

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2217

2001 SENATE POLITICAL SUBDIVISIONS

SB 2217

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2217

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 26, 2001

Tape Number	Side A	Side B	Meter #
2	x		0.0-54.5
		x	0.0-40.9
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The committee was called to order in the Brynhild Haugland Room, for SB2217; relating to housing discrimination; to provide a penalty; to provide an appropriation; and to provide an effective date.

REPRESENTATIVE MARY ECKSTROM: Sponsor, also spoke in favor of SB2217.

Representative Eckstrom has worked for the North Dakotans for Human Rights Commission.

The North Dakota Constitution states that all individuals are by nature equally free. And by that we extend the idea that all our citizens are equally protected under the law. That is the intent of the entitled by equal protection. I know that all these beliefs are shared by all of you as they are shared by all the citizens of the state. That all citizens are entitled to equal protection. We want to do everything that it right. There is a division of human rights under the Department of Labor, and the reason is very simple. The Department of Labor and its Division of Human Rights can handle problems in labor and housing. That's it. They cannot enforce the Human Rights Act as it is on the books in our Century Code. So we are asking to expand those powers under a Human

Rights Commission. The Human Rights Commission don't have authority to fully enforce the law. What we have at present, is unfortunately, a clearinghouse. Folks are directed to call an 800 numbers that are in Denver and in Washington and in our effort to see how this system works we called those numbers and repeatedly got busy signals. U.S. Government is a big and broad based organization. The best authority, the only authority, is the state. We all constantly say we want local control, and that is what this bill is about. Its talking about bringing the authority of law in the North Dakota Century Code to the state and allowing us to fully protect our citizens. I do urge a Do Pass on this bill.

ALLAN PETERSON, ND Association of the Blind spoke in favor of this bill. Representing North Dakotas for the Human Right Commission. See written testimony. We feel there is much evidence of discrimination. I feel the commission form of government of human rights has many advantages over the way things are handled now. When calling these agencies, we found they could not handle the matter in a timely matter or they had limited authority. We feel this commission form of government would have a 'one stop' shopping center where we could go for any form of discrimination. We're not asking for new legislation, because we have a good human rights law presently. It may need a little bit of updating, what is needed is a good mechanism for enforcing human rights law. We feel the commission form of governments would give people, an advocacy group a voice. that they would have a better ear to what is happening to them. We believe it would be more independent of political and other influences. Education is important, if everyone would be knowledgeable about the law. Simplify and shorten the legal process.

HEIDI HEITKAMP: Private citizen in support of SB2217. Whether this bill is necessary, to meet the need for North Dakota people and ND State Government. Ms. Heitkamp urged a Do Pass for this bill for three reasons. The first reason is quite simply discrimination exists in North Dakota.

Discrimination exists everywhere in this country. We are not immune from the problem of discrimination. And if ND is to be a place of equal opportunity and justice for all, ND must be dedicated to protecting citizen civil rights and preventing discrimination and preventing racism. I think currently efforts at addressing allegations of discrimination are inadequate, I believe to insure that we are protecting our citizens civil liberties. I ask that you consider the work of the North Dakota Civil Rights Commission. They document issues and allegations of discrimination, and we need to address the concerns that are set out in this document. Thirdly, demographic trends is a huge challenge for the state of ND in keeping our people in our state and providing opportunity in building a workforce. When we look at the census data, we know that from what happened in the last 10 years, that in the next 100 years, white people will become a minority population in this country. If North Dakota is to have a successful labor force, as ND is to grow, ND must be a welcoming place. It must be a place where people believe civil liberties are protected. It must be a place where all people are treated equally. To encourage people to count and participate in our economy. Do the thing that is best for its economic future. Protect North Dakotas' economic future and its opportunity for a workforce.

SENATOR BERCIER: Sponsor. Spoke in favor of SB2217. SEE WRITTEN TESTIMONY.

SENATOR WATNE: Money is always the problem. I look at the last page on Page 8, there is a cost provision of \$422,550. You estimated an income of \$370,000. Is that what you believe you could get from federal programs and a grant? SENATOR BERCIER: Yes, there are dollars that will be attracted. (ex.meter#19.0) What this will allow us to do, if this bill is passed, which I hope it is in this session, will allow us to have a bill, a mechanism that we can start attracting money from the private sector as well as the government sector. I believe the private sector will probably fund a great deal of this cost that were looking at here. SENATOR CHRISTENSON:

Do I understand correctly that North Dakota is one of the few, if not the only states in the union without a Human Rights Commission? SENATOR BERCIER: Yes, we are to a certain degree. There are some states that kind of done something similar to what we're trying to do in this state and I agree with good spirit, and with good intent. A lot of these issues are dumped over these Hot Housing these issues into two compartments and having them address them. Some other states do co-mingle authorities to take care of discrimination. There is probably 13 states that have that kind of situation, but the rest of the states have a full blown Human Rights Commission. Primary issue vs. Secondary issue in the Department of Labor. AUSTIN GILLETTE: Treasurer of the Fort Berthold, 3 Tribes, United Tribes. Spoke on behalf of Mr. Tex G. Hall. See attached testimony. SENATOR COOK: Mr. Gillette, you will work with Senator Bercier on that first suggestion you had as far as changing the makeup of the ?. MR. GILLETTE: Yes. SENATOR FLAKOLL: On that same line of question I had, was their a five treaty tribe? Correct? MR. GILLETTE: Yes. SENATOR FLAKOLL: And was it one person from that or one from? MR. GILLETTE: One per tribe. I do have a statement here. REPRESENTATIVE CLEARY: Co-sponsor of this bill, spoke in favor of this bill. See attached testimony. CAROL TWO EAGLES: ACLU& American Indian Traditionalists spoke in support of SB2217. Examples of discrimination given, (Meter#27.1-30.7) Reference to conversation with John Dorso. D.JOYCE KITZEN: AK.Wanika Coordinator, private citizen, spoke in favor of SB2217. She is concerned about racial profiling and housing discrimination, and discrimination in the work place. Artist in residence of the state of North Dakota, honored her ancestors in Traditional Folk Art. More occult activities, more cult activities, Anti Indian Movement. Concerned about her Indian people, as there are a lot of accidental deaths and suicides. Some of the barriers are

philosophical, a divide and conquer tactics that you use you cannot see because of the ability to surf the Internet and I really think we need to support you for this bill. DAVID GIPP: President of United Tribes Technical College, spoke in support of SB2217. See written testimony. Human Rights Commissions will look at housing, employment, issues of services and will help alleviate problems. We need to look at those persons who are discriminated against and those who might practice that unfortunately, and might need better education. I believe this commission is one way to effectively educate all of our people, about issues of discrimination, whether racial, lease systems or those kinds of things that relate to issues of discrimination. Education is a key role. LOIS LITTLE OWL: Spoke in support of SB2217. See attached testimony. DOMINIC F. VOLESKY: Spoke in support of SB2217. See attached testimony. Feels he is the victim of a corrupt administrative officer. CARL LIMUERE, Pastor of the Zion Lutheran Church in Medina, ND, spoke for himself in support of SB2217. Racism is systematic in our national society and we'd like to believe that North Dakota is an exception. But unfortunately, were not. We've experience racism, prejudice, and we've experienced discrimination as a family. We need a independent human rights commission. We need a proactive agency. Some have made this an issue about competency. I would like to suggest this is not an issue about competency, it is a issue about capacity. If you don't have the capacity to do the job, you will not be able to do it competently. If a agency has been given the responsibility and does not have the capacity to fulfill that responsibility, it just simply is a mirage. Basically, what we can create we have the appearance of a system of a Human Rights Commission, but we don't have one that functions at that level. This bill gives the Human Rights Commission the capacity and the resources to do the job that is needed to be done in this state. RAYLYNN LAUDERDALE: Executive Director of

People First of North Dakota. See written testimony. Pat Bradley also accompanied her to speak after her testimony. PAT BRADLEY:(Meter # 6.9-9.6) "please let me stay where I am at and not make me go into a nursing home". I have a family where I can stay. Please let me stay with my friends or family, who can stay with me. Do not mention nursing home. How would you like to be in a wheelchair. Because of the Olmsted Decision, a Supreme Court decision, that tells people she has the right to live in a lease restricted environment. Now, she's being told she had to go into a nursing home. TOM DISSELHORST, Attorney at Law, spoke in support of SB2217. See attached testimony. Housing Discrimination and HUD. Housing and Employment

Discrimination. SENATOR COOK: Talked about his filing of a discrimination complaint against the Department of Labor, several years ago, and Senator Cook asked Mr. Disselhorst about the process in filing in Denver. He didn't the process where it would be referred to Denver. Could you just enlighten me a little bit? TOM DISSELHORST: It's a fact finding process. The employer at that point certainly can contest that fact finding process, but what the Department of Labor does not have is the power to enforce that finding in court against that employer. That's my understanding of the way it works now. Mr. Bachmeier, is here, and he can correct me if I am wrong, but I am fairly certain that he does not have actually the power to go to court to stop acts of discrimination. The fact finding process is an important one, because it can be used to basically to persuade the employer to go along with that fact finding. But in fact it doesn't provide any real remedy to it. Tom Disselhorst continued his testimony on SB2177. On the House side, the bill appealed to the District Court, a simple amendment 'findings and orders' 28:32. and are appealed to the state District Court, a simple amendment to take care of this problem to ensure due process of rights in this commission system. The issue about money and contributions from sources \$.40 per citizen per year, to fund this commission, to provide

insurance that we can have a diverse work force in North Dakota. Mr. Gillette asked Tom Disseldorf to include this in his testimony..'.that if you pass this bill, it is of course subject to referendum, and the people of North Dakota who might not want this bill, can easily ask for a referendum on the measure that you pass'. Why not let the people of North Dakota decide, pass the bill, make sure it gets enacted into law and let the people of ND when in fact they think it is a useful instrument or not. CHRISTOPHER DOBSON: Executive Director of the North Dakota Catholic Conference. See attached testimony. First, one of the arguments we have heard in the past on this issue is the fear of lawsuits and the effect it could have on the economy. Lets put some things into perspective. The economy exists for the human person, not the person for the economy. And any economic system that accepts any amount of discrimination, for the sake of the economy is morally flawed. There is no justification for putting up with discrimination because of the fear of potential lawsuits or the fear of the alleged effect that the economy may be. The second point I would like to make, is that churches should get involved and help address some of these issues rather than forming a Human Rights Commission. The problem with that argument is that its theologically flawed. It confuses the notion of justice and the notion of charity and mixes them together, and improperly confuses what's the proper role of the state and what's the proper role of the church. The denial of the Human Right is the denial of justice. The primary actor, institution of society that is responsible for enforcing and ensuring justice is the state. The churches primary role is charity. Churches pick up what is dealing with the immediate, emergency affect of discrimination. To prevent discrimination and enforcing the laws of human rights, is the proper role of the state. The primary role of government is to ensure the dignity and quality of life of every human person equally. JOHN LINGER: President, ACLU of the Dakota's, spoke in support of SB2217. Organization founded on simple, on going and deeply

rooted belief of American people that of Civil Liberties for All Citizens. We know many ways to achieve it, and we encourage this bill. DORENE FEIST: Spoke in support of SB2217. See written testimony. Even though we have our Human Rights Act, an unjust law is no law at all.

We do have a Human Rights Act, but we don't have anything to support it. I also think that it is real sad that we are one of the last states in the nation to do anything about discrimination. When we talk about economic development we should embrace the diversity that is going to be coming into our state and do something about it now, for all citizens. LOUIS LUKE: Spoke in support of SB2217, the Human Rights Commission. We need to create a climate to save money. I think the Human Rights Commission is the way to go!

DALE ANDERSON, President of the Greater North Dakota Association spoke in opposition to SB2217. See attached testimony. GNMA encourages the new division of Human Rights in the North Dakota Department of Labor to bring all three quarters to the table to identify needs and put together a concerted effort for recommendations for action. GNDA welcomes all Senators and Representatives to work on this takeover group and make our conditions to the 2000 Legislative Assembly. GNDA is concerned about the impact of Section 4 of the bill, which repeals the chapter on housing discrimination that passed in the '99 Session. (Meter #31.0-31.6)

SENATOR COOK: You do agree or believe that this, the legislature has work to do on the issue of discrimination? DALE ANDERSON: Most definitely, Sir. SENATOR COOK: You are willing to partake in those efforts? DALE ANDERSON: Absolutely. SENATOR COOK: Okay. MR. BACHMEIER, may I ask a question of you? Please? MR. BACHEIER, Commissioner of Labor, certainly you can ask a question of me. SENATOR COOK: We heard a lot testimony regarding the limitations of the Labor Department and what you can do right now, in regards to

this issue. Mr. Disselhorst talked about limitations on the Labor Department, you heard my question I think, regarding Labor, can you do more than just do fact finding? Can you issue a judgment or an order? MARK BACHMEIER: The current authority that is granted to the Department of Labor, in the North Dakota Human Rights Act 14:02.4 allows us to receive and investigate complaints and if we find in our investigation leads us to believe that there is cause to believe that discrimination has occurred, we can seek voluntary conciliation of that complaint. We cannot issue an order, or take that issue to court, on behalf of claimants currently under the law. What happens and also in that area, have a contract with the Federal Equal Employment Opportunity Commission on cases that can file with the Department of Labor gets dual file And with this we see the intent to have the state agency investigate those instead of having them investigated by the federal agency. So it can be more timely investigated, and conducted within the state. In some cases, under federal law, or any of the federal equal employment laws, a person has to at least begin to undertake the administrative process of having that, that employment discrimination complaint investigated administratively before they can file in Federal Court. So a person can't take an employment discrimination complaint directly to federal court, they can under state law but not federal law. If we issue a determination in a claim, in a an employment claim, that has merit, and we are unable to resolve that complaint in anyway, informally through the authority we do have, that claim will, possibly be prosecuted by the state, but more likely the person would be issued a notice of right to sue, and that claim would be filed in court on their own behalf. That's the way the process works under the federal law and also the state law. I would add however, that in practice the number of employment discrimination cases, and we have a fairly large number of complaints, we received almost 500 in five years. That the number that we have not been able to resolve in one way or another after conducting an investigation is

extremely small, less than 5 in the time I've been at the department, waiver that we found cause in terms of the evidence that we gathered in the investigation, we issued a cause determination and not been able to resolve that issue in some way. In terms of the percentage of cases is extremely small. SENATOR COOK: Tom, we could solve a lot of the labor issues here with more statutory authority to the Labor Department, or are we still limited? TOM

BACHMEIER: The issues we discussed in testimony today, SENATOR COOK: Yes, sir. TOM

BACHMEIER: I think that part of what is at issue here at least, is that, that it is an issue of statutory authority.

It depends on statutory prohibitions, number one, that something that is, or has to be defined in law, or violation of the law, before it can be investigated, or resolved through the process either that would go to Human Rights, the Department of Labor, or court. Secondly, the idea that statutory authorities to investigate those complaints, there are things that are prohibited currently in the ND Human Rights Act, that the Department of Labor nor any other entity, currently have authority to receive or investigate a complaint. There are things that are unlawful, and that have remedy through court currently. Could statutory authority be granted to investigate other kinds of complaints to another entity other than the Human Rights Commission as proposed under this bill, certainly that would be a different model for enforcement. This bill proposed one model, and others are certainly options. SENATOR T. MATHERN: In terms of the fiscal note, and what the cost here. It appears after the fact, first of all there is a delayed implementation, of this bill. The bill has a delayed implementation which means there is less general fund money that would be needed that the bill had in the last legislative session. The other things in terms of the other money, this would not all be money that would have to be generated by fines, there is also some estimation that the federal government would be willing to fund part of this because

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essentially many activities that are now being addressed by the federal government through there Denver office, could be addressed in the North Dakota office. So, the other money funded in your bill, doesn't have to necessarily be all generated by fines. There would be the hope that the federal government would see the value of this going being done locally, and would grant some money for that project. So those are two things that I want to bring to your attention, and ask for your Do Pass.

Close Hearing on SB2217.

February 8, 2001 (Tape 2, Side A Meter # 24.4-50.0; Side B Meter #0.5-39.3)

The Senate Political Subdivision Committee met to get a further explanation of the amendments adopted for SB 2217. Mr. Mark Bachmeier, Labor Commissioner came in and explained the amendments as they were proposed by Senator Cook. After looking at the amendments the committee discussed them and then closed the discussion until Friday morning.

February 9, 2001 (Tape 1, Side A Meter # 0.0-10.5)

The Senate Political Subdivision Committee adjourned, all was present. Senator Cook asked the committee to look at the proposed amendments. A lengthy discussion followed.

Senator Lee motioned for a Do Pass on Amendments for SB2217

Senator Polovitz 2nd.

Roll call vote: 8 Yes 0 No 0 Absent

Senator Watne motioned for a Do Pass as Amended

Senator Christenson 2nd

Roll call vote 8 Yes, 0 No 0 Absent

Carrier: Senator Cook

FISCAL NOTE

Requested by Legislative Council
02/20/2001

Bill/Resolution No.:

Amendment to: SB 2217

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$83,106	\$0	\$83,061	\$0
Appropriations	\$0	\$0	\$83,106	\$0	\$83,061	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

The fiscal impact of Engrossed Senate Bill 2217 on the Department of Labor derives from additional authority granted to the agency for the investigation of human rights complaints and from authority granted to the agency to provide administrative hearings on discrimination complaints.

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

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

None

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

The total projected impact on the Department of Labor for the 2001-2003 Biennium includes:

- Salary and Benefits for One FTE: \$72,104
- IT Operating Expenses: \$1,200

- Office Equipment: \$1,158
- IT Equipment: \$1,824
- Professional Fees & Services: \$4,320
- Travel: \$2,500
- Total: \$83,106

The total projected impact on the Department of Labor for the 2003-2005 Biennium includes

- Salary and Benefits for One FTE: \$75,017
- IT Operating Expenses: \$1,224
- Office Equipment: \$0
- IT Equipment: \$0
- Professional Fees & Services: \$4,320
- Travel: \$2,500
- Total: \$83,061

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

The Department of Labor would need a general fund appropriation of \$83,106 for the 2001-2003 Biennium to carry out the additional responsibilities proposed by SB 2217. The Governor's Executive Budget Recommendation for the agency for the 2001-2003 Biennium included \$72,104 in general funds to add one FTE to the agency. If those funds are appropriated within the agency's budget (HB 1007), the salary and benefit amounts projected in this fiscal note would not be necessary.

