have lived there as discriminatory, or racist. Just a little more than twenty years ago the Bismarck's Patterson Hotel, now an apartment complex for senior citizens with a popular bar and restaurant on the ground floor, had a notice under the glass that said "We do not rent to Indians." Students couldn't cash our checks at local establishments, and we still have problems with that. Our employees sometimes had difficult times finding housing, a problem that continues. Our local city judge had different bail schedules for Indians and non-Indians, with the Indian persons more likely to spend the night in jail rather than being released on their own recognizance. The gift shop at the airport sold a shot glass that depicted an Indian person in various stages of drunkenness on the side of the glass.

While a few of the more egregious examples of racist behavior have largely been eliminated, problems remain. Although we have not conducted a formal survey of our students about adverse discriminatory experiences they have had in Bismarck, we are aware generally of several problems locally. One has already been brought to the

attention of the Justice Department in the past several years involving discriminatory placement of Indian children special education classes in local schools. Although this situation did not involve our students, and to my knowledge has now been largely corrected, it was indicative to me of larger problems within our community that do affect our students.

Now, just this past month, some our students and their children are dealing with racial incidents at a middle school in Bismarck. These incidents are not isolated, and are not all coming from students, but are in fact in part coming from the teachers themselves, who sometimes show a lack of sensitivity or even hostility to the persons of different cultures in their classrooms.

Another example: Our students and their families frequent the malls and various stores of Bismarck. Consistently for a number of years, students have complained that they are followed and occasionally harassed by security forces at such establishments. In the past, security personnel have told people that they watch Indian persons more closely for possible shoplifting.

Like many other Indian people, our students, and sometimes the Indian members of our faculty and administration, are unable to cash checks locally. At least one lawsuit has been filed about such practices, with mixed results. Credit opportunities can also be limited, especially in the area of housing, for both off-campus students and our Indian employees.

Each year our college sponsors a four day pow-wow which is now popularly associated with United Tribes and the end of summer. Despite our best efforts, and despite the fact that the United Tribes International Pow-wow brings in several million dollars to the City of Bismarck each year, incidents of discrimination occur almost every year against some of our out-of-town guests. For example, two years ago a guest of our pow-wow was eating with his spouse at a local restaurant. When he paid with a fifty dollar bill, he was returned only a few dollars in change. When he went to complain, in an unthreatening fashion, the waitress commented with words to the effect "This is always the way you people act." The racial reference was completely uncalled for and certainly sullied our visitor's stay in Bismarck.

Most serious have been problems with housing discrimination. One of our faculty members, from Sri Lanka, was discriminated against several times in his efforts to find housing for himself and his family. The stories are many of landlords who vow not to rent to Indian persons because of an unfortunate incident with an Indian tenant. While we are thankful for the presence of the North Dakota Fair Housing Council, we know that its efforts are limited by a lack of resources. In the past, some lawsuits have been filed but with little result. To be sure, realtor's associations do help and

discrimination in housing is not uniformly present among all rental units in Bismarck, but we know it remains a problem.

Perhaps most troubling in the capital of North Dakota is the lack of Indian employees in state government. Except for positions that relate directly to Indians and tribal issues, there are almost no Indian employees at major state agencies headquartered in Bismarck. While one can, to some degree, say that few Indian people apply for positions at the state capitol building, that does not entirely explain the lack of Indian employees there. Is this a case of systemic discrimination? Without a Human Rights Commission to investigate, it is very hard to prove one way or the other, but the lack of Indian employees suggests the answer.

Because we are constantly seeking to place our graduates in productive jobs, employment opportunities are critical for us. Complaining to the State Labor Department about employment discrimination in state government does not seem likely to produce adequate results, in part because of the long wait for any determination, and in part because of a lack of enforcement capabilities. This is unacceptable when someone applies for a job, is qualified, and yet is not hired on account of race.

I am certain that many acts of discrimination against our students and faculty go unreported and no effort is made to seek a remedy, primarily because of the remoteness of the agencies charged with handling these cases. Given the history of treatment of Indian people by our government, it has been difficult for me to understand why our state legislators do not believe a state human rights commission is necessary, in a state where Indian people are the only significant racial minority. It is especially difficult to understand because a state human rights commission would essentially be locally controlled, appointed, presumably, by our governor or some other combination of political and community leaders. The advantage for United Tribes and its students would be immediate access to an agency that could produce relatively quick results.

I would also like to point out that with the tobacco settlement funds nearly a reality, North Dakota could find no better use for those funds than setting up a Human Rights Commission.

This committee can assist greatly the process of healing between Indians and non-Indians in North Dakota, by giving a DO PASS recommendation on SB 2413. Our students and staff have suffered long enough. Shouldn't it be a top priority of this legislative body that all of the citizens of North Dakota be treated fairly and equally?

North Dakota Conference of Social Welfare, Incorporated



March 8, 1999

Chairman Dalrymple, Vice-Chairman Byerly, Members of the House Appropriations Committee:

My name is Connie M. Hildebrand, current Legislative Chair for the North Dakota Conference of Social Welfare, and a Bismarck resident. We speak in support of SB 2413.

Our Conference brochure is attached to my testimony to familiarize you with past Conference advocacy on behalf of North Dakota residents. With a current membership of approximately 500 individuals and/or organizations, the Conference has been an active participant in our state legislative process since the 1920's.

Current Legislative Committee members, listed on the last page of my testimony, ask that you act now, *before* the 21st Century arrives, to fund a North Dakota human rights commission and become a part of those willing to speak out for human rights throughout the world.

Why does North Dakota need a Human Rights Commission? You've heard years of testimony. Because discrimination *can happen here*. Because discrimination *does happen here*.

We ask that you *think globally* and *act locally* by enacting SB 2413 with the funds necessary to give human rights a viable voice in North Dakota.

Submitted:

A handwritten signature in cursive script that reads 'Connie M. Hildebrand'. The signature is written in black ink and is positioned above the typed name.

Connie M. Hildebrand
Chair, Research, Planning and Legislative Committee
North Dakota Conference of Social Welfare

North Dakota Conference of Social Welfare, Incorporated



Research Planning and Legislative Committee

Association/Organization	Membership/Size
American Association of Retired Persons ND-AARP	70,000 Members
ARC of North Dakota	1200 Members
Catholic Family Service CFS	36 Employees
Children's Caucus CC	100 Members
Dakota CIL	10 Providers
Family Voices	Mailing List of 500
Lutheran Social Services LSS	500 Employees
Mental Health Association in ND MHA	Mailing List of 3000
National Association of Social Workers ND-NASW	315 Members
ND Addiction Treatment Providers Coalition NDATPC	35 Members
ND Association of Community Facilities NDACF	26 Providers
ND Association of Non-Profit Organizations NDANO	130 Members
ND Catholic Conference NDCC	Mailing List of 4000
ND Chemical Health Partnership NDCHP	Mailing List of 500
ND Conference of Social Welfare NDCSW	500 Members
ND Council on Abused Women's Services CAWS	20 Statewide Programs
Professional Association of Treatment Homes ND-PATH	9 Offices 32 Employees
Putting the Pieces Together PPT	Mailing List of 500
St Alexius Medical Center - Mental Health Division	60 Employees
The Village Family Service Center	180 Employees

Resource Entities

ND Department of Health	Administration
ND Department of Human Services	Administration
ND Indian Affairs Commission	Administration
ND Department of Human Services	Child & Family
ND Department of Human Services	Aging
Childrens Services Coordinating Committee	Region VII
Burleigh County Social Service	County
Emmons/McIntosh County Social Service	County
Hettinger County Social Service	County
Ward County Social Service	County

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
REGARDING SB 2413
MARCH 8, 1999

Mr. Chairman and members of the Committee, I am Raylynn Hapip, Executive Director of People First of North Dakota. I am here today to provide you information regarding the need for a Human Rights Commission in the state of North Dakota.

People with disabilities face discrimination everyday of their lives in our state. . .in our nation. Discrimination in employment and housing is an everyday occurrence, yet we turn our back and pretend it does not happen. People with disabilities have learned to ignore hurtful remarks, to accept being rejection rather than fight against the condescending attitude that permeates our society. To whom should they turn? Who will turn an ear to their cry? Are they, and others who experience constant discrimination, not worth our time, our money? YES! They ARE worth our time and money.