Name:	Mark Bachmeler	Agency:	Department of Labor
Phone Number:	328-2660	Date Prepared:	02/27/2001

February 7, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2217

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 14-02.4 of the North Dakota Century Code, relating to the authority of the department of labor to receive discriminatory practices complaints; to amend and reenact sections 14-02.4-02, 14-02.4-19, 14-02.4-20, 14-02.4-21, 14-02.5-02, 14-02.5-03, 14-02.5-04, 14-02.5-05, 14-02.5-07, 14-02.5-08, 14-02.5-10, and 14-02.5-45 of the North Dakota Century Code relating to discriminatory practices and the authority of the department of labor; to repeal section 14-02.4-12.1 of the North Dakota Century Code, relating to discriminatory housing practices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-02. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Age" insofar as it refers to any prohibited unfair employment or other practice means at least forty years of age.
2. "Court" means the district court in the judicial district in which the alleged discriminatory practice occurred.
3. "Department" means the department of labor.
4. ~~5.~~ "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of this impairment, or being regarded as having this impairment.
5. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours results in the unequal treatment or separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, ~~housing accommodations, property rights,~~ public accommodations, public services, or credit transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, or education, ~~or housing;~~
 - b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's

employment, public accommodations or public services, education, or housing; or

- c. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations, public services, or educational ~~or housing~~ environment; and in the case of employment, the employer is responsible for its acts and those of its supervisory employees if it knows or should know of the existence of the harassment and fails to take timely and appropriate action.
- ~~5~~ 6. "Employee" means a person who performs services for an employer, who employs one or more individuals, for compensation, whether in the form of wages, salaries, commission, or otherwise. "Employee" does not include a person elected to public office in the state or political subdivision by the qualified voters thereof, or a person chosen by the officer to be on the officer's political staff, or an appointee on the policymaking level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. Provided, "employee" does include a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision.
- ~~6~~ 7. "Employer" means a person within the state who employs one or more employees for more than one quarter of the year and a person wherever situated who employs one or more employees whose services are to be partially or wholly performed in the state.
- ~~7~~ 8. "Employment agency" means a person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunity to work for an employer and includes any agent of the person.
- ~~8~~ 9. "Labor organization" means a person, employee representation committee, plan in which employees participate, or other organization which exists solely or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
- ~~9~~ 10. "National origin" means the place of birth of an individual or any of the individual's lineal ancestors.
- ~~10~~ 11. "Otherwise qualified person" means a person who is capable of performing the essential functions of the particular employment in question.
- ~~11~~ 12. "Person" means an individual, partnership, association, corporation, limited liability company, unincorporated organization, mutual company, joint stock company, trust, agent, legal representative, trustee, trustee in bankruptcy, receiver, labor organization, public body, public corporation, and the state and a political subdivision and agency thereof.
- ~~12~~ 13. "Public accommodation" means every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity. "Public accommodation" does not include a bona fide private club or other place, establishment, or facility which is by its nature distinctly private; provided, however, the distinctly private place, establishment, or facility is a "public accommodation" during the period it caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity.

- ~~13~~ 14. "Public service" means a public facility, department, agency, board, or commission owned, operated, or managed by or on behalf of this state, a political subdivision thereof, or a public corporation.
- ~~14~~ 14. ~~"Real estate broker" and "real estate salesman" mean a real estate broker and real estate salesman as defined in section 43-23-06.1.~~
- ~~15~~ 15. ~~"Real property" means a right, title, interest in or to the possession, ownership, enjoyment, or occupancy of a parcel of land, building situated thereon, or portion of the building.~~
- ~~16~~ 15. "Reasonable accommodations" means accommodations by an employer that do not:
- a. Unduly disrupt or interfere with the employer's normal operations;
 - b. Threaten the health or safety of the individual with a disability or others;
 - c. Contradict a business necessity of the employer; or
 - d. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.
- ~~17~~ 16. "Sex" includes, ~~but is not limited to,~~ pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
- ~~18~~ 17. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

SECTION 2. Two new sections to chapter 14-02.4 of the North Dakota Century Code are created and enacted as follows:

Duties and powers of department. The department shall receive and investigate complaints alleging violations of this chapter. The department may adopt rules necessary to implement this chapter. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, employers, providers of public accommodations or services, and commercial lenders on the rights and responsibilities provided under this chapter and ways to respect those protected rights. The department shall emphasize conciliation to resolve complaints. The department shall publish in even-numbered years a written report recommending legislative or other action to carry out the purposes of this chapter. The department shall conduct studies relating to the nature and extent of discriminatory practices in this state.

Complaints - Probable cause - Administrative hearing.

1. The department shall investigate complaints of alleged discriminatory practices. An aggrieved individual may file a complaint with the department alleging the discriminatory practice. The department may file a complaint. A complaint must be in writing and in the form prescribed by the department.

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2. The department shall determine from the facts whether probable cause exists to believe that a discriminatory practice has occurred. If the department determines that no probable cause exists to believe that a discriminatory practice has occurred, the department shall promptly dismiss the complaint.
 3. If the department determines that probable cause exists to believe that a discriminatory practice has occurred and is unable to resolve the complaint through informal negotiations or conciliation, the department shall provide for an administrative hearing on the complaint.

SECTION 3. AMENDMENT. Section 14-02.4-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in any the judicial district in the state in which the unlawful practice is alleged to have been committed, or in the district in which the records relevant to such practice are maintained and administered, or in the judicial district in which the person would have worked or obtained credit obtained public accommodations or services were it not for the alleged discriminatory act within ~~three years~~ one hundred eighty days of the alleged act of wrongdoing. Any person claiming to be aggrieved by a ~~any~~ discriminatory practice other than public services or public accommodations in violation of this chapter with regard to an employer's discriminatory practice may bring ~~file~~ a complaint of discriminating employment practices under this chapter to discriminatory practice with the department of labor or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing. ~~Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter with regard to public accommodations or services may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed, or in the judicial district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.~~ The period of limitation for bringing an action in the district court is tolled while the complaint is pending with the department.

SECTION 4. AMENDMENT. Section 14-02.4-20 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-20. Relief. If the department, as the result of an administrative hearing, or the court determines that the respondent has engaged in or is engaging in ~~an unlawful~~ a discriminatory practice, the department or the court may enjoin the respondent from engaging in ~~such~~ the unlawful practice and order ~~such~~ appropriate relief ~~as will be appropriate~~, which may include, ~~but is not limited to~~, temporary or permanent injunctions, actual damages, equitable relief, reasonable attorney's fees, and backpay limited to no more than two years from the date the ~~complainant has~~ complaint was filed a sworn charge with the equal employment opportunity commission or filed the complaint in the state department or the court. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall ~~operate to reduce the backpay otherwise allowable.~~ In any action or proceeding under this chapter the court may grant, in its discretion, the prevailing party a reasonable attorney's fee as part of the costs. If the court finds that the complainant's allegation of a discriminatory practice is false and not made in good faith, the court shall order the complainant to pay court costs and reasonable attorney's fees incurred by the respondent in responding to the allegation.

SECTION 5. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-21. ~~Optional mediation by department of labor—Relief—Appeals—Records exempt.~~ ~~The department of labor may receive complaints of discriminating employment practices under this chapter and may investigate the complaints to determine if there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain voluntary compliance with this chapter's employment requirements through informal advice, negotiation, or conciliation. This chapter does not prohibit a person from filing, or require a person to file, a complaint with the department of labor before using the provisions of this chapter. A complaint received by the department and information obtained during any investigation conducted under this section chapter are exempt from section 44-04-18 before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter. The commissioner department may disclose to the complainant or the respondent, or attorneys for the complainant or respondent, information obtained under this section during an investigation if deemed determined necessary by the commissioner department for securing an appropriate resolution of a complaint. Any record or information held by the department of labor pursuant to an agreement with any federal agency for the enforcement of fair employment practices is exempt from section 44-04-18, and the The department of labor may disclose to federal officials information obtained under this section chapter if appropriate to carry out the enforcement of fair employment practices pursuant to the necessary for the processing of complaints under an agreement with the agency. The department of labor may not disclose anything said or done as part of the informal negotiation or conciliation efforts relating to a complaint under this section chapter.~~

SECTION 6. AMENDMENT. Section 14-02.5-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

SECTION 7. AMENDMENT. Section 14-02.5-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-03. Publication. A person may not make, print, or publish or effect the making, printing, or publishing of a notice, statement, or advertisement that is about the sale or rental of a dwelling and that indicates any preference, limitation, or discrimination or the intention to make a preference, limitation, or discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 8. AMENDMENT. Section 14-02.5-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-04. Inspection. A person may not represent to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

SECTION 9. AMENDMENT. Section 14-02.5-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-05. Entry into neighborhood. A person may not, for profit, induce or attempt to induce another to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of an individual of a particular race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 10. AMENDMENT. Section 14-02.5-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-07. Residential real estate-related transaction. A person whose business includes engaging in residential real estate-related transactions may not discriminate against an individual in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance. A residential real estate-related transaction is the selling, brokering, or appraising of residential real property or the making or purchasing of loans or the provision of other financial assistance to purchase, construct, improve, repair, maintain a dwelling, or to secure residential real estate. For the purposes of this section, a person is in the business of selling residential real property if within the preceding twelve months, the person has participated as principal in three or more transactions involving the sale of any dwelling or any interest in a dwelling or has participated as agent, other than in the sale of the person's own personal residence, in providing sales facilities or sales services in two or more transactions involving the sale of any dwelling or any interest in a dwelling.

SECTION 11. AMENDMENT. Section 14-02.5-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-08. Brokerage services. A person may not deny an individual access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against an individual in the terms or conditions of access, membership, or participation in the organization, service, or facility because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 12. AMENDMENT. Section 14-02.5-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-10. Religious organization, private club, and appraisal exemption.

1. This chapter does not prohibit a religious organization, association, or society or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to individuals of the same religion or giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.
2. This chapter does not prohibit a private club that is not in fact open to the public and that, as an incident to its primary purpose, provides lodging that

it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodging to its members or from giving preference to its members, unless membership in the club is restricted because of race, color, or national origin.

3. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from considering in those appraisals factors other than race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 13. AMENDMENT. Section 14-02.5-45 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-45. Intimidation or interference - Penalty.

1. A person commits an offense if the person, without regard to whether the person is acting under color of law, by force or threat of force, intentionally intimidates or interferes with an individual:
 - a. Because of the individual's race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance and because the individual is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or
 - b. Because the individual is or has been or to intimidate the individual from participating, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described by subdivision a; affording another individual opportunity or protection to so participate; or lawfully aiding or encouraging other individuals to participate, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described in subdivision a.
2. It is a discriminatory practice to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of the individual having exercised or enjoyed, or on account of the individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.
3. An offense under subsection 1 of this section is a class A misdemeanor.

SECTION 14. REPEAL. Section 14-02.4-12.1 of the North Dakota Century Code is repealed."

Renumber accordingly

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2217
Amendments to SB 2217 POL SUBS 2/9/01

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 14-02.4 of the North Dakota Century Code, relating to the authority of the department of labor to receive discriminatory practices complaints; to amend and reenact sections 14-02.4-02, 14-02.4-19, 14-02.4-20, 14-02.4-21, 14-02.5-02, 14-02.5-03, 14-02.5-04, 14-02.5-05, 14-02.5-07, 14-02.5-08, 14-02.5-10, and 14-02.5-45 of the North Dakota Century Code, relating to discriminatory practices and the authority of the department of labor; to repeal section 14-02.4-12.1 of the North Dakota Century Code, relating to discriminatory housing practices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-02. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Age" insofar as it refers to any prohibited unfair employment or other practice means at least forty years of age.
2. "Court" means the district court in the judicial district in which the alleged discriminatory practice occurred.
3. "Department" means the division of human rights within the department of labor.
4. "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of this impairment, or being regarded as having this impairment.
4. 5. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours results in the unequal treatment or separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, ~~housing accommodations, property rights,~~ public accommodations, public services, or credit transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, ~~or education or housing;~~

- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- c. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations, public services, or educational ~~or housing~~ environment; and in the case of employment, the employer is responsible for its acts and those of its supervisory employees if it knows or should know of the existence of the harassment and fails to take timely and appropriate action.

- ~~5.~~ 6. "Employee" means a person who performs services for an employer, who employs one or more individuals, for compensation, whether in the form of wages, salaries, commission, or otherwise. "Employee" does not include a person elected to public office in the state or political subdivision by the qualified voters thereof, or a person chosen by the officer to be on the officer's political staff, or an appointee on the policymaking level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. Provided, "employee" does include a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision.
- ~~6.~~ 7. "Employer" means a person within the state who employs one or more employees for more than one quarter of the year and a person wherever situated who employs one or more employees whose services are to be partially or wholly performed in the state.
- ~~7.~~ 8. "Employment agency" means a person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunity to work for an employer and includes any agent of the person.
- ~~8.~~ 9. "Labor organization" means a person, employee representation committee, plan in which employees participate, or other organization which exists solely or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
- ~~9.~~ 10. "National origin" means the place of birth of an individual or any of the individual's lineal ancestors.
- ~~10.~~ 11. "Otherwise qualified person" means a person who is capable of performing the essential functions of the particular employment in question.
- ~~11.~~ 12. "Person" means an individual, partnership, association, corporation, limited liability company, unincorporated organization, mutual company, joint stock company, trust, agent, legal representative, trustee, trustee in bankruptcy, receiver, labor organization, public body, public corporation, and the state and a political subdivision and agency thereof.
- ~~12.~~ 13. "Public accommodation" means every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity. "Public accommodation" does not include a bona fide private club or other place, establishment, or facility which is by its nature distinctly private; provided, however, the distinctly private place, establishment, or facility is a "public accommodation" during the period it caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity.

- ~~13.~~ 14. "Public service" means a public facility, department, agency, board, or commission owned, operated, or managed by or on behalf of this state, a political subdivision thereof, or a public corporation.
- ~~14.~~ "Real estate broker" and "real estate salesman" mean a real estate broker and real estate salesman as defined in section 43-23-06.1.
- ~~15.~~ "Real property" means a right, title, interest in or to the possession, ownership, enjoyment, or occupancy of a parcel of land, building situated thereon, or portion of the building.
- ~~16.~~ 15. "Reasonable accommodations" means accommodations by an employer that do not:
 - a. Unduly disrupt or interfere with the employer's normal operations;
 - b. Threaten the health or safety of the individual with a disability or others;
 - c. Contradict a business necessity of the employer; or
 - d. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.
- ~~17.~~ 16. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
- ~~18.~~ 17. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

SECTION 2. Two new sections to chapter 14-02.4 of the North Dakota Century Code are created and enacted as follows:

Duties and powers of department. The department shall receive and investigate complaints alleging violations of this chapter. The department may adopt rules necessary to implement this chapter. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, employers, providers of public accommodations or services, and commercial lenders on the rights and responsibilities provided under this chapter and ways to respect those protected rights. The department shall emphasize conciliation to resolve complaints. The department shall publish in even-numbered years a written report recommending legislative or other action to carry out the purposes of this chapter. The department shall conduct studies relating to the nature and extent of discriminatory practices in this state.

Complaints - Probable cause - Administrative hearing.

- 1. The department shall investigate complaints of alleged discriminatory practices. An aggrieved person may file a complaint with the department alleging the discriminatory practice. The department may file a complaint. A complaint must be in writing and in the form prescribed by the department.
- 2. The department shall determine from the facts whether probable cause exists to believe that a discriminatory practice has occurred. If the department determines that no probable cause exists to believe that a

discriminatory practice has occurred, the department shall promptly dismiss the complaint.

- 3. If the department determines that probable cause exists to believe that a discriminatory practice has occurred and is unable to resolve the complaint through informal negotiations or conciliation, the department shall provide for an administrative hearing in the manner provided in chapter 28-32 on the complaint.

SECTION 3. AMENDMENT. Section 14-02.4-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in any the judicial district in the state in which the unlawful practice is alleged to have been committed; or in the district in which the records relevant to such practice are maintained and administered, or in the judicial district in which the person would have worked or obtained credit obtained public accommodations or services were it not for the alleged discriminatory act within three years one hundred eighty days of the alleged act of wrongdoing. Any person claiming to be aggrieved by a any discriminatory practice other than public services or public accommodations in violation of this chapter with regard to an employer's discriminatory practice may bring file a complaint of discriminating employment practices under this chapter to discriminatory practice with the department of labor or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing. Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter with regard to public accommodations or services may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed, or in the judicial district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing. The period of limitation for bringing an action in the district court is tolled while the complaint is pending with the department.

SECTION 4. AMENDMENT. Section 14-02.4-20 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-20. Relief. If the department, as the result of an administrative hearing, or the court determines that the respondent has engaged in or is engaging in an unlawful a discriminatory practice, the department or the court may enjoin the respondent from engaging in such the unlawful practice and order such appropriate relief as will be appropriate, which may include, but is not limited to, temporary or permanent injunctions, actual damages, equitable relief, and backpay limited to no more than two years from the date the complainant has complaint was filed a sworn charge with the equal employment opportunity commission or filed the complaint in the state department or the court. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable. In any action or proceeding under this chapter the court may grant, in its discretion, the prevailing party a reasonable attorney's fee as part of the costs. If the court finds that the complainant's allegation of a discriminatory practice is false and not made in good faith, the court shall order the complainant to pay court costs and reasonable attorney's fees incurred by the respondent in responding to the allegation.

SECTION 5. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-21. Optional mediation by department of labor—Relief—Appeals—Records exempt. ~~The department of labor may receive complaints of discriminating employment practices under this chapter and may investigate the complaints to determine if there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain voluntary compliance with this chapter's employment requirements through informal advice, negotiation, or conciliation. This chapter does not prohibit a person from filing, or require a person to file, a complaint with the department of labor before using the provisions of this chapter. A complaint received by the department and information obtained during any investigation conducted under this section chapter are exempt from section 44-04-18 before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter. The commissioner department may disclose to the complainant or the respondent, or attorneys for the complainant or respondent, information obtained under this section during an investigation if deemed determined necessary by the commissioner department for securing an appropriate resolution of a complaint. Any record or information held by the department of labor pursuant to an agreement with any federal agency for the enforcement of fair employment practices is exempt from section 44-04-18, and the The department of labor may disclose to federal officials information obtained under this section chapter if appropriate to carry out the enforcement of fair employment practices pursuant to the necessary for the processing of complaints under an agreement with the agency. The department of labor may not disclose anything said or done as part of the informal negotiation or conciliation efforts relating to a complaint under this section chapter.~~

SECTION 6. AMENDMENT. Section 14-02.5-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

SECTION 7. AMENDMENT. Section 14-02.5-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-03. Publication. A person may not make, print, or publish or effect the making, printing, or publishing of a notice, statement, or advertisement that is about the sale or rental of a dwelling and that indicates any preference, limitation, or discrimination or the intention to make a preference, limitation, or discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 8. AMENDMENT. Section 14-02.5-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-04. Inspection. A person may not represent to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with

respect to marriage or public assistance that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

SECTION 9. AMENDMENT. Section 14-02.5-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-05. Entry into neighborhood. A person may not, for profit, induce or attempt to induce another to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of an individual of a particular race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 10. AMENDMENT. Section 14-02.5-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-07. Residential real estate-related transaction. A person whose business includes engaging in residential real estate-related transactions may not discriminate against an individual in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance. A residential real estate-related transaction is the selling, brokering, or appraising of residential real property or the making or purchasing of loans or the provision of other financial assistance to purchase, construct, improve, repair, maintain a dwelling, or to secure residential real estate. For the purposes of this section, a person is in the business of selling residential real property if within the preceding twelve months, the person has participated as principal in three or more transactions involving the sale of any dwelling or any interest in a dwelling or has participated as agent, other than in the sale of the person's own personal residence, in providing sales facilities or sales services in two or more transactions involving the sale of any dwelling or any interest in a dwelling.

SECTION 11. AMENDMENT. Section 14-02.5-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-08. Brokerage services. A person may not deny an individual access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against an individual in the terms or conditions of access, membership, or participation in the organization, service, or facility because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 12. AMENDMENT. Section 14-02.5-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-10. Religious organization, private club, and appraisal exemption.

1. This chapter does not prohibit a religious organization, association, or society or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to individuals of the same religion or giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.
2. This chapter does not prohibit a private club that is not in fact open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodging to its members or from giving preference

to its members, unless membership in the club is restricted because of race, color, or national origin.

- 3. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from considering in those appraisals factors other than race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

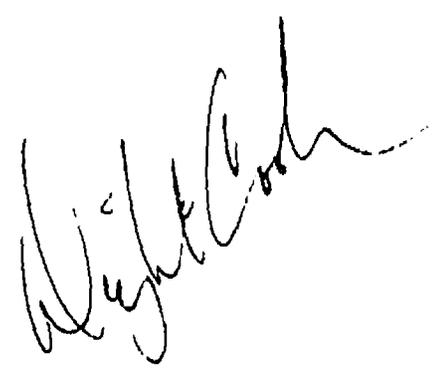
SECTION 13. AMENDMENT. Section 14-02.5-45 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-45. Intimidation or interference - Penalty.

- 1. A person commits an offense if the person, without regard to whether the person is acting under color of law, by force or threat of force, intentionally intimidates or interferes with an individual:
 - a. Because of the individual's race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance and because the individual is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or
 - b. Because the individual is or has been or to intimidate the individual from participating, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described by subdivision a; affording another individual opportunity or protection to so participate; or lawfully aiding or encouraging other individuals to participate, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described in subdivision a.
- 2. It is a discriminatory practice to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of the individual having exercised or enjoyed, or on account of the individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.
- 3. An offense under subsection 1 of this section is a class A misdemeanor.

SECTION 14. REPEAL. Section 14-02.4-12.1 of the North Dakota Century Code is repealed."

Renumber accordingly



REPORT OF STANDING COMMITTEE

SB 2217: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 14-02.4 of the North Dakota Century Code, relating to the authority of the department of labor to receive discriminatory practices complaints; to amend and reenact sections 14-02.4-02, 14-02.4-19, 14-02.4-20, 14-02.4-21, 14-02.5-02, 14-02.5-03, 14-02.5-04, 14-02.5-05, 14-02.5-07, 14-02.5-08, 14-02.5-10, and 14-02.5-45 of the North Dakota Century Code, relating to discriminatory practices and the authority of the department of labor; to repeal section 14-02.4-12.1 of the North Dakota Century Code, relating to discriminatory housing practices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-02. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Age" insofar as it refers to any prohibited unfair employment or other practice means at least forty years of age.
2. "Court" means the district court in the judicial district in which the alleged discriminatory practice occurred.
3. "Department" means the division of human rights within the department of labor.
4. 5. "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of this impairment, or being regarded as having this impairment.
4. 5. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours results in the unequal treatment or separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, ~~housing accommodations, property rights,~~ public accommodations, public services, or credit transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, ~~or education, or housing;~~

- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- c. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations, public services, or educational ~~or housing~~ environment; and in the case of employment, the employer is responsible for its acts and those of its supervisory employees if it knows or should know of the existence of the harassment and fails to take timely and appropriate action.
- ~~5-~~ 6. "Employee" means a person who performs services for an employer, who employs one or more individuals, for compensation, whether in the form of wages, salaries, commission, or otherwise. "Employee" does not include a person elected to public office in the state or political subdivision by the qualified voters thereof, or a person chosen by the officer to be on the officer's political staff, or an appointee on the policymaking level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. Provided, "employee" does include a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision.
- ~~6-~~ 7. "Employer" means a person within the state who employs one or more employees for more than one quarter of the year and a person wherever situated who employs one or more employees whose services are to be partially or wholly performed in the state.
- ~~7-~~ 8. "Employment agency" means a person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunity to work for an employer and includes any agent of the person.
- ~~8-~~ 9. "Labor organization" means a person, employee representation committee, plan in which employees participate, or other organization which exists solely or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
- ~~9-~~ 10. "National origin" means the place of birth of an individual or any of the individual's lineal ancestors.
- ~~10-~~ 11. "Otherwise qualified person" means a person who is capable of performing the essential functions of the particular employment in question.
- ~~11-~~ 12. "Person" means an individual, partnership, association, corporation, limited liability company, unincorporated organization, mutual company, joint stock company, trust, agent, legal representative, trustee, trustee in bankruptcy, receiver, labor organization, public body, public corporation, and the state and a political subdivision and agency thereof.
- ~~12-~~ 13. "Public accommodation" means every place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity. "Public accommodation" does not include a bona fide private club or other place, establishment, or facility which is by its nature distinctly private; provided,

however, the distinctly private place, establishment, or facility is a "public accommodation" during the period it caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuity.

- ~~13.~~ 14. "Public service" means a public facility, department, agency, board, or commission owned, operated, or managed by or on behalf of this state, a political subdivision thereof, or a public corporation.
- ~~14.~~ "Real estate broker" and "real estate salesman" mean a real estate broker and real estate salesman as defined in section ~~43-23-06.1.~~
- ~~15.~~ "Real property" means a right, title, interest in or to the possession, ownership, enjoyment, or occupancy of a parcel of land, building situated thereon, or portion of the building.
- ~~16.~~ 15. "Reasonable accommodations" means accommodations by an employer that do not:
- a. Unduly disrupt or interfere with the employer's normal operations;
 - b. Threaten the health or safety of the individual with a disability or others;
 - c. Contradict a business necessity of the employer; or
 - d. Impose undue hardship on the employer, based on the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.
- ~~17.~~ 16. "Sex" includes, ~~but is not limited to,~~ pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
- ~~18.~~ 17. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

SECTION 2. Two new sections to chapter 14-02.4 of the North Dakota Century Code are created and enacted as follows:

Duties and powers of department. The department shall receive and investigate complaints alleging violations of this chapter. The department may adopt rules necessary to implement this chapter. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, employers, providers of public accommodations or services, and commercial lenders on the rights and responsibilities provided under this chapter and ways to respect those protected rights. The department shall emphasize conciliation to resolve complaints. The department shall publish in even-numbered years a written report recommending legislative or other action to carry out the purposes of this chapter. The department shall conduct studies relating to the nature and extent of discriminatory practices in this state.

Complaints - Probable cause - Administrative hearing.

1. The department shall investigate complaints of alleged discriminatory practices. An aggrieved person may file a complaint with the department

alleging the discriminatory practice. The department may file a complaint. A complaint must be in writing and in the form prescribed by the department.

2. The department shall determine from the facts whether probable cause exists to believe that a discriminatory practice has occurred. If the department determines that no probable cause exists to believe that a discriminatory practice has occurred, the department shall promptly dismiss the complaint.
3. If the department determines that probable cause exists to believe that a discriminatory practice has occurred and is unable to resolve the complaint through informal negotiations or conciliation, the department shall provide for an administrative hearing in the manner provided in chapter 26-32 on the complaint.

SECTION 3. AMENDMENT. Section 14-02.4-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in any the judicial district in the state in which the unlawful practice is alleged to have been committed, or in the district in which the records relevant to such practice are maintained and administered, or in the judicial district in which the person would have worked or obtained credit obtained public accommodations or services were it not for the alleged discriminatory act within three years one hundred eighty days of the alleged act of wrongdoing. Any person claiming to be aggrieved by any discriminatory practice other than public services or public accommodations in violation of this chapter with regard to an employer's discriminatory practice may bring file a complaint of discriminating employment practices under this chapter to discriminatory practice with the department of labor or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing. ~~Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter with regard to public accommodations or services may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed, or in the judicial district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.~~ The period of limitation for bringing an action in the district court is tolled while the complaint is pending with the department.

SECTION 4. AMENDMENT. Section 14-02.4-20 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-20. Relief. If the department, as the result of an administrative hearing, or the court determines that the respondent has engaged in or is engaging in an unlawful a discriminatory practice, the department or the court may enjoin the respondent from engaging in such the unlawful practice and order such appropriate relief as will be appropriate, which may include, but is not limited to, temporary or permanent injunctions, actual damages, equitable relief, and backpay limited to no more than two years from the date the complainant has complaint was filed a sworn charge with the equal employment opportunity commission or filed the complaint in the state department or the court. Interim earnings or amounts earnable with reasonable

diligence by the person ~~or persons~~ discriminated against ~~shall operate to~~ reduce the backpay otherwise allowable. In any action or proceeding under this chapter the court may grant, ~~in its discretion,~~ the prevailing party a reasonable attorney's fee as part of the costs. If the court finds that the complainant's allegation of a discriminatory practice is false and not made in good faith, the court shall order the complainant to pay court costs and reasonable attorney's fees incurred by the respondent in responding to the allegation.

SECTION 5. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

~~14-02.4-21. Optional mediation by department of labor Relief Appeals Records exempt.~~ The department of labor may receive complaints of discriminating employment practices under this chapter and may investigate the complaints to determine if there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain voluntary compliance with this chapter's employment requirements through informal advice, negotiation, or conciliation. This chapter does not prohibit a person from filing, or require a person to file, a complaint with the department of labor before using the provisions of this chapter. A complaint received by the department and information obtained during any investigation conducted under this ~~section~~ chapter are exempt from section 44-04-18 before the institution of any judicial proceedings or administrative hearing relating to the complaint under this chapter. ~~The commissioner~~ department may disclose to the complainant or the respondent, ~~or attorneys for the complainant or respondent,~~ information obtained under this section during an investigation if ~~deemed~~ determined necessary by ~~the commissioner~~ department for securing an appropriate resolution of a complaint. ~~Any record or information held by the department of labor pursuant to an agreement with any federal agency for the enforcement of fair employment practices is exempt from section 44-04-18, and the~~ The department of labor may disclose to federal officials information obtained under this section chapter if appropriate to carry out the enforcement of fair employment practices pursuant to the necessary for the processing of complaints under an agreement with the agency. The department of labor may not disclose anything said or done as part of the informal negotiation or conciliation efforts relating to a complaint under this section chapter.

SECTION 6. AMENDMENT. Section 14-02.5-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

SECTION 7. AMENDMENT. Section 14-02.5-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-03. Publication. A person may not make, print, or publish or effect the making, printing, or publishing of a notice, statement, or advertisement that is about the sale or rental of a dwelling and that indicates any preference, limitation, or discrimination or the intention to make a preference, limitation, or discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 8. AMENDMENT. Section 14-02.5-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-04. Inspection. A person may not represent to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

SECTION 9. AMENDMENT. Section 14-02.5-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-05. Entry into neighborhood. A person may not, for profit, induce or attempt to induce another to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of an individual of a particular race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 10. AMENDMENT. Section 14-02.5-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-07. Residential real estate-related transaction. A person whose business includes engaging in residential real estate-related transactions may not discriminate against an individual in making a real estate-related transaction available or in the terms or conditions of a real estate-related transaction because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance. A residential real estate-related transaction is the selling, brokering, or appraising of residential real property or the making or purchasing of loans or the provision of other financial assistance to purchase, construct, improve, repair, maintain a dwelling, or to secure residential real estate. For the purposes of this section, a person is in the business of selling residential real property if within the preceding twelve months, the person has participated as principal in three or more transactions involving the sale of any dwelling or any interest in a dwelling or has participated as agent, other than in the sale of the person's own personal residence, in providing sales facilities or sales services in two or more transactions involving the sale of any dwelling or any interest in a dwelling.

SECTION 11. AMENDMENT. Section 14-02.5-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-08. Brokerage services. A person may not deny an individual access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against an individual in the terms or conditions of access, membership, or participation in the organization, service, or facility because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 12. AMENDMENT. Section 14-02.5-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-10. Religious organization, private club, and appraisal exemption.

1. This chapter does not prohibit a religious organization, association, or society or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to individuals of the same religion or giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.
2. This chapter does not prohibit a private club that is not in fact open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of the lodging to its members or from giving preference to its members, unless membership in the club is restricted because of race, color, or national origin.
3. This chapter does not prohibit a person engaged in the business of furnishing appraisals of real property from considering in those appraisals factors other than race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

SECTION 13. AMENDMENT. Section 14-02.5-45 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-02.5-45. Intimidation or Interference - Penalty.

1. A person commits an offense if the person, without regard to whether the person is acting under color of law, by force or threat of force, intentionally intimidates or interferes with an individual:
 - a. Because of the individual's race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance and because the individual is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings; or
 - b. Because the individual is or has been or to intimidate the individual from participating, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described by subdivision a; affording another individual opportunity or protection to so participate; or lawfully aiding or encouraging other individuals to participate, without discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance, in an activity, service, organization, or facility described in subdivision a.
2. It is a discriminatory practice to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of the

individual having exercised or enjoyed, or on account of the individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

3. An offense under subsection 1 of this section is a class A misdemeanor.

SECTION 14. REPEAL. Section 14-02.4-12.1 of the North Dakota Century Code is repealed."

Renumber accordingly

2001 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2217

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2217

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3/08/01

Tape Number	Side A	Side B	Meter #
2	X		2844-END
		X	0-END
Action (3/16/01) = 1	X		0-2022
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

REP. M. KLEIN called the hearing to order, REP. MEIER, REP. BELLEW,

REP. WIKENHEISER and REP. CLARK are absent for testimony, they went to see

PRESIDENT GEORGE W. BUSH speak in Fargo, North Dakota. All other committee members

are present.

In favor:

SEN. DWIGHT C. COOK, DISTRICT 34

COOK introduces the bill, urges the committee a do pass as amended. COOK states that a lot of work has went in to this bill.

In favor:

REP. MARY O. EKSTROM, DISTRICT 11

Please see attached testimony.

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2217

Hearing Date 3/08/01

Opposed to engrossed bill:

In favor of the original bill:

SEN. DENNIS D. BERCIER, DISTRICT 9

Please see attached testimony. BERCIER is opposed to the amended bill. BERCIER is in favor of the original bill. Talks to the committee about the discrimination that they live with daily.

BERCIER urges a do pass on the original bill.

In favor:

DALE O. ANDERSON, PRESIDENT OF THE GREATER NORTH DAKOTA

ASSOCIATION

Please see attached testimony.

REP. CLEARY would like to know why the GNDA was opposed to the original bill, but supports the amended bill now.

Neutral:

MARK BACHMEIER, NORTH DAKOTA DEPARTMENT OF LABOR

BACHMEIER talks to the committee about being prepared to implement the provisions of the bill. Also commented on salaries and benefits for one full-time employee.

REP. M. KLEIN asks how many staff members are there? BACHMEIER replies that there are nine at the agency. REP. METCALF asks about education for the public. BACHMEIER states that there is a need for funds and how to get them. It is crucial to reduce the number of online newsletters. Nine members on the staff. REP. METCALF asks about employment to the housing section in the labor department. BACHMEIER states that they need to produce new materials and DINA BUTCHER is a new asset. REP. METCALF wonders how long it will take.

BACHMEIER states that the pay off has proven that it works. REP. KLEMIN asks about section

four. BACHMEIER states that he can't answer that adequately. REP. CLEARY asks if the Attorney General's office has any scuttle about this bill? BACHMEIER states that he has had no such discussion with that office. REP. KASPER asks about page five and the description of "what power"? BACHMEIER states that he can not recite everything that entails. REP. DEVLIN asks if North Dakota isn't the only one with out a labor commission? BACHMEIER states that is true we are not the only one.

Neutral:

ALLAN PETERSON, NORTH DAKOTANS FOR A HUMAN RIGHTS COMMISSION

Please see attached testimony.

REP. KASPER asks about Fargo human rights. PETERSON states that they are trying to develop a strategy. REP. KASPER reads from the Fargo human relations to PETERSON.

Neutral:

JACK MCDONALD, NORTH DAKOTA NEWSPAPER ASSOCIATION & NORTH DAKOTA BROADCASTERS ASSOCIATION

Please see attached testimony. MCDONALD strongly supports the amendments that they have introduced.

Opposed to engrossed bill:

In favor of the original bill:

REP. ROXANNE JENSEN, DISTRICT 17

JENSEN states to the committee that there is a level of discrimination. Investigations right now are taking between three to four months . There is a need for a separate commission. JENSEN does not like the amended bill. JENSEN would rather go back to the original bill, or else kill it as is. JENSEN comments to the committee, let's do it right.

Opposes the engrossed bill:

In favor for the original bill:

RAYLYNN LAUDERDALE, EXECUTIVE DIRECTOR PEOPLE FIRST OF NORTH
DAKOTA

Please see attached testimony.

Opposes the engrossed bill:

In favor of the original bill:

JENNIFER RING, ACLU OF THE DAKOTAS

RING states they do support the PETERSON amendments. RING talks about police practices.

PRESIDENT BUSH is against this. RING talks about racial practices and credit practices.

REP. M. KLEIN asks if she has actual facts? RING replies yes, consumer sales. Section four of the bill, EEOC investigates, persists without the amendments.

Opposes the engrossed bill:

In favor of the original bill:

DON MORRISON, PROGRESSIVE NORTH DAKOTA COALITION

REP. M. KLEIN asks what MORRISON feels about the engrossed bill? MORRISON states that he would rather see it killed if there is no hope in getting the original bill back to the way it was.

REP. KASPER asks about "the power" again. MORRISON states that they are specific organizations. REP. DEVLIN asks about the 49 legislative districts. MORRISON replies go back to the 1999 session. REP. M. KLEIN says let's not.

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House Government and Veterans Affairs Committee

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Oppose the engrossed bill:

In favor of the original bill:

RICK PELISHEK, DIRECTOR OF DISABILITY NDDAC

PELISHEK states that this is also an injustice to the public employees.

Oppose the engrossed bill:

In favor of the original bill:

MADONNA LOGOSZ, DCIL

LOGOSZ states to the committee that she has had two different concerns and has called the Labor Department about inquiries and right away the person on the phone asks what her name is and what her phone number is. How is that confidential? The Labor Department has no responsibility. REP. M. KLEIN asks what she thinks of the engrossed bill. LOGOSZ would like to see it killed if there is no hope for the original bill coming forward. REP. M. KLEIN comments about the art of possibility.

Being there was no further testimony the hearing was then closed.

Action was taken on March 16th, 2001. All committee members were present, except REP. BELLEW. REP. CLEARY motions to delete the Senate amendments and to go back to the original bill, seconded by REP. KROEBER. REP. DEVLIN comments to the committee that he hopes the committee resists REP. CLEARY'S motion. The roll call was taken with 2 YES, 12 NO, 1 ABSENT AND NOT VOTING. The motion fails. REP. KLEMIN motions to amend page 6, and remove "actual damage", seconded by REP. GRANDE. REP. BRUSEGAARD asks for a definition of equitable relief, REP. KLEMIN states that it is something like a restraining order an injunction. A voice vote was taken with the majority passing it. REP. CLEARY motions to pass

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House Government and Veterans Affairs Committee

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amendment #10126.0604 with the changes, seconded by REP. KROEBER. A voice vote was

taken with the majority passing it. REP. DEVLIN motions to accept the

JACK MCDONALD amendments, seconded by REP. GRANDE. A voice vote was taken with

the majority passing it. REP. GRANDE motions for a DO PASS AS AMENDED, seconded by

REP. HAAS. The roll call was taken with 13 YES, 1 NO and 1 ABSENT AND NOT VOTING.

The CARRIER of the bill is REP. DEVLIN.

SB 2217: DO PASS AS AMENDED 13-1

CARRIER: REP. DEVLIN

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2217

Page 1, line 1, after "A BILL" replace the remainder of the bill with "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 repeal section 14-02.4-12.1 and chapter 14-02.5 of the North Dakota Century Code, relating to housing discrimination; to provide a penalty; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 14 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Commission" means the human rights commission.
2. "Staff" means the staff of the human rights commission.

Human rights commission - Qualifications of commissioners - Selection process.

1. The human rights commission is an independent commission within the executive branch of state government.
2. The commission consists of eleven members: two appointed by the governor; two selected by the senate majority leader and confirmed by the senate; one appointed by the arc of North Dakota; one appointed by the mental health association in North Dakota; one appointed by the North Dakota society of human resource managers; one appointed by the chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian reservations; one appointed by the North Dakota association of the blind; one appointed by the state independent living council; and the Americans with Disabilities Act building codes program manager, who is an ex officio member of the commission. The term of office of each member is five years; provided, however, that of the members first appointed to the commission, one of the two members appointed by the governor, the member appointed by the arc of North Dakota, and the member appointed by the tribal chairmen must be appointed for terms of two years; one of the two members appointed by the senate, the member appointed by the mental health association in North Dakota, the member appointed by the state independent living council, and the member appointed by the North Dakota society of human resource managers must be appointed for terms of three years; and the remaining three members must be appointed for terms of five years.
3. Each commissioner must be eighteen years of age or older and a resident of this state. A commissioner may not have been convicted of a felony or found in an administrative or judicial proceeding to have committed an act of illegal discrimination.

Commission staff.

1. The commission is responsible for the hiring of its staff. The commission shall hire a director and may delegate all decisions concerning the hiring, promotion, or termination of other staff to the director.
2. The staff may include special assistant attorneys general licensed to practice in this state.
3. The commission or its designee may hire other staff as funds permit.
4. The commission may appoint hearing officers to hear contested cases and petitions for declaratory rulings. In the alternative, the commission may contract with a private provider of dispute resolution services, including the American arbitration association, to provide these services.

Duties of commission. The commission shall:

1. Educate employers, providers of public accommodations or services, landlords, real estate sellers, providers of state and local government services, and commercial lenders about ways to respect rights protected by laws that prohibit discrimination;
2. Educate the general public about rights and responsibilities provided for by laws that prohibit discrimination;
3. Investigate the extent and nature of discriminatory practices in this state, and report all findings to the governor at least annually;
4. Report to the governor on initiatives that may improve compliance with laws that prohibit illegal discrimination and proposals for making the operation of the commission more effective and efficient;
5. Receive and investigate complaints of illegal discrimination under state or federal law;
6. Resolve conflicts between parties to a complaint through conference, conciliation, or persuasion; and
7. Conduct hearings, issue subpoenas, accept recommendations from its hearing officers, issue orders, award actual damages, and assess civil penalties.

Commission powers. The commission may adopt rules to implement its authority.

1. The commission has full authority to enforce chapter 14-02.4. In addition, the commission has authority to enforce all federal antidiscrimination laws.
2. The commission may contract with the federal government or any federal agency to coordinate and fund any of the commission's activities.
3. The commission may seek other contracts or grants to help fund the commission's activities.

Filing complaints.

1. A complaint may be filed by or on behalf of any person claiming to be aggrieved by any discrimination prohibited by law. The complaint must be in the form of a verified complaint stating the name and address of the person alleged to have engaged in discrimination and the particulars of the

alleged discrimination. The staff may file a complaint when discrimination comes to the staff's attention.

2. A complaint must be filed with the commission within three hundred days after the alleged discrimination occurred or was discovered, whichever is later. Except as otherwise provided in this chapter with respect to a person's private right of action, a complaint may not be filed more than one hundred eighty days after the alleged discrimination occurred or was discovered, whichever is later, if the victim of an alleged discriminatory act has not attempted to resolve the dispute by filing a grievance under any applicable grievance procedure, contract, written rule, or policy.
3. The commission may not consider a complaint that is not timely filed.

Resolution of complaints.

1. The staff shall informally investigate all complaints promptly and impartially. If the allegations are supported by substantial evidence, the staff shall immediately try to eliminate the discriminatory practice by conference, conciliation, or persuasion.
2. If the informal efforts to resolve a complaint are unsuccessful, the staff shall issue notice to the alleged perpetrator of a hearing to be held on the matter.
3. Each hearing must be conducted in the county in which the discrimination is alleged to have occurred. A hearing officer may grant a change of venue based on good cause.
4. The case in support of the complaint may be presented by the staff, the complainant, or an attorney representing the complainant.
5. The staff must notify the commission in writing of all complaints filed. The commission shall meet at least four times annually to hear and act upon any recommendations submitted by the hearing officers.
6. The commission may make provisions to defray the expenses of an indigent party in a contested case.
7. The prevailing party may bring an action against the opposing party in district court for reasonable attorney's fees. A court is guided by its discretion and fairness in deciding the issues about attorney's fees.

Orders.

1. If the commission determines that illegal discrimination has occurred, the commission may order the offending party:
 - a. To conform all future conduct to certain conditions relative to the type of discriminatory practice involved;
 - b. To implement all reasonable measures to correct the discrimination and to rectify any harm, pecuniary or otherwise, to the victim or victims of the discrimination;
 - c. To report on the manner and progress of compliance; and
 - d. To permit commission staff to investigate and monitor compliance for no more than three years.

2. If the commission cannot determine that illegal discrimination has occurred, the commission shall order the complaint dismissed.
3. The commission may not issue any order for the payment of punitive damages to the alleged victim.
4. Upon a determination of illegal discrimination, the commission may assess the offending party with a civil penalty, payable to the commission, in an amount not to exceed five thousand dollars.
5. If the commissioner's order is not obeyed, the order may be enforced in district court in a proceeding initiated by the victim of the discrimination or by staff.

Private right of action. Any person claiming to be aggrieved by a discriminatory practice in violation of chapter 14-02.4 may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed within three hundred days of the alleged act of wrongdoing without first filing a complaint with the commission or, if the commission has not resolved the complaint, within one year of receiving the complaint. However, the alleged victim may not proceed directly to district court to pursue a private action during the first sixty days after a hearing on the merits of the case by the commission. If the commission has issued its final decision within that sixty-day time period, judicial review may be pursued at any time subject to chapter 28-32. Deadlines for filing a complaint before the commission do not apply to an action brought in district court which is governed by applicable statutes of limitation. The running of the statute of limitations is tolled for up to three hundred days while the claimant, after having filed a grievance under any applicable grievance procedure, contract, written rule, or policy, is attempting in good faith to resolve the dispute through that grievance procedure, and so long as the complaint is pending before the commission. If a complaint is properly filed in district court, the commission is immediately divested of jurisdiction in the matter.

Records.

1. All information discovered by the commission in the course of an investigation is not subject to disclosure under the open records laws.
2. Except for the victim's address, all information presented at a hearing is public information and is subject to the open records laws.

Criminal conduct - Penalty. It is a class B misdemeanor for any person to willfully resist, prevent, impede, or interfere with the commission or its staff in the performance of an official duty. It is a class B misdemeanor for a person to willfully violate an order of the commission.

SECTION 2. AMENDMENT. Section 14-02.4-19 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations. Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed, ~~or in the district in which the records relevant to such practice are maintained and administered, or in the judicial district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three years of the alleged act of wrongdoing.~~ Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter ~~with regard to an employer's discriminatory practice~~ may bring a complaint of ~~discriminating employment practices~~ the discriminatory practice under this chapter to the ~~department of labor~~ human rights commission within three hundred days of the alleged act of wrongdoing. Any person claiming to be aggrieved by a discriminatory practice in violation of this chapter ~~with~~

~~regard to public accommodations or services~~ may bring an action in the district court in any district in the state in which the unlawful practice is alleged to have been committed, ~~or in the judicial district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act~~ or in the district in which the records relevant to such practice are maintained and administered within ~~one hundred eighty days~~ three hundred days of the alleged act of wrongdoing, or if the human rights commission has not resolved the complaint within one year. However, the alleged victim may not proceed to district court if the commission has held a hearing within the preceding sixty days. The running of the statute of limitations is tolled while the complaint is pending before the commission. If a complaint is properly filed with the district court, the commission is immediately divested of jurisdiction in the matter.

SECTION 3. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-21. Optional mediation by ~~department of labor~~ human rights commission - Relief - Appeals - Records exempt. The ~~department of labor~~ human rights commission may receive complaints of ~~discriminating employment~~ discriminatory practices under this chapter and may investigate the complaints to determine if there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain voluntary compliance with this chapter's ~~employment~~ requirements through informal advice, negotiation conference, or conciliation, or persuasion. This chapter does not prohibit a person from filing, or require a person to file, a complaint with the ~~department of labor~~ commission before using the ~~provisions of this chapter.~~ A complaint received and information obtained during any investigation conducted under this section are exempt from section 44-04-18 before the institution of any judicial proceedings under this chapter. The ~~commissioner~~ commission may disclose to the complainant or the respondent, or attorneys for the complainant or respondent, information obtained under this section if deemed necessary by the ~~commissioner~~ commission for securing an appropriate resolution of a complaint. Any record or information held by the ~~department of labor~~ commission pursuant to an agreement with any federal agency for the enforcement of ~~fair employment~~ nondiscriminatory practices is exempt from section 44-04-18, and the ~~department of labor~~ commission may disclose to federal officials information obtained under this section if appropriate to carry out the enforcement of ~~fair employment~~ nondiscriminatory practices pursuant to the agreement. The ~~department of labor~~ commission may not disclose anything said or done as part of the ~~informal negotiation conference, persuasion, or conciliation efforts~~ under this section.

SECTION 4. REPEAL. Section 14-02.4-12.1 and chapter 14-02.5 of the North Dakota Century Code are repealed.

SECTION 5. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds or other income, to the human rights commission for the purpose of defraying the expenses of that office, for the period beginning January 1, 2002, and ending June 30, 2003, as follows:

SALARIES AND WAGES	\$262,500
OPERATING EXPENSES	112,500
DATA PROCESSING	37,500
EQUIPMENT	10,000
TOTAL ALL FUNDS	\$422,500
LESS ESTIMATED INCOME	370,000
TOTAL GENERAL FUND APPROPRIATION	\$52,500

SECTION 6. EFFECTIVE DATE. This Act becomes effective on January 1, 2002."

Renumber accordingly

Date: 3/16/01

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Delete the Senate Amends / Go back to Orig. bill

Motion Made By Cleary Seconded By Kroeber

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN		✓	REP KROEBER	✓	
VICE CHAIR GRANDE		✓			
REP BELLEW					
REP BRUSEGAARD		✓			
REP CLARK		✓			
REP DEVLIN		✓			
REP HAAS		✓			
REP KASPER		✓			
REP KLEMIN		✓			
REP MEIER		✓			
REP WIKENHEISER		✓			
REP CLEARY	✓				
REP HUNSKOR		✓			
REP METCALF		✓			

Motion Fails

Total (Yes) 2 No 13

Absent 1

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2217

Page 1, line 7, remove "and"

Page 1, line 8, after "penalty" insert "; and to provide for a report to the legislative assembly"

Page 11, after line 2, insert:

"SECTION 15. COMMISSIONER OF LABOR TO REPORT TO LEGISLATIVE ASSEMBLY. Between the first and tenth legislative days of the fifty-eighth legislative assembly, the commissioner of labor shall submit a report at a public hearing before the standing political subdivisions committee of each house of the legislative assembly. The report must include information and statistics regarding the nature, number, status, and disposition of complaints received by the department of labor under chapters 14-02.4 and 14-02.5."

Renumber accordingly

10126.0605
Title.0700

Adopted by the Government and Veterans
Affairs Committee
March 16, 2001

VK
3/16/01

HOUSE AMENDMENTS TO ENGROSSED SB 2217 HOUSE GVA 3/16/01
Page 1, line 7, remove "and"

Page 1, line 8, after "penalty" insert "; and to provide for a report to the legislative assembly"

HOUSE AMENDMENTS TO ENGROSSED SB 2217 HOUSE GVA 3/16/01
Page 6, line 14, remove "actual damages"

HOUSE AMENDMENTS TO ENGROSSED SB 2217 HOUSE GVA 3/16/01
Page 7, line 2, remove "by the department" and overstrike "and information" and insert
immediately thereafter "by the department under this chapter is an open record.
Information"

Page 7, line 3, remove "chapter" and overstrike "are" and insert immediately thereafter "chapter
is"

Page 7, line 5, after "chapter" insert "or before the administrative closure of a complaint by the
department"

HOUSE AMENDMENTS TO ENGROSSED SB 2217 HOUSE GVA 3/16/01
Page 11, after line 2, insert:

**"SECTION 15. COMMISSIONER OF LABOR TO REPORT TO LEGISLATIVE
ASSEMBLY.** Between the first and tenth legislative days of the fifty-eighth legislative
assembly, the commissioner of labor shall submit a report at a public hearing before a
standing committee of each house of the legislative assembly. The report must include
information and statistics regarding the nature, number, status, and disposition of
complaints received by the department of labor under chapters 14-02.4 and 14-02.5."

Renumber accordingly

Date: 3/16/01

Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2217

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Accept Amend. pg. 6 remove "actual damage"

Motion Made By Klemin Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN			REP KROEBER		
VICE CHAIR GRANDE					
REP BELLEW					
REP BRUSEGAARD					
REP CLARK					
REP DEVLIN					
REP HAAS					
REP KASPER					
REP KLEMIN					
REP MEIER					
REP WIKENHEISER					
REP CLEARY					
REP HUNSKOR					
REP METCALF					

Vote Vote Passes

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3/16/01

Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Accept the Amendments # 10126.0604 to Charoza

Motion Made By Cleary Seconded By Kroeber

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN			REP KROEBER		
VICE CHAIR GRANDE					
REP BELLEW					
REP BRUSEGAARD					
REP CLARK					
REP DEVLIN					
REP HAAS					
REP KASPER					
REP KLEMIN					
REP MEIER					
REP WIKENHEISER					
REP CLEARY					
REP HUNSKOR					
REP METCALF					

*voice vote
PASSES*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3/16/01

Roll Call Vote #: 4

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2217

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Accept the Amendment #3 Jack Macdonald

Motion Made By

Seiler

Seconded
By

Grande

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN			REP KROEBER		
VICE CHAIR GRANDE					
REP BELLEW					
REP BRUSEGAARD					
REP CLARK					
REP DEVLIN					
REP HAAS					
REP KASPER					
REP KLEMIN					
REP MEIER					
REP WIKENHEISER					
REP CLEARY					
REP HUNSKOR					
REP METCALF					

YOUNG VOTE PASSED

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3/16/01

Roll Call Vote #: 5

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended & Referred to Approp.

Motion Made By Grande Seconded By Haas

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP KROEBER	✓	
VICE CHAIR GRANDE	✓				
REP BELLEW					
REP BRUSEGAARD	✓				
REP CLARK	✓				
REP DEVLIN	✓				
REP HAAS	✓				
REP KASPER	✓				
REP KLEMIN	✓				
REP MEIER	✓				
REP WIKENHEISER	✓				
REP CLEARY		✓			
REP HUNSKOR	✓				
REP METCALF	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

SB 2217, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SB 2217 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "and"

Page 1, line 8, after "penalty" insert "; and to provide for a report to the legislative assembly"

Page 6, line 14, remove ", actual damages"

Page 7, line 2, remove "by the department" and overstrike "and information" and insert immediately thereafter "by the department under this chapter is an open record. Information"

Page 7, line 3, remove "chapter" and overstrike "are" and insert immediately thereafter "chapter is"

Page 7, line 5, after "chapter" insert "or before the administrative closure of a complaint by the department"

Page 11, after line 2, Insert:

"SECTION 15. COMMISSIONER OF LABOR TO REPORT TO LEGISLATIVE ASSEMBLY. Between the first and tenth legislative days of the fifty-eighth legislative assembly, the commissioner of labor shall submit a report at a public hearing before a standing committee of each house of the legislative assembly. The report must include information and statistics regarding the nature, number, status, and disposition of complaints received by the department of labor under chapters 14-02.4 and 14-02.5."

Renumber accordingly

2001 HOUSE APPROPRIATIONS

SB 2217

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2217

House Appropriations Committee

Conference Committee

Hearing Date **March 27, 2001**

Tape Number	Side A	Side B	Meter #
1		x	2488 - 3620
Committee Clerk Signature <i>Z Z Donahew</i>			

Minutes:

House Appropriations Committee hearing and action on SB2217.

Rep. Timm: We have the bill before us and I would like to deal with the money amount basically, I don't think this committee is going to be changing anything substantial in the bill, we are here basically to consider the amount of money its going to take to run the program in the Department of Labor and that's what I would like to confine the hearing on that particular part of the bill is the money amount, so we will open the hearing on SB2217 and are any of the sponsors here that would like to testify? Any Senators? Any Representatives?

Mark Bachmier, Commissioner of Labor, (Followed Written Testimony and then answered questions following his testimony).

Rep. Skarphol: In your testimony in front of our subsection in the first half of this session, I thought you reassured us that there would not be any need for additional FTE's with these

particular issues, or am I not remembering things properly or if you could enlighten me just a little bit?

Mr. Bachmier: Actually we had an FTE request in the governor's budget that was removed in that subcommittee and this is a new responsibilities that we don't have. These particular responsibilities were not addressed in our budget.

Rep. Timm: Any other questions? Any other testimony in support of SB2217?

Mr. Dale Anderson, Greater North Dakota Association.

I'm here to offer our support in the budget request that Dept. Of Labor has requested to implement engrossed SB2217.

Rep. Timm: Any questions of Mr. Anderson? Any further testimony in support of SB2217?

Any opposition to SB2217. If not we will close the hearing on SB2217. Rep. Glassheim moves for a DO PASS, is there a second? Seconded by Rep. Aarsvold. Any Discussion?

Rep. Wald: Maybe our clerk can tell us, what is the penalty for a class A misdemeanor? Page 11 line 4. (Class A misdemeanor = one year in prison and a fine of \$2000 or both) (Class B misdemeanor = 30 days in prison of fine of \$1000 or both) I would move we would amend that to a class B misdemeanor.

Rep. Timm: Are you moving a substitute motion to amend? Yes was the answer. Seconded by Rep Kempenich. Any discussion?

Rep. Wentz: I am not sure if its fair for us to do this unless we open this back up for comment from the sponsors. In your opening comments you said we would not be looking at anything other than dollars and now we are going to change the bill.

Rep. Gulleson: I am certainly going to resist that motion based upon a lot of Rep. Wentz just said.

Page 3

House Appropriations Committee

Bill/Resolution Number SB2217

Hearing Date March 27, 2001

Rep. Monson: That isn't new language, this is all old code.

Discussion followed concerning the language of the bill and the merits of changing the wording of the bill and the penalties involved with that wording.

Rep. Timm: We have a motion to amend. The motion is to change penalty from a Class A to a Class B misdemeanor, All those in favor of that amendment say AYE. Voice Vote. Motion failed. We have a motion on the floor for a DO PASS by Rep. Glassheim, seconded by Rep. Aarsvold. Any other discussion? Call the roll for a DO PASS. (18) YES (0) NO (3) Absent and not voting. Motion passes. Rep. Glassheim will carry the bill to the floor.

End of House Appropriation Committee hearing and action on SB2217.

Date: 3-27-01
 Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House APPROPRIATIONS Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken sub motion to amend

Motion Made By Rep. Wald Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____
 Absent _____
 Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Class A to class B misdemeanor

[Handwritten signature]

Date: 3-27-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2217

House APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Glassheim Seconded By Rep. Aarsvold

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman		
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly			Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer			Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Guleson	✓		Rep - Warner	✓	
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich	✓				
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 18 No 0

Absent 3

Floor Assignment Rep Glassheim

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

2001 TESTIMONY

SB 2217

Civil Rights Enforcement Efforts in North Dakota

**North Dakota Advisory Committee to
the U.S. Commission on Civil Rights**

Legislative Council Library has
copies as does Labor Department

November 1999

A report of the North Dakota Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. Viewpoints and recommendations in this report should not be attributed to the Commission, but only to the Advisory Committee or those persons whose opinions are quoted.

Testimony Jan. 26th, 2001

Chairman and members of the committee, my name is Donene Feist and I am from Edgeley, North Dakota. I would like to add a few remarks today about the Human Rights Commission. I have long supported the notion for a commission not only because of my work, but also because of what I have experienced on a personal basis.

Several years ago, one of my children was diagnosed with a disability. The administration, at the time, in our educational setting refused to further testing to see where the problem areas were for him, to accommodate his learning ability. We struggled for almost four years, and in that process our son was used as an example, ridiculed, and we as parents were humiliated for coming forth and trying to do what would meet his needs. It wasn't until, I was able to get information and have another party pulled into a meeting that action was taken with the outcome that services were finally received. Much damage was done in those 4 years. Our son, was accused of not trying hard enough, was just lazy, and used as an example in front of the rest of the class on things like "this is not how you want your paper to look." Often times being excluded from normal activities for children. All of these in the formative years when self-esteem is a crucial part of their young lives. Because of the humiliation he felt, he no longer wanted to go to class, and at times expressed no longer wanting to live. His disability was virtually ignored for four years.

Many times, parents are having to navigate by themselves, without a clear road map. Had there been a commission in place, we probably would have been told where we could turn next.

Additionally, I have many Native American friends from across the state. There has been many times that there were very clear acts of discrimination. One example is after eating at a restaurant, I paid for my meal with a check. When they went to pay, were told that they could only accept cash. In another incident, we have gone together to stores and were followed very closely by the clerks, around the store, as if we were common criminals of which my friend reported, that this was quite common.

People should not have to live their lives as if they are lesser beings.

Several years ago we placed the Human Rights Act into motion, but have done little to go with it. As St. Augustine said "an unjust law is no law at all". We have no real place for people to turn to when they have been discriminated against.

It is sad to think we are the last state in the nation, to do anything about discrimination. It is even sadder to me that we celebrate Martin Luther King, and do very little, in respect to discrimination, for all citizens of our state. Diversity of race, ability, religion, we are all citizens. Martin Luther King Jr. himself stated, "Whatever affects one directly affects all indirectly". If we continue to allow discrimination, as commonplace in our state, and not deal with the issues before us, it does affect all of us. Justice too long delayed is justice denied.

Thomas Jefferson himself said, "All men are created equal". Unfortunately, until, there is something in place for all of our citizens of this state that simply is not the case.

My hope is that this legislative committee and assembly will do what is right for all citizens and put together a commission that will work for all the people and all of the issues before them.

Thank you

January 26, 2001

SENATE POLITICAL SUBDIVISIONS COMMITTEE
SB 2217

CHAIRMAN COOK AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of The ARC of North Dakota. The Arc is an open membership organization made up of people with mental retardation and other related developmental disabilities, their families, friends, interested citizens, and professionals in the disability field.

It is organized on three levels: local chapters, state chapters and the national organization. All three levels provide opportunities to engage policy-makers in efforts to improve public policy affecting people with mental retardation and related developmental disabilities and their families.

The Arc of North Dakota has over 1,200 committed members and friends...your neighbors and constituents...in chapters in Grand Forks, Fargo, Valley City, Jamestown, Bismarck, Dickinson and Bowman.

Our **Mission Statement** is to improve the quality of life for children and adults with mental, retardation and related developmental disabilities and their families through advocacy, education and family support services.

Public policy advocacy is an essential component of the Arc movement, and that's why we're here today. Arc members have worked together over the past 50 years to secure family support services, special education, health care, leisure opportunities, vocational training, community housing and other community support services.

We support the concepts of SB 2217 and urge you to give it your favorable consideration. This matter has been debated for several sessions, so there is not a whole lot new that can be said. There may be some amendments that are needed, but we firmly believe that our members, and the people we serve, deserve a Human Rights Commission in North Dakota. We think all North Dakotans deserve one.

If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

THOMAS M. DISSELHORST
ATTORNEY AT LAW

311 E. THAYER AVE., SUITE 129
P.O. BOX 2463
BISMARCK, NORTH DAKOTA 58502
TELEPHONE: 701-258-2769
TELEFAX: 701-258-6502

**Political Subdivisions Committee
North Dakota Senate
57th Legislative Assembly**

**Testimony of Thomas M. Disselhorst
Attorney at Law
on SB 2217
Human Rights Commission
January 26, 2001**

Mr. Chairman, members of the Committee. Thank you, Mr. Chairman, for the opportunity to testify on SB 2217 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 would recommend amending the bill so that each of the Tribes in North Dakota, including the Sisseton Wahpeton Sioux Tribe, are able to appoint a member of the Commission.

For more than 25 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 HB 1315 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 2-5 of the HB 1315, 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. In my opinion, the actions of the Human Rights Commission would be reviewable in state District Court.

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? 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 more than 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 1 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, \$52,500, is a 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 1996 and 1997, 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 and the final report issued by the Advisory Committee in 1999, 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 will try to tell you that there are no major employment discrimination problems in North Dakota. 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 and other discrimination complaints, many with more substance to them, than anyone or any legislator to date or any state agency or the Labor Department has received.

Let me make one other point. Take a hard look at the Human Rights Commission from an economic standpoint. As an example, and it is meant only as an illustration of something that could happen, consider Great Plains Software, located in Fargo. Great Plains Software has been an economic success story for North Dakota. It was just bought by Microsoft. Microsoft is a huge corporation, and it scours the globe for qualified computer programmers, no matter the color, religion, etc. It is located in Washington State, which has a functioning

Testimony of Thomas M. Disselhorst
SB 2217, Human Rights Commission
January 26, 2001
Page 4 of 4

and capable civil rights commission. If Microsoft sees that good people, good programmers, do not want to come work for Great Plains Software in Fargo because our state has an express policy of not providing a fair and adequate remedy for discrimination in employment, public accommodations, credit, state services, and so forth, all the things prohibited by the present North Dakota Human Rights Act, and for which an adequate remedy is not provided, do you think Microsoft will think twice about moving Great Plains software somewhere more hospitable to its workers? Maybe back to Washington State? For a very small appropriation, less than 5 cents per citizen per year, we assist our state in minimizing that risk. That seems like good insurance to me.

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 2217, if amended as recommended.

up to amendment to comply with NDCC

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**TESTIMONY BEFORE THE
SENATE POLITICAL SUBDIVISIONS COMMITTEE
REGARDING SB 2217
JANUARY 25, 2001**

Chairman Cook and members of the Committee, I am Raylynn Lauderdale, 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 every day of their lives in our state and across 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. Case and point: The advisor for a local self-advocacy group in Minot called the county auditor's office to inquire as to the possibility of her assisting people with disabilities who may have a difficult time in the voting booth. The county auditor told her that yes, it was legal for her to assist friends in the voting booth, but the series of questions he asked demonstrated a severe lack of respect for people with disabilities. His questions as to "Why would they want to vote?" and "We have judges to help the retarded," are not appropriate in a society that professes equality. In light of this type of attitude, would you be thrilled to exercise your right to vote in a public polling place? I think not!

To make the voting process easier, this advisor helped members fill out the request to vote absentee, with her signing as an agent. When two individuals did not receive a ballot, the advisor contacted the county auditor's office once again. He said that he did not send them a ballot because they couldn't make an actual "X," only a mark, and he didn't know if they were mentally competent. I don't believe that the inability to write even suggests mental competency. If you broke both arms in an accident and couldn't write at all, would you appreciate people making a judgement as to your mental competency? Regardless of this, I have never seen a law that states you must have a certain IQ in order to exercise your right to vote.

Eventually these individuals did receive their ballots after one individual approached the county auditor at a meeting and asked why he had not received his ballot. The county auditor's response was, "If I had known it was you, I would have sent one right away." Does a public official in this capacity have this authority? And what recourse does an individual have when denied these rights?

If people cannot even exercise rights such as voting without fear of humiliation or retaliation, who will hear when this attitude keeps them from gaining employment, from being able to rent an apartment, from being able to access a public place? Yes, laws are in place to prohibit this, but who makes sure it doesn't happen? Who will hear and judge fairly? Why must our citizens rely on the authority of the Federal Office of Civil Rights or the EEOC to protect their rights? 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 do not turn your back and ignore the cries of those who have gotten the brunt of discrimination for years. Please consider the citizens who desperately need to be protected when making your decision on HB 1315.

Respectfully,

Raylynn Lauderdale
People First of North Dakota
400 E. Broadway, Suite 515
Bismarck, ND 58501
701-250-6745



January 25, 2001

To the members of the North Dakota Legislature:

I'm writing to express my support for the creation of a human rights commission in North Dakota. This commission should be an element of North Dakota's long range vision and development goals.

I am very pleased with the newly created Human Relations Commission in Fargo, by Mayor Furness. It acknowledges the need and desire to hear the issues that face those residents who otherwise experience isolation with no outlet for the expression of issues too easily ignored by those unaware.

As legislators you face difficulty in balancing the needs of all North Dakotans. I personally have benefited I'm sure a great deal from your past and continuing efforts in economic development. I acknowledge and am well aware of the privilege of being in business in this state. But, it is in reflecting on this privilege that it becomes apparent that we cannot turn away from those unable to participate in many of the advantages to which others have access.

North Dakota as one of very few states with declining population has a special interest in being an advocate for all its residents. We cannot afford a policy of denial and ambivalence toward human rights abuses. A decision to create a Human Rights Commission is forward looking and therefore a benefit to all businesses in North Dakota.

I look forward to the creation of a North Dakota Human Rights Commission in North Dakota.

Mark Sinner

A handwritten signature in cursive script that reads "Mark Sinner".

Co-Owner
Creative Kitchen, Inc.



OFFICE OF THE MAYOR
Bruce W. Furness

January 15, 2001

Ms. Cheryl Berglan
118 Broadway, Suite 305
Fargo, North Dakota 58102

Dear Cheryl,

I am writing in support of the creation of a Human Relations Commission for the State of North Dakota. As you are aware, the City of Fargo recently established such a Commission. This occurred, I believe, as a proactive response to the rapidly changing population demographics in our community. Fargo is significantly increasing its cultural, racial and social diversity. In my view, this presents us with a wonderful opportunity to encourage open communication and improve understanding among the many cultures in our City.

I am unable to assess the magnitude of this condition at a statewide level, though I would guess that the percentage of multi-cultural persons throughout North Dakota is not as high as in Fargo. Never the less, it may be appropriate for the state to have a Human Relations Commission as well. A separate Commission will provide more attention and focus to human needs and may be more responsive to individual situations.

If I can be of more assistance to your efforts, please let me know.

Very truly yours,

A handwritten signature in cursive script that reads "Bruce".

Bruce W. Furness
Mayor

BWF:skr
ffcb1

Fargo-Moorhead



Human Rights Commission
HB1315 and SB2217

Members of the North Dakota Education Association and the National Education Association believe human and civil rights must be protected.

We support the creation of a Human Rights Commission for the State of North Dakota.

We support the duties of the Commission as outlined in the bill, and we support the processes for filing and dealing with complaints.

We believe a Human Rights Commission is important to North Dakota to preserve the basic dignity of our citizens and provide an appropriate avenue for our citizens when they believe they may be victims of discrimination.

NDEA urges your support of HB1315 and SB~~2217~~. 2217

Nancy Sand

North Dakota Education Association

1/26/01

NORTH DAKOTANS FOR A HUMAN RIGHTS COMMISSION

Allan Peterson, Chairman
7009 Horseshoe Bend
Fargo, North Dakota 58104

February 8, 2001

North Dakota Senate
Committee on Political Subdivisions
State Capitol Building
600 Boulevard Avenue
Bismarck, N.D. 58505

RE: PROPOSED AMENDMENTS TO SB2217 (Human Rights Commission)

Dear Committee Members:

Attached are five amendments to SB2217 which I send you on behalf of North Dakotans for a Human Rights Commission. The "coalition" is proposing these amendments to respond to criticism of the bill and to thus enhance its chances for a "do pass" recommendation from the Committee.

The proposed amendments if adopted would have the following effects:

1. Provide clear due process protections for parties facing discrimination complaints, by providing that all hearings must be carried out in accord with Chapter 28-32 of the N.D. Century Code;
2. Direct any civil penalties to the general fund, rather than to the Commission;
3. Include tribal funds as a possible source of funding; and
4. Provide for one representative on the Commission from each of the five reservation communities with land and business interests in North Dakota.

Please give these amendments serious consideration.

On behalf of the "coalition," I urge you to report out SB2217 with a "do pass" recommendation. It is time to establish a full Human Rights Commission in North Dakota.

Sincerely,

Allan Peterson
By Austin Engel, Agent
Allan Peterson

PROPOSED AMENDMENTS TO SB2217

Submitted to Senate Committee on Political Subdivisions

By Allan Peterson, Chairman
North Dakotans for a Human Rights Commission

February 8, 2001

1. On Page 4, at line 13, insert the following sentence immediately following "4.":

"All hearings must be conducted in accord with Chapter 28-32
of the North Dakota Century Code."
2. On page 5, at line 8, delete the word "commission" and insert in its place the words "general fund"
3. On page 7, at line 26, insert the words "or tribal" after the word "federal"
4. On page 1, at line 20, insert the words "each of" after the word "by"
5. On page 1, at line 21, insert the words "Sisseton Sioux" after "Fort Totten,"

TESTIMONY IN SUPPORT OF SB 2217

Before the Senate Political Subdivision Committee
January 26, 2001

Chairman Cook, members of the Senate Political Subdivisions committee, I am Senator Dennis Bercier and I am here to testify in support of SB ~~2217~~²²¹⁷, 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? A citizen has no other avenue but to go to court. Why don't we have a Human Rights Commission? 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 without having to resort to the costly expense of a lawsuit. This bill provides other avenues of redress including the administrative hearing process and dispute resolution services.

Not every complaint must go to court. But every complaint of discrimination should be investigated. Our citizens deserve no less from their government. This bill also provides education programs to prevent discrimination in businesses, public accommodations and other providers of services

to our citizens. Providing education on discrimination and how to prevent discrimination is an excellent method to prevent discrimination lawsuits. The Human Rights Commission will have the authority to resolve conflicts between parties through "conference, conciliation and persuasion" found in lines 8-9 on page three. It also allows the Commission to conduct hearings much like any other agency does that conducts administrative hearings on tax issues, employment issues and workers compensation cases.

SB 2217 provides for the timely filing of complaints, timely investigation and resolution of all complaints. 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. I strongly urge you, my colleagues, to support SB 2217 and I urge a **DO PASS**.

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

SENATE BILL NO. 2217

Testimony by:
Dominic F. Volesky

Good Morning Chairman Cook and members of the Senate Political Subdivisions Committee. My name is Dominic Volesky. I am here today because I was hurt, beyond explanation, by a state system which has refused to look upon its employees in a manner commensurate with human life. Many others, including myself, have been treated like someone would treat animals without regard for our humanity. I feel it is imperative that this committee recommends a Do Pass for this bill and support legislative action to modernize our political system to make it function like the other 49 United States where a human employee has some recourse for unethical and illegal treatment.

Too many employees, including myself, have been victims of political oppression. Please, let's not condone what has been happening to good North Dakota employees. Give them a chance to survive and live a life worth living. Help them to stay rather than flee the state. It is a legislative duty to establish a mechanism of recourse for the "Whistle blower" who reports criminal and unethical activities by businesses, North Dakota State agencies, political appointees and others. A mechanism to do this would be a Human Rights Commission! Let's become a member of the 49 other states who have such a commission!

I have lost, perhaps at least a quarter of a million dollars, as a result of corrupt North Dakota state employees. I had my state employment terminated because I had the audacity to report illegal activities involving millions of dollars by a state agency director and his subordinates. I was not only punished for doing what I felt was the moral thing to do, but I was also "blacklisted" so I could not obtain other employment. My only other recourse was to build a business of my own. I could do this because I had the education and knowhow to do this. But what about the many others who do not have the ability to recover from a faulty system? What is their recourse? What they need is a Human Rights Commission!

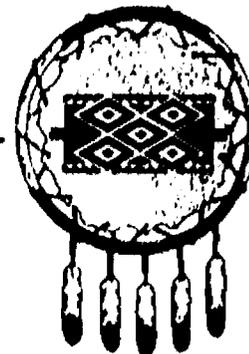
Yes, the state had administrative codes in place to react to unethical and illegal activities. However, therein lies a significant problem. The actions condoned by the system preclude an employee from appropriate relief. I was the victim of a corrupt administrative hearing officer who used Ex-Parte communications to preclude having appropriate recourse for being a whistle blower. Ex-Parte communications are illegal by state law, but still a district judge refused to consider this nor did the State Supreme Court take this into consideration. They simply wrote, in their opinion, that they do not change what a hearing officer does.

By now you are, perhaps, thinking I am some disgruntled employee. That is far from the truth. This has happened to a multitude of state employees, not only me. A 34-year state employee was terminated as a result of not obeying an illegal order involving state funds (during 1995 legislative session). A 30-year state employee lost his employment because he refused to obey an illegal order involving federal guidelines. I lost my job because I reported illegal use of millions of federal and state dollars in addition to many other documented crimes. A state agency auditor quit her job because of threats she received from within the agency. Another state employee was given a death threat to frighten him so he would not publish a book he was going to write. He is now in hiding out of state. How many more horror stories need be provided to impress the legislators of the tremendous need for a Human Rights Commission?

Thank you. I will be happy to answer any questions you might have.



UNITED TRIBES TECHNICAL COLLEGE
3316 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58604 • PHONE 701-255-3285 • FAX 701-530-0605



**Political Subdivisions Committee
North Dakota Senate
57th Legislative Assembly**

**Testimony of David Gipp
President, United Tribes Technical College
United Tribes of North Dakota
on SB 2217
Human Rights Commission
January 26, 2001**

Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today concerning SB 2217 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 testimony is also being presented on behalf of United Tribes of North Dakota.

This testimony, unfortunately, will be similar to testimony offered in previous sessions of this legislature. I say unfortunately because despite the fact that a full Human Rights Commission is needed in North Dakota, despite the fact that without it, economic development in North Dakota may be hampered, despite the fact that the fastest growing segment of our population is our Native American population, who continue to be discriminated against, despite the fact that the North Dakota Advisory Committee to the U.S. Commission on Civil Rights in its report issued November, 1999 has strongly recommended the formation of a Human Rights Commission, past legislatures have failed to enact what is really fairly simple legislation, for reasons that frankly I do not understand.

This remains an issue about which I personally feel very strongly, and which is also supported strongly 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. Some of our Board members are here today to offer testimony on this issue. The standing resolution of our Board of Directors on this matter was unanimously passed on January 23, 1999, supporting the creation of a Human Rights Commission to enforce both state and Federal civil rights laws in North Dakota. Most of those who were Chairman at that time are still representing their respective Tribes and have not changed their position.

Although our Board has not met to consider this bill yet this year, through informal discussions with most of them, I am certain that they are in support of this important

legislation, with one amendment: The Commission should be expanded by four members, so that the Commission will include one member appointed by the Chairperson of the Standing Rock Sioux Tribe, one member appointed by the Chairman of the Three Affiliated Tribes, one member appointed by the Chairman of the Spirit Lake Tribe, one member appointed by the Chairman of the Turtle Mountain Band of Chippewa and one member appointed by the Chairman of the Sisseton Wahpeton Sioux Tribe.

The reason for the amendment should be clear. Each Tribal Nation that has a presence in North Dakota is a separate government and should be treated as such in the Human Rights Commission. The Native American population is the largest minority group in North Dakota and it should be recognized as such on this Commission, not with just one representative, but with representatives from each of the five Tribes with a presence in the state.

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 here as discriminatory, or racist. Many of our students, and even some of our faculty, have grown used to the occasional additional proof required to cash a check, or being followed around at the malls by additional security, or being denied the opportunity to rent an apartment, or having a more than difficult time

finding a job. Most never complain about these experiences, largely out of a feeling that there is little or nothing that can be done.

Not all that long ago, discrimination was openly practiced in Bismarck. The Bismarck's Patterson Hotel, now an apartment complex for senior citizens with a popular bar and restaurant on the ground floor, for years 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 right next door to United Tribes Technical College sold a shot glass that depicted an Indian person in various stages of drunkenness on the side of the glass. Employers would ask a qualified Native American for far more references than the ordinary non-Indian applicant. While some of these more obvious kinds of discrimination have been corrected, many have not.

What is more troublesome is the fact that discriminatory practices and attitudes are being passed from generation to generation. Children at the local schools who are the sons and daughters of our adult students at United Tribes have experienced within the past few years racial taunts by other students and there are reports that even some teachers have treated our children differently in the classroom, and that there are teachers who sometimes show a lack of sensitivity or even hostility to the persons of difference cultures in their classrooms.

Other problems in the relatively recent past have included:

1) Discriminatory placement of Indian children in special education classes in local schools. Several years ago, Native American parents realized that instead of receiving help, their children were being placed in special education classes at an excessive rate. Although this situation did not involve our students, and to my knowledge has now been largely corrected, the problem it was indicative to me of larger problems within our community that do affect our students.

2) Discrimination in the malls. 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.

3) Check cashing and credit. 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.

4) Public accommodations. 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.

5) Lack of Native American employees in state government. 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.

Thus, the attitudes of those of us who feel little can be done about discrimination in North Dakota are only reinforced when the North Dakota legislature sends a signal that it doesn't care about racial discrimination at the schools, in public accommodations such as the malls, hotels, or restaurants, in employment, even employment within state government, and the like by not passing simple, very inexpensive legislation that will give those who are discriminated against because of their race, color, physical or mental disability, religion, age, sex, status with respect to marital status or public assistance or participation in lawful activities off the employer's premises.

Until the housing discrimination statute was passed by the last legislative session, for housing discrimination in North Dakota, their feeling was largely correct, little could be done because there simply was no official government agency in North Dakota where a housing discrimination complaint could be handled promptly and thoroughly, and which had the power to stop the discrimination through appropriate orders or even court action if necessary. I applaud the efforts of the Labor Department in this area, but I know that few people really understand that to file a housing discrimination complaint, you go to the North Dakota Department of Labor, fewer still believe that something can be done.

We still need a lot more publicity about how it all should work.

But housing discrimination complaints are the only ones where the State of North Dakota has an agency which can take all necessary actions to halt the discrimination and provide an adequate remedy for those persons who have been discriminated against. Even though the Department of Labor can investigate cases of employment discrimination, it cannot issue orders or seek action in court to stop the discriminatory practice and give the person aggrieved a monetary or other kind of equitable remedy. It does refer cases to the Equal Employment Opportunity Commission, which rarely has the resources to be effective in our state. Yet, our North Dakota Human Rights Law prohibits discrimination not just with regard to housing, but also it prohibits discrimination with regard to employment, labor union membership, property rights, public accommodations, public services, and credit transactions. These matters will also be handled by the creation of a Human Rights Commission.

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.

In conclusion, 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 unnecessary, in a state where Indian people are the only significant racial minority. It is especially difficult to understand because a state human rights commission will essentially be locally controlled, with appointments by our governor and a combination of political and community leaders. The advantage for United Tribes and its students will 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 2217. 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?

Testimonial in Support of House Bill 2217
Representative Audrey Cleary
January 25, 2001

Mr. Chairman and members of the Political Subdivisions Committee:

For the record, I am Representative Audrey Cleary.

In November of 1999, the North Dakota Advisory Committee to the Civil Rights Committee to the United States Civil Rights Commission issued a report on discrimination in our state. It expressed the hope that the "Governor, State Legislature, community organizations and North Dakota citizens rally together to actively promote and take significant steps to work toward eradicating discrimination in the state." Discrimination does exist in North Dakota.

One of the committee's recommendations was to create a Human Rights Commission. Today we present House Bill 2217 as the answer to their recommendation.

Please consider carefully this bill and give it a favorable response.

I would be glad to answer questions.



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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

**Political Subdivisions Committee
North Dakota Senate
57th Legislative Assembly**

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

**Testimony of Three Affiliated Tribes
Mandan, Hidatsa and Arikara Nation
Tex G. Hall
Chairman
on SB 2217
Human Rights Commission
January 26, 2001**

Doshal (Hello). Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today concerning SB 2217 on the need for a Human Rights Commission in North Dakota. For your information, I am Chairman of the Three Affiliated Tribes, the Mandan, Hidatsa and Arikara Nation located in northwest North Dakota.

I also represent the many Tribal members who off the reservation in North Dakota, such as those that live in Bismarck, Fargo, Grand Forks, Minot and all of other towns and cities in North Dakota. As Chairman of the Three Affiliated Tribes, I am amazed that in the year 2001, more than 35 years after the passage of the federal Civil Rights Act of 1964, I would be talking to the North Dakota Legislature about the need for a Human Rights Commission. I am amazed that despite the fact that the fastest growing segment of our population is our Native American population, who continue to be discriminated against and despite the fact that the North Dakota Advisory Committee to the U.S. Commission on Civil Rights in its report issued November, 1999 has strongly recommended the formation of a Human Rights Commission, past legislatures have failed to enact what is really fairly simple legislation, for reasons that I fail to understand.

Simply put, every person in this state deserves to be treated fairly, in all of the areas covered by the North Dakota Human Rights. No one should have to fear discrimination in the 21st Century in North Dakota in the areas of housing, employment, labor union membership, property rights, public accommodations, public services, or credit transactions. No one should be left without a swift and sure remedy for discriminatory acts against them on the basis of race, color, physical or mental disability, religion, age, sex, status with respect to marital status or public assistance or participation in lawful activities off the employer's premises. At least that's what your present Human Rights Act would lead a person to believe is prohibited under state law.

That's where a remedy comes in. Tribal members who are discriminated against don't call their legislators to complain, they call their Tribal leaders and their friends, if they call at all. I have received many complaints of discrimination from Tribal members in towns both on and

**Testimony of Three Affiliated Tribes
SB 2217 Human Rights Commission
Chairman Tex G. Hall
January 26, 2001
Page 2 of 3**

off the Fort Berthold Reservation about housing, employment, credit discrimination and public accommodations discrimination. I could talk all day about the incidents I have witnessed and that have been related to me. Many others will tell you of their experiences here today.

But what am I able to tell a constituent, a Tribal member when they ask what can be done? What agency is their to help them? There is very little I can tell them.

Yes, I am aware that the Department of Labor has a so-called Human Rights Division that includes assistance in the area of housing discrimination, and can provide limited assistance in the area of employment discrimination. But for anything other than those areas, there is only the unlikely prospect of getting relief before an all-white jury in what is a lengthy and often demoralizing process of going through the state courts. Very few people even bother to make the effort of suing on such a case in State court. It is too costly and time consuming. Going to court before that all-white jury is not an acceptable remedy.

A Human Rights Commission that is empowered to enforce all of the Human Rights laws of the State of North Dakota is what is needed. That mechanism alone can provide the kind of remedies that are relatively swift, unbiased, and which can truly help stop the kind of discrimination that occurs against Native Americans in this state.

This issue is important to me for another critical reason: Economic development. As our Tribal Nations in North Dakota continue to grow, we are putting our Tribal members in the North Dakota work force at an increasing rate. In fact, the growth of our Native American population in the past 10 years kept North Dakota from losing population. We are the fastest growing minority in the United States. The new employees and workers we produce graduate from our community colleges, from United Tribes Technical College, from the University of North Dakota and North Dakota State University, from our high schools, from schools out of state. Will they stay and help North Dakota be prosperous, or will they get some experience here or leave the state entirely when it appears that it will be hard for them to be treated fairly because they are Native Americans as well as North Dakota citizens? As a Tribal leader, I need to know that my Tribal members will in fact get fair treatment in the lives they choose to live in North Dakota, wherever in the state they may be located.

Again, the only assurance I can get that something will be done if a Tribal member is discriminated against is to have a functioning Human Rights Commission that enforces the Human Rights laws of North Dakota that are now the law of this State. Otherwise, the plain fact is that people, good people, hardworking people who can and do contribute a lot to the economy of this state will leave, and businesses others will not come into this state, because they cannot be assured that they will be treated fairly.

**Testimony of Three Affiliated Tribes
SB 2217 Human Rights Commission
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January 26, 2001
Page 3 of 3**

I do want to recommend an amendment to the legislation, a copy of which is attached. As a Native American leader, I believe every Tribal Nation in North Dakota should be recognized and have a member on the Human Rights Commission. That includes not only the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes and the Turtle Mountain Band of Chippewa but also the Sisseton Wahpeton Sioux Tribe, which also a large presence in North Dakota. We are all sovereign nations within North Dakota and have diverse cultures and unique situations. The addition of a member from each of the Tribes in North Dakota will add tremendously to the development of an effective Human Rights Commission in our state and insure that no one will be left out.

This issue of a Human Rights Commission will not go away. Further, this is not some costly huge bureaucracy that is being created. The legislation proposed I am told will cost each citizen of North Dakota less than 5 cents per year, after Federal contributions and other sources of income are deducted. Five cents per North Dakota citizen. That is not a large price to pay to help preserve the economic health of our state, to assist Tribal members to live a better life. For that reason alone, we need a Human Rights Commission.

I urge a DO PASS recommendation for SB 2217, with the amendment attached.

Proposed Amendment:

Page No. 1

Lines 20-21, starting with the words "one appointed ..."

"one appointed by the Chairman of the Standing Rock Sioux Tribe; one appointed by the Chairman of the Three Affiliated Tribes; one appointed by the Chairman of the Spirit Lake Tribe; one appointed by the Chairman of the Turtle Mountain Band of Chippewa, and one appointed by the Chairman of the Sisseton Wahpeton Sioux Tribe;"

Testimony for Senate Bill No 2217
Haugland Room 10:00 AM

~~Government and Veterans Affairs~~
~~Kenneth Krebsbach, Chair~~

Herb

Chair ~~Krebsbach~~, members of the Committee. I am Herbert J. Wilson MD, semi-retired physician now living in Bismarck. I had a 43 year practice in New Town and on the Fort Berthold Reservation. My work consisted of caring for Native Americans and ~~the~~ general rural people- both in about equal numbers. I came to know, equally, the Indian people and the farmers and ranchers who were destined to live along side each other. During my time, the rising waters of the Garrison Dam forced the Fort Berthold people to leave their villages and culture in the bottom lands and move to higher ground. Many of the Non-Indian people had to do the same. Much was proclaimed about the opportunities for assimilation occasioned by this great relocation. The initial moves and new encounters (Indian--Non-Indian) were friendly. Progress was being made. Sadly, however, the momentum did not continue. Patterns of segregation developed. There was no leadership-- shall we call it social leadership. There were skiffs. Some increased forbearance on the part of both cultures could have made life in New Town, Parshall, Halliday and other border towns more pleasant and prosperous in the second half of the last century.

If there had been a Human Rights Commission, one of its duties would have been to move in on the delicate situations-- investigate ways for generating respect. Also, for example, finding out why in neither New Town nor Parshall nor Garrison

was a single native American hired on main street.

Oh, it has changed quite a bit now.. now that Indian People have money and are the majority of the retail customers in these border towns. But still one finds very few businesses owned or managed by a native person. Of course we realize there are often factors other than discrimination that are operative. But there are still far too many times when the hiring and the choosing-favors the Non-Indian, who indeed, may be less qualified than the Indian.

It is argued that we do not need a Human Rights Commission—that it will only call attention to insignificant situations—blowing them up into major press releases, and generating paranoia. Perhaps there will be some of this, but from the makeup of the Commission I do not believe matters will very often get out of hand.

This Bill is a good one though the 11 member Commission should have more representation from the people who are the principal ones having to face discrimination. There should be one Native American member from each of the four unique Reservations.

In this state, eventually, there will come more ~~immigrants~~ ^{people of color,} more immigrants from war torn countries. At first they will be taken in warmly, but 3-5 years into their attempts to make a go of it, who can predict where their rights as humans may be compromised?

I feel strongly about our need for this extra emphasis in our state government, for those, who by accident of birth, do not get full consideration, full justice.

Herbert J. Wilson

Herbert J. Wilson M.D.
1244 West Coulee Road
Bismarck, ND 58501
224-0499 Fax 224-8707
Email: hwcoulee@btigate.com

Legislative Testimony 1/25/01

- **North Dakotans for a Human Rights Coalition is a group of about 20 organization & individuals who formed in the spring of 2000 because we felt that a Human Rights Commission in North Dakota is needed** The Coalition was started by Arc of Cass County
- Today More than 30 organizations statewide have done letters of support
- Much of the background information I have is from the report "Civil Rights Enforcement Efforts in North Dakota" by the North Dakota Advisory Committee to the U.S. Commission on Civil Rights, issued in November, 1999
- The History of the civil rights efforts in North Dakota
 - **North Dakota Human Rights Act passed in 1983**
 - **Prohibits discrimination on basis of race, color, religion, sex, national origin, age, disability, marital status, status with regard to public assistance in:**
 - **Employment**
 - **Public accommodations**
 - **Housing**
 - **State and local government services**
 - **Credit**
 - **, Other than going to court, to protect residents of North Dakota except in areas of employment and housing there are No available avenues or remedies**
- The North Dakota Department of Labor has been responsible for investigating complaints of alleged discrimination in employment since 1983
 - The North Dakota Department of Labor does not have enforcement powers for employment discrimination & can only encourage settlement of a claim through negotiations or mediation
 - If conciliation is not successful, the complaint is forwarded to the EEOC in Denver
 - As of the time the North Dakota Department of Labor testified before the Advisory Committee, the EEOC backlog for charges from North Dakota was 1-3 years
- North Dakota Department of Labor was given the authority to investigate & enforce complaints of discrimination in housing in the 1999 legislative session, which became effective October 1, 1999
 - Staff hired in February, 2000 but HUD equivalency not obtained until September, 2000
- In June, 2000 Governor Schafer recognized the lack of a unified response to discrimination by creating a Division of Human Rights within the North Dakota Department of Labor
 - Complaints of discrimination in any area other than housing or employment are referred to telephone numbers in Washington, D.C.
 - Public accommodations

- Investigate criminal actions such as police brutality or church burnings
- ADA public accommodations
 - Will take 3-4 months before investigation begins
 - Investigate state and local governmental entities or private business regarding ADA complaints
 - Not all complaints regarding private businesses are even looked at
 - Do not do employment ADA or housing ADA
 - Education
 - Toll free # consistently busy over a number of weeks
 - Other Types of Discrimination
 - Information referral line only
 - No enforcement or investigation
- Examples of discrimination report to ND Advisory Committee:
 - An advocacy group for older workers, reported that one client had been told that if she really wanted to get a job, she should color her hair to cover the gray & use more makeup
 - A refugee program reported a volunteer had been assisting an African family in looking at apartments; one apartment manager told them that an apartment had been rented; when the volunteer had a friend call, the friend was told that the apartment was still available
 - Volunteers & staff of the refugee program have been told by apartment owners or managers that they don't rent to refugees
 - At an open session, the following examples of discrimination were given:
 - An American Indian is treated differently than whites when attempting to write a personal check
 - African American university students were more closely watched than other customers when shopping in department stores
- ND is one of a handful of states without a human rights commission.
 - Montana has a Commission for Human Rights which has authority to enforce Montana's human rights laws
 - South Dakota has a Human Rights Commission within the Division of Human Rights
- Why doesn't current system work?

- There's no educational component to Department of Labor to advise residents of North Dakota, employers, businesses, landlords about what discrimination is or how to avoid it
 - Even in area where Department of Labor has had responsibility for dealing with discrimination since 1983, recent settlement for \$1.2 million for gender discrimination by North Dakota Insurance Reserve Fund, City of Wahpeton & Richland County
 - NDIRF paying \$872,000
 - Richland County paying \$328,000
 - A human rights commission, doing outreach and education, could have helped avoid the immense cost of this gender discrimination lawsuit
 - The North Dakota Insurance Reserve Fund recognizes the need to provide more training on gender discrimination issues
 - The same is true of other areas of discrimination, in order to avoid the costs of discrimination if at all possible
- Even with Division of Human Rights within the Department of Labor, people are referred to Washington, D.C. for complaints other than employment & housing
 - Piecemeal response is no longer adequate
 - All human rights in North Dakota the same treatment; to treat some human rights as more important than others creates more confusion and misunderstanding and is not the response to the need that North Dakota citizens, employers, landlords, and businesses deserve
- Discrimination does occur in ND, response is inadequate
 - Even with current level of minimal outreach Department of Labor, about 100 cases were open & closed in 1999 in employment discrimination
 - ND DOL sends out questionnaire to complainant, no assessment done of ability to understand English or complete questionnaire
 - Division of HR within DOL does not assess complainant's ability to access assistance in Washington, D.C. (i.e., language barrier); question was not even considered when Division of HR was established
- Findings & recommendations of ND Advisory Committee:
 - North Dakota citizens need local and state mechanisms in operation where they can voice concerns, seek information, obtain assistance, and when necessary file discrimination complaints

- These mechanisms should have the ability to negotiate, conciliate, mediate & enforce findings of discrimination
- Create a Human Rights Commission
 - Fill investigative & enforcement powers, including ability to engage in mediation, conciliation & dispute resolution
 - Provide education, outreach and technical assistance to employers, housing providers and other institutions covered by civil rights laws (i.e., businesses & educational facilities), as well as to victims of discrimination
 - HRC should be visible, accessible & act as a clearinghouse for statewide civil rights matters
- Also recommended formation of local human relations commissions to assist in resolving & mediating community conflicts, provide education & outreach, & promote diversity
 - Fargo has created Human Relations Commission,
 - Fargo Mayor Bruce Furness has done a letter explaining why Fargo established a Human Relations Commission & noting that a Human Rights Commission may be appropriate at the state level

Testimony for ND Senate Bill 2217
"A Bill to Establish a Human Rights Commission in North Dakota"

Introduction. My name is Allan Peterson from Fargo; my home address is 7009 Horseshoe Bend, Fargo, ND 58104. I am here to represent a coalition of organizations that have joined under the banner of North Dakotans for a Human Rights Commission; our mission is simply to establish a Commission for Human Rights. There are thirty-six member organizations that have endorsed our mission; many of the groups who are a part of this coalition have a state-wide membership and representation. The representation of the groups in the coalition include people with disabilities, racial minorities, women's groups, organizations representing disadvantaged people, labor relations organizations, religious based church organizations, etc. We have been meeting regularly for about a year in an effort to gather information and develop a plan for implementing our mission.

Discrimination does exist in North Dakota. It has been said by some that discrimination is not a problem in North Dakota. Discrimination is commonplace and has been experienced by many classifications of people, including people with disabilities, this includes people who are blind and severely visually impaired.

* The unemployment rate for people with disabilities ranges between seventy and eighty percent. Instances of suspected employment discrimination for people with disabilities are most often not reported or investigated, It has been my experience that people simply do not want to go through the legal process and be labeled as a "problem". I know people in the blind community who have searched for employment for years without success, some of these people have advanced training and college degrees. Discrimination occurs in many areas of public life including employment and housing, accommodation, consumer services, education and is even experienced in service programs that are designed to serve people who are disadvantaged.

* The report of the Advisory Committee to the U.S. Civil Rights Commission found that discrimination was a definite problem in our state.

* The Coalition has put in operation a help line for information for anyone to access with questions regarding potential violations of human rights. The line has been in operation since mid-October of last year and we have received an average of between one to two calls per week.

A moral and Ethical Perspective. Human and civil rights laws have been instituted to help guarantee equitable treatment for all people regardless of their station in life. It is the responsibility of government to ensure that human rights laws that prohibit discrimination are properly instituted and enforced. The Advisory Committee's report to the U.S. Civil Rights Commission states there is no mechanism in place to properly enforce our state's human rights laws. A Human Rights Commission would provide one place where people could turn to for information and advice. The role of this agency should be first to educate, then to mediate and, if all else fails, to litigate.

Enforcement of human and civil rights laws can be perceived as a moral and spiritual principle. Human and civil rights laws and their enforcement are issues that help to guarantee a person's dignity and equal and fair treatment under the law. Jesus used the parable of the good shepherd and his lost sheep Luke 15: 4-7, to illustrate the value and importance of everyone within God's Kingdom. Through proper enforcement of human and civil rights laws, we help to ensure the importance and equal protection under the law of every person in our society.

Elevating the dignity of every person enhances family values. It is estimated that one out of every five persons possesses some form of disability. It is likely that every family has a person in their immediate or extended family with some form of disability. Human and disability law protects classes of people who are most vulnerable to discrimination in our society.

Human and civil rights law also include disability rights law which is a part of our civil code at the state and national level. These laws and their proper enforcement form the core value system upon which our democratic form of government is based. For this reason, human and civil rights law are not special laws; they are not partisan issues; they do not belong to either Democratic or Republican or any other party, these laws are the rights of every person under our form of government. Not to belabor the point, but it is so important that there be an adequate mechanism of enforcement of our human and civil rights laws!

It can be argued that a Commission of Human Rights will not penalize, but will enhance business interests in North Dakota. Human and civil rights law are not well understood; a Primary goal of the Commission would be to educate employers, landlords, consumer service agencies, public service providers and the like about these laws and, in the process enhance the public's awareness, appreciation and value of our civil code. With more knowledge, costly and lengthy lawsuits could be avoided.

We, who are members of the disability community must often rely on the goodwill and kindness of the public. It can often be a difficult tightrope to walk, on the one hand relying on someone's assistance and, on the other hand, hoping you'll be perceived as a person with abilities and value.

Summary: A Commission of Human Rights has many advantages over the present system of promoting and enforcing human and civil rights laws in North Dakota. A listing of these principle advantages include the following:

* Lengthy litigation processes are extremely time consuming and expensive. A lawsuit in Fargo, involving a person with a disability, took four years to resolve and come to a conclusion; and, yet, this particular case was said to have been put on the fast track. A Commission of Human Rights would hasten this legal process and would help save the money and time that is invested in litigation..

* A Commission of Human Rights would be one place where all forms of discrimination could be handled. Currently, the Dept. of Labor, now the Division of Human Rights within the Dept. of Labor, investigates cases of potential discrimination in the areas of employment and housing, other forms of discrimination are referred to federal agencies. When these referring agencies were investigated for responsiveness, we found that it was either difficult to contact anyone who could help or their scope of authority was limited.

* The Commission of Human Rights would allow advocacy organizations to have input into the oversight of administering human and civil rights law enforcement. This would enhance the education and mediation processes which would make this function of government more responsive and thus more efficient and effective.

* a Commission of Human Rights does provide the independence that is needed for impartial mediation and arbitration of potential cases of discrimination. Impartial, independent arbitration of the law is the cornerstone of our judicial system and is vital to our democratic form of government. A commission form of governance of human rights statutes provides an environment that would be less likely to be subjected to competing interests and influences.

Our coalition did receive a letter of support from Mayor Bruce Furness endorsing the establishment of a Commission of Human Rights in North Dakota. Fargo has recently established a Fargo Human Relations Committee to investigate complaints involving potential cases of discrimination.

North Dakotans for a Human Rights Commission – January, 2001

Spearheaded by the Arc of Cass County, a coalition of more than 20 statewide organizations began an effort “to ensure the creation of a Human Rights Commission in ND”. The group is North Dakotans for a Human Rights Commission (NDHRC).

Why establish a Human Rights Commission?

North Dakota is one of very few states without an agency specifically designated to educate, mediate and litigate violations of human and civil rights laws. In November 1999, the North Dakota Advisory Committee to the U.S. Commission on Civil Rights held a press conference announcing the results of their report, *Civil Rights Enforcement in North Dakota*. The report determined that the Human Rights Act “**lacks effective administrative enforcement mechanisms to accomplish its mandate.**” The Committee report further identified the following issues:

- Significant concern regarding the effectiveness of the Labor Department’s ability to resolve discrimination complaints.
- Antidiscriminatory provisions of the ND Human Rights Act are not well publicized or generally known by the public.
- In North Dakota people of color and persons with disabilities are subjected to acts of discrimination *on a daily basis*.

How does North Dakota currently handle human rights issues?

- The North Dakota Human Rights Act, 1983, officially states that North Dakota “does not sanction bigotry and prejudice.”
- ND Department of Labor accepts and processes employment and housing discrimination complaints. The Advisory Committee report investigated several perspectives of discrimination from a variety of people throughout North Dakota including federal, state, tribal and local governments, business people, private and community organizations, and citizens’ perspectives. The findings revealed that citizens are dissatisfied with the current level of performance. The report also included a recommendation to **create a Human Rights Commission in North Dakota.**

What is needed to pass NDHRC legislation?

- **TESTIMONY.** Personal stories of human rights violations are vital.
- **TALK TO YOUR LEGISLATOR.** Share your human rights issues.
- **BROAD BASED GRASS ROOTS SUPPORT.** Contact [1-800-472-2911](tel:1-800-472-2911) to report human rights violations or e-mail mharry@juno.com to join the grass roots initiative.
- **CONTRIBUTIONS.** In-kind or monetary contributions are needed to support the mailings and other NDHRC Coalition activities.

WITH YOUR HELP WE WILL MAKE A DIFFERENCE!

For more information e-mail ndforhrc@yahoo.com

For reporting human rights violations contact: **HELP-LINE 1-800-472-2911**

A Division of Human Rights Within the North Dakota Department of Labor Does Not Work

from North Dakotans for a Human Rights Commission

A Division of Human Rights within the North Dakota Department of Labor was created in June, 2000

- This does not respond to the need in North Dakota for one place to go to resolve human rights concerns

The Department of Labor is empowered to provide enforcement services in only one area of discrimination, housing discrimination

The Department of Labor is empowered to investigate complaints of discrimination in one other area, discrimination in employment; if a determination is appealed, complaints are referred to the Equal Employment Opportunity Commission in Denver, Colorado

- Complainants are informed that an investigation by the North Dakota Department of Labor will take three to four months and are sent a form to fill out
- After the determination by the North Dakota Department of Labor, the determination is sent to the federal agency in Denver, Colorado, and if appealed, it takes another 18 months to complete the investigation of that appeal

In most other areas of discrimination in North Dakota, residents of North Dakota are referred to federal offices in Washington, D.C.

- One toll-free number was consistently busy over several weeks
- At one federal agency, only criminal actions, such as complaints of police brutality or church burnings are investigated
- At another federal agency, a complainant would find out that not all complaints are investigated and those that are investigated would take three to four months before the complainant is informed that a case would be opened.
- At yet another federal agency, the complainant would be referred back to the North Dakota Secretary of State for some kinds of discrimination

The U.S. Commission on Civil Rights acknowledges that the federal government has decreased its funding and staffing for federal civil rights enforcement agencies by 10% over 10 years

- The chair of the U.S. Commission on Civil Rights says "The civil rights agencies have never had the resources they need to do the job."

The North Dakota Department of Labor or Division of Human Rights is not accessible to those residents of North Dakota who have difficulty reading or writing English

- The Department sends out a form in English for the complainant to fill out, without an individualized assessment of the caller's ability to read and write English
- The North Dakota Division of Human Rights does not provide access to complainants speaking another language than English

**For more information contact: State and local coalition building contact: Susan Rae Helgeland,
701-237-5871 or mharrv@juno.com**

For reporting human rights violations contact: HELP-LINE 1-800-472-2911

For more information e-mail ndforhrc@yahoo.com

**NORTH DAKOTANS FOR HUMAN RIGHTS COMMISSION
STATEWIDE COALITION AND GRASS ROOTS CAMPAIGN - January 2001**

Why is this different from past struggles to create a human rights commission in North Dakota?

- **We are organized!** The following organizations support the creation of a Human Rights Commission in ND:
 - The Arc of Cass County
 - The Arc Upper Valley
 - North Dakota Protection and Advocacy
 - North Dakota Association for the Blind
 - Mental Health Association in North Dakota
 - Fargo Mayor's Committee on Employment of People with Disabilities
 - Minot Mayor's Committee on Employment of People with Disabilities
 - Freedom Resource Center
 - Statewide Independent Living Council
 - North Dakota Progressive Coalition
 - North Dakota Coalition for Homeless People, Inc.
 - YWCA, Fargo-Moorhead
 - YWCA, Minot
 - North Dakota Public Employees Association, AFT
 - AFSCME Council 59 (American Federation of State, County, and Municipal Employees)
 - North Dakota Peace Coalition
 - Equality North Dakota
 - Grand Forks PFLAG
 - P-FLAG of Fargo/Moorhead
 - People Escaping Poverty Project
 - Presentation Sisters of Fargo
 - American Association of University Women-Fargo
 - American Association of University Women-Grand Forks
 - Catholic Family Service
 - League of Women Voters of North Dakota
 - Migrant Legal Services
 - Project Tomorrow
 - Turtle Mountain Community College
 - Fort Berthold Community College
 - Red River Friends (Quakers)
 - Grand Forks Human Rights Commission
 - Women's Network of the Red River Valley
 - People First of North Dakota
 - Nativity Catholic Church, Fargo
 - North Dakota Council on Abused Women's Services
 - ND Conference of Churches

- **We are a grassroots coalition!** In eight regions across North Dakota individuals are active in the efforts to create a Human Rights Commission in ND.
- **We are collecting data!** The Mental Health Association in North Dakota (MHAND) HELP-LINE, 1-800-472-2911, has been designated as a central data collection for human rights violations reported by ND citizens all across the state.

What Is the History of Human Rights Efforts in ND?

- In 1983 the North Dakota Human Rights Act became law.
- In 1984 the North Dakota Advisory Committee to the U.S. Commission on Civil Rights held a minifourm to determine if the North Dakota Human Rights Act was working as intended. They found that the act had no enforcement powers and was weak and ineffective because the State had not provided funds to operate or enforce its own discrimination law, in addition to the other areas of discrimination covered under the Act.
- In 1987 the U.S. Equal Employment Opportunity Commission designated the North Dakota Department of Labor as a Fair Employment Practices agency.
- In 1988 the Supreme Court Committee and the State Bar Association of North Dakota separately recommended the State set up a commission or task force to investigate gender fairness issues in the courtroom. There was no money in the budget to pay for the committee's work.
- In 1994 funding was appropriated to investigate gender fairness issues in the courtroom and the Commission on Gender Fairness in the courts was established.
- In 1997 the legislature passed a senate concurrent resolution to study the question of discrimination in North Dakota.
- In 1999 a bill was recommended for introduction to repeal the current housing discrimination statutes and create new housing discrimination laws to meet Federal laws equivalency. It designated the North Dakota Department of Labor as the agency responsible for receiving and investigating housing discrimination claims.

Why establish a Human Rights Commission in ND?

- **The ND Human Rights Act has been on the books since 1983 and discrimination complaints continue rise and State legislators have yet to see the importance of allocating funds to protect its citizens from denial of their basic rights!** As outlined in the November 1999 report of the North Dakota Advisory Committee to the U.S. Commission on Civil Rights; employment, housing, and other areas of discrimination are commonplace and widespread in North Dakota. Anti-discrimination provisions of the North Dakota Human Rights Act are not well publicized and are not readily known by the general public. **The Act's effectiveness is reduced because of the absence of a single State agency to enforce it.**
- A human rights commission could lessen the load of the courts in North Dakota by being able to settle disputes that probably do not need to into the courts.
- A human rights commission could provide education and develop strategies with employers to create a better environment for employees.
- There is no State agency charged with investigating complaints of alleged violations that deal with matters other than employment discrimination.
- Currently employment discrimination complaints are limited to investigations, negotiated settlements, or conciliation agreements.

What are the concerns of the members of the North Dakota Advisory Committee to the U.S. Commission on Civil Rights?

- Discrimination is commonplace in North Dakota.
- Anti-discrimination provisions of the North Dakota Human Rights Act are not well known by the public.
- The Act's effectiveness is reduced because no single State agency enforces it.
- The North Dakota Department of Labor receives inadequate financial resources to investigate and resolve complaints. Violations are taken to district court for remediation.
- Taking a complaint to court is time-consuming and expensive.

- Except for alleged employment discrimination, complaints of discrimination are sent to agencies in Denver, Kansas City, Missouri, or Washington, D.C. The distance from these agencies and lack of information about how to initiate complaints inhibits the filing of complaints.

What are the recommendations of the North Dakota Advisory Committee to the U.S. Commission on Civil Rights?

- Determine the extent of discrimination in the State.
- Publicize and review procedures for filing complaints.
- Create a Human Rights Commission.
- Consider local Human Relations Commissions.

WHAT IS THE POSITION OF THE NORTH DAKOTANS FOR A HUMAN RIGHTS COMMISSION COALITION?

Spearheaded by the Arc of Cass County, The North Dakotans for a Human Rights Commission (NDHRC) Coalition agree with the findings and recommendations of the North Dakota Advisory Committee. The Advisory Committee stated that "The Governor, State legislators, city officials, law enforcement officers, and others entrusted with protecting its citizens from all forms of discrimination should ensure that local, State, and Federal mandates are carried out and enforced to the fullest extent for improved protection of all North Dakotans" The report went on to say, "The North Dakota Advisory Committee hopes that the Governor, State legislature, community organizations, and North Dakota citizens rally together to actively promote and take significant steps to work toward eradicating discrimination in the State. Although there have been numerous attempts to address the issue of discrimination in North Dakota, including the establishment of the North Dakota Department of Labor; passage of the North Dakota Human Rights Act; and a study of the need for a human rights commission through the work of the Interim Judiciary Committee of the North Dakota State Legislature, numerous forms of discrimination are still prevalent" (ND Advisory Committee to the U.S. Commission on Civil Rights Report, Nov. 1999, pp 51 & 52).

- **The mission of North Dakotans for a Human Rights Commission (NDHRC) is to ensure the creation of a Human Rights Commission in North Dakota.**

###

SOCIAL ISSUES GROUP
BISMARCK-MANDAN UNITED CHURCH OF CHRIST
1200 E. Highland Acres Rd.
Bismarck, N.D. 58501

February 6, 2001

TO: Senate Committee on Political Subdivisions

FR: Social Issues Group, Bismarck-Mandan United Church of Christ

RE: SB2217, Establishing a Human Rights Commission

First, a big thank you to Senator Cook for sharing with me last Saturday his objections to the Human Rights Commission bill in its present form. His concerns were:

1. Lack of due process in handling complaints, and
2. A lay commission with power to impose civil penalties up to \$5,000, payable to the commission.

It seems to me that his concerns can be remedied as follows:

1. Provide that all hearings and procedures of the commission must be conducted in full accord with chapter 28-32 of the Century Code; the 1997 and 1999 bills included this language.
2. Provide that the civil penalties are payable to the general fund, not to the commission.

Attached is a copy of the Position Paper adopted by the Social Issues Group. The Group this past Sunday discussed at length Senator Cook's proposal to place the functions of a Human Rights Commission in the Department of Labor, enhancing the scope and powers of the Division of Human Rights established in that Department by the 1999 Legislature.

Our Social Issues Group remains strongly in favor of a separate stand-alone Human Rights Commission as the most effective way to educate about and to enforce North Dakota's laws against discrimination. We need a publicly recognized body with representatives from the concerned groups in charge of the work to be done.

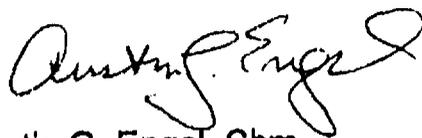
The Division of Human Rights within the Department of Labor does not meet this need, because: (a) it is buried in an agency that deals with labor issues, (b) any enforcement powers would reside with the Director of that Department, and (c) the Division within the Department will generally not be a strong voice in North Dakota against discrimination.

The most effective way to address discrimination in North Dakota is through a separate Human Rights Commission as proposed in SB2217. If cost is a concern, then we should take seriously the offer of tribal leaders to share in that cost.

On behalf of the Social Issues Group, I strongly urge the Senate Political Subdivisions Committee to amend SB2217 as indicated above and to report it to the full Senate with a "do pass" recommendation.

Thank you for your consideration.

Sincerely,



Austin G. Engel, Chm.
Social Issues Group

**POSITION PAPER
ON
ESTABLISHING A NORTH DAKOTA HUMAN RIGHTS COMMISSION**

Prepared by the Social Issues Group
Bismarck-Mandan United Church of Christ
January 31, 2001

BASIC PROBLEM

North Dakota has a very good law in the Century Code prohibiting discrimination "on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, (or) status with regard to marriage or public assistance"

HOWEVER, THERE ARE NO EFFECTIVE WAYS UNDER NORTH DAKOTA LAW TO ENFORCE THESE PROHIBITIONS.

TWO NEARLY IDENTICAL BILLS HAVE BEEN INTRODUCED IN THE 2001 LEGISLATURE TO ESTABLISH A HUMAN RIGHTS COMMISSION WITH ENFORCEMENT POWERS.

HB1315 in the House and SB2217 in the Senate. The House Committee on Government and Veterans Affairs has recommended a "Do Not Pass" on HB 1315. The Senate Committee on Political Subdivisions held a hearing on 01/26 and has not acted to date.

Each bill provides for the following:

An 11-person commission representing the physically and mentally disabled, persons of color, and government representatives.

The commission is charged with duties to: educate, investigate, resolve conflicts, conduct hearings, award actual damages, and assess civil penalties.

Projected costs for a biennium	\$422,500
Less estimated income	<u>370,000</u>
Total general fund appropriation	52,500

(NOTE: Tribal chairmen have pledged funds to help.)

MAIN OPPOSITION

The 1999 Legislature opposed establishing a Human Rights Commission and instead authorized the Labor Commissioner to establish a Division of Human Rights to receive complaints on discrimination in employment and housing and refer them on to Federal agencies.

In voting 12 to 3 against HB1315, the House Committee on Government and Veterans Affairs voted to draft a resolution to broaden the scope of the Division of Human Rights in the Labor Commissioner's Office to handle discrimination complaints in areas beyond employment and housing. The Committee may also be suggesting that the Labor Commissioner should have authority to enforce N.D.'s policy on discrimination.

(OVER)

The Greater N.D. Association is opposing both bills. However, it now admits there is discrimination in N.D. and is suggesting a meeting of the "stakeholders" or main players with the Labor Commissioner to learn what has been happening in his Division of Human Rights and find ways to resolve the problems through the Labor Commissioner's Office.

POSITION

The Social Issues Group supports the establishing of a Human Rights Commission now. Although there has been progress in the area of human rights in North Dakota, there are still many victims of discrimination in our state, especially the physically and mentally disabled, and persons of color. North Dakota needs a strong and effective enforcement of human rights to insure the ability of all its citizens to achieve economic success and quality of life.

We should accept the offer of tribal leaders to provide funds and explore how that can be done over several bienniums. It is time to put the good words in the Century Code into action.

CHRISTIAN LOVE FOR NEIGHBOR

Our position is grounded in the great commandments to love God and to love our neighbors. "Love" means doing what is good for our neighbors, as in the parables of the Good Samaritan and of the Last Judgment. Parents struggling in the face of discrimination to find jobs, obtain housing and buy the basic necessities for their children are our neighbors who often fall by the wayside. They are the "least of these our brethren."

Each Sunday we pray in church, "Our Father . . . thy will be done here on earth as it is in heaven." We know God's will for us here on earth by looking first to the teachings of Jesus and then finding the best way to carry out those teachings.

Jesus calls us to do "the weightier matters of the law, justice and mercy and faith" (Matthew 23:23) and to do "justice and the love of God" (Luke 11:42).

Establishing a Human Rights Commission in N.D. now would be a step toward obtaining justice for our neighbors who are victims of discrimination. We do not need two more years of study and delay.

The N.D. Catholic Conference and the N.D. Conference of Churches are both on record in support of establishing a Human Rights Commission in North Dakota now.

We urge church members to call their legislators immediately and ask for their support of HB1315 and SB2217.

MEMBERS OF SOCIAL ISSUES GROUP

Crabtree, John
Engel, Austin (Chm.) and Mary
Erickson, Gail
Knutson, Ron and Mary
Moos, Rev. Jim
Morris, Bill and Cheri

Patrie, Marcia and Bill
Patrie, Ben
Peterson, Harold and Phyllis
Van Sickle, Judge Bruce
Walker, Reba
Wilson, Dr. Herbert J.



STATEMENT BY DALE O. ANDERSON, PRESIDENT, GREATER NORTH DAKOTA ASSOCIATION, REGARDING SB 2217, NORTH DAKOTA SENATE POLITICAL SUBDIVISIONS COMMITTEE; JANUARY 26, 2001

Chairman Cook and members of the Senate Political Subdivisions Committee. I am Dale O. Anderson, President, Greater North Dakota Association. Thank you for this opportunity to provide comments regarding SB 2217.

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 1,000 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 entities. GNDA is governed by a 25 member Board of Directors elected by GNDA's membership. The Board of Directors sets the organization policy.

As we listen to testimony regarding this issue over the years, there appear to be issues that are not being addressed. Therefore, we are encouraged by the new Division of Human Rights recently created in the ND Department of Labor.

I present the following in opposition to SB 2217 as the vehicle to address the issues presented today and past hearings:

1. GNDA believes the North Dakota Legislature has established appropriate measures to address discrimination which includes:
 - A state policy to prohibit discrimination;
 - A law defining discrimination;
 - A law defining consequences of discrimination;
 - Issues of employment can be investigated through the Department of Labor;

- **Issues of housing can be investigated through the ND Department of Labor. The 1999 Legislative Assembly passed HB 1043, which GNDA supported. It created N. D. C. C. chapter 14-02.5, the North Dakota Housing Discrimination Act.**
 - **A division of Human Rights within the ND Department of Labor was created within the past year; and**
 - **Discriminatory practices can also be brought before the court system for resolution.**
- 2. GNDA does not support or condone actions that discriminate. GNDA provides its members with educational opportunities to help them unravel today's complex discrimination laws and issues. One educational program is a 250 page report entitled: "Employment Discrimination – An Employer's Guide." (A flyer describing the 2000 guide is included with this testimony.) Local chambers provide a wide range of programs for businesses in their communities. We also participate in a new program developed in cooperation with the U.S. Chamber, entitled ChamberBiz. ChamberBiz is the small business portal for programs and services.**

- 3. GNDA supports the new Division of Human Rights within the ND Department of Labor. This entity which is less than one year old, should be provided an opportunity to develop its customer focused program, with input from a broad range of citizens that are impacted by acts of discrimination.**
- 4. SB 2217 creates a new commission within the executive branch of state government. We believe the commission is unnecessary as it would essentially perform duties possible through the district court system and the new Division of Human Rights within the ND Department of Labor.**
- 5. SB 2217 has a price tag of \$422,500 from all funds. However, the proponents of the bill on line 3, Section 5 believe the program will generate \$370,000 in income. It is important to note that the sponsors are silent as to how the revenue will be generated with the exception of levying up to \$5,000 for each civil penalty that is assessed. It would take 74 complaints fined at the maximum penalty of \$5,000 each to generate \$370,000 in income, or \$20,555 per month. It is interesting to note that sponsors of HB 1469 introduced into the 56th Legislative Assembly, estimated income of \$370,000 in a 24 month period, or \$15,400 per month.**
- 6. SB 2217 requests \$52,500 from the general fund for the 18 month period January 1, 2002 to June 30, 2003. We believe those funds should be used to grow our economy with better paying jobs.**

7. **The Human Rights Commission model envisioned during the 1999 session in SB 2332 is different than the model presented in SB 2217 for your consideration today. I envision a wide range of options available from states that have enacted Human Rights Commissions. GNDA encourages the new Division of Human Rights in the ND Department of Labor to bring stakeholders to the table to identify needs and recommendations for action. GNDA volunteers one or more representatives to work on this stakeholder group and make recommendations to the 2003 Legislative Assembly.**

8. **GNDA is concerned about the impact of Section 4 of the bill which repeals Section 14-02.4-12.1 and chapter 14-02.5 of the North Dakota Century Code.**

In summary, SB 2217 creates a new special commission that we believe duplicates the services of the Department of Labor, a new Division of Human Rights in the Department of Labor, several housing authorities and the judicial system. The special commission acts as educator, investigator, attorney, judge and enforcer of what they think is discrimination. The new commission requires general fund appropriation which is not necessary.

Instead, let's give the new Division of Human Rights in the ND Department of Labor ample time to grow and develop.

Chairman Cook and members of the Senate Political Subdivisions Committee, GNDA, the voice of business and principal advocate for positive change for North Dakota, recommends a do not pass for SB 2217 as the mechanism to resolve discrimination issues. I welcome your questions.

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GNDA
Greater North Dakota Association

2000 Survival Guides 68 Chapters Including:

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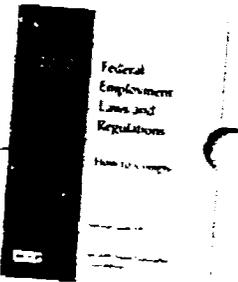
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- CHAPTER**
- 1 Snapshot
 - 2 Compliance thresholds
 - 3 Recruiting and hiring
 - 4 Fair Credit Reporting Act
 - 5 New hire reporting
 - 6 Wages and hours
 - 7 Termination
 - 8 Discipline
 - 9 Performance evaluations
 - 10 Job descriptions
 - 11 Employee handbooks
 - 12 Dress code requirements **NEW!**
 - 13 Employee benefits
 - 14 COBRA
 - 15 Group health plan reform (HIPAA)
 - 16 Family and medical leave
 - 17 Discrimination in employment
 - 18 Affirmative action **NEW!**
 - 19 Employment Practices Liability Insurance **NEW!**
 - 20 Child labor
 - 21 Drug and alcohol misuse in the workplace
 - 22 AIDS in the workplace
 - 23 Smoking in the workplace
 - 24 Privacy and high technology in the workplace
 - 25 Year 2000 computer bug
 - 26 Whistleblower protection
 - 27 Keeping employee complaints out of court (ADR)
 - 28 Workplace violence
 - 29 Independent contractors
 - 30 Temporary/leased employees
 - 31 Union representation and unfair labor practices
 - 32 Employee committees
 - 33 Negligent supervision and retention
 - 34 Non-competition agreements and trade secrets
 - 35 Employment contracts
 - 36 Layoff and reduction notice
 - 37 Severance pay
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 - 39 Occupational Safety and Health Act (OSHA)
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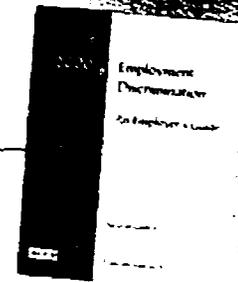
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 - 7 National origin discrimination
 - 8 Religious discrimination
 - 9 Sex discrimination
 - 10 Sexual harassment
 - 11 Age discrimination
 - 12 Disability discrimination
 - 13 Family and Medical Leave Act
 - 14 Protection of employee organizational and union activities
 - 15 Discrimination based on safety activities
 - 16 Military status discrimination
 - 17 Discrimination in employee benefits
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 - 20 Management of discrimination charges
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I bought:

Parked a small 12' field trailer in the yard back yard for 6 mos & 9 days in '99 Oct 13th

On May 3, 2000 I moved trailer and 10 days later I received a letter from manager, Kent Funchi office to move my small trailer out.

I drove through three rows of trailer homes and found recreational vehicles, boats, trailers, Jet-skis, canoes etc. amount was twenty, in 3 rows on 5-9-2000.

Moved it to Pucupine, ND for storage approx. 48 miles south.

Today, as I made rounds in the Skyway Pk. trailer court. The total is 50 plus old cars not in running order. Taking days to clean up in violation.

- 1. I know I'm treated different. ^{There's discrimination in every one even business}
- 2. Afraid to report them - I may get evicted. I'm an ^{Native American} elder & on low-income. ^{hand-dropped}
- 3. The older the trailer the higher the taxes. Set rate? And the lot rent is \$5 short of 200.00 per mo.

Pojo Pule Owl
 #2005
 1119 Univ. Dr.
 Bismarck, ND 58504
 724-1418

1-25-01

- 2001 - pickup camper
 2006 - In place
 2011 - Snow mobile
 2013 - Boat
 1922 - pop up camper
 1924 - 2 snow mobiles
 1502 - Boat
 1718 Snow mobile
 1401 - canoe
 1504 - Boat 1403 Sm, enclosed trailer
 1506 - Boat
 1614 - Boat
 1415 - Camp trailer
 1314 - Camper & snow mobile
 1310 - Camper trailer 96 old car
 1301 - Open trailer
 1203 - Topper on pickup
 1007 - Boat
 1209 - Boat
 1111 - Jet-Ski
 1215 - Open trailer
 1022 - Open trailer, Topper, motorcycle
 1016 - Open trailer & jet ski
 914 - Motor home
 716 - Boat
 717 - Open trailer
 818 - pop up camper
 719 - Boat
 714 - Open trailer & boat
 813 - Motor cycle - snow mobile
 713 - Open trailer
 610 - Trailer for snow mobile
 605 - Sm Open trailer

- 504 - Trailer - to haul with
 512 - Open & inc. enclosed trailer
 505 - Trailer for camp
 1011 - Motor cycle
 1008 - Boat
 1005 - Boat & open trailer
 1012 - Bus camper

 303 - pop up topper & 2 boats
 304 - Boat - old on
 310 - motor home
 401 - Zipstrome trailer
 401 - Boat
 204 - motor cycle
 205 - topper
 106 - pop up camper
 211 - appears to be fish house.

Total 50

Numerous other not in working order.

DATE: 5/3/00

RESIDENT ADDRESS: 2005

NOTICE

The following violations of Park Rules as checked have been found by the Management:

- Home is not numbered or violates city code.
- The yard is messy with _____.
- Motor vehicles, boats, trailers, etc. cannot be stored on lawn area. *Camper in yard*
- Skirting needs repair ____, replaced ____, painted ____.
- Cars parked in street or unusable vehicle must be removed.
- Grass needs mowing ____, weeds need spraying ____, lawn planted ____.
- Lawn shows lack of care.
- Dog unattended on _____.
- Fence in need of paint or repair.
- Entry, porch, steps, deck, storage shed _____.
- Snow has not been removed from sidewalks.
- Garbage containers _____.
- Gas and or oil