However, not everyone feels the same. Last week a bill that could positively impact transportation for people with disabilities was to be heard before the Senate Transportation Committee. When discussing plans to attend this hearing, I was told, "do not stack the room with a bunch of wheelchairs. Sometimes that can upset the legislators and work against you." Yet, many hearings are filled to capacity with people wanting to either oppose or support the bill at hand. No one tries to discourage citizens from attending, in fact, attending is encouraged by those wanting you to vote their way. Why should it be any different for people who use a wheelchair, a walker, a cane, or may have difficulty expressing themselves due to a cognitive impairment? I want to make it clear that I am not suggesting that this statement fairly describes this or any other Committee. I am only repeating this remark to show the discriminatory attitude that people face in every avenue of their lives.

If people cannot even speak on their own behalf before those they elect to represent them, without fear of retaliation and humiliation, who will hear when this attitude keeps them from gaining employment, from being able to rent an apartment? Yes, laws are in place to prohibit this, but who makes sure it doesn't happen? Who will hear and judge fairly? Case and point: A member of a local self-advocacy group in Fargo recently filed a lawsuit alleging

discrimination by an employer. It has taken this individual two years of his life to be able to file the suit. There was no one in the state of North Dakota to help him. Instead, he was forced to go to the EEOC for help. He also has been forced to, once again, rely on the system for support. Why should citizens of North Dakota have to look elsewhere for help?

This is why I feel strongly that we need a Human Rights Commission in North Dakota that has the autonomy, the authority, and the necessary funding to protect the rights of persons with disabilities and other minority groups. Please consider the citizens who desperately need to be protected when making your decision on SB 2413.

Respectfully,



Raylynn Hapip
701-250-6745

3-2-99

Firm sued for refusing to hire disabled man

Associated Press

The Equal Employment Opportunity Commission is suing a Fargo manufacturing company, alleging the firm refused to hire a man because of his disability.

The Fargo Assembly Co. declined to hire Todd Lammers for a production job after learning he has cerebral palsy and is in a wheelchair, the commission said in its federal lawsuit filed in Fargo.

A spokesman for the Fargo Assembly Co. who identified himself only as Ron, said Monday he was not aware of the pending case and couldn't comment.

In its lawsuit on Lammers' behalf, the EEOC said Lammers was

working for a Fergus Falls, Minn., manufacturing company in 1997 when a friend told him of a similar opening at Fargo Assembly.

Lammers spoke several times with a company official by phone, who told him the firm was interested in hiring him for production work because of his previous experience, the EEOC said.

But the EEOC claims that interest disappeared after Lammers' in-person interview in April 1997, when the company official learned for the first time that he was in a wheelchair.

Lammers was never offered the job, which eventually was given to a non-disabled applicant, the EEOC said.

The EEOC claims Fargo Assembly violated the federal Americans with Disabilities Act. The lawsuit seeks unspecified damages on Lammers behalf.

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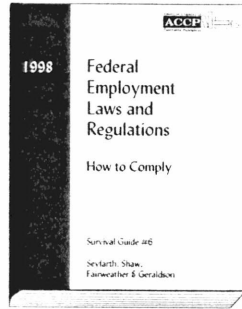
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Chapter 32	Immigration
Chapter 33	Workers' compensation
Chapter 34	The Occupational Safety and Health Act (OSHA)
Chapter 35	Employee exposure to chemicals
Chapter 36	Environmental protection regulations
Appendix A	Required posters
Appendix B	Required recordkeeping
Appendix C	Public holidays
Appendix D	Access to personnel records
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Survival Guide **5**

Employment Discrimination – An Employer's Guide

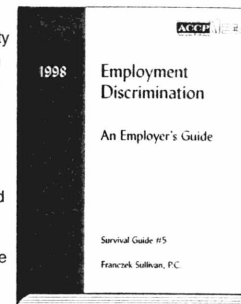
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Chapter 16	Military status discrimination
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Chapter 18	Affirmative action
Chapter 19	Discrimination prohibited by state law
Chapter 20	Discrimination based on credit history
Chapter 21	Practical advice for dealing with employee discipline
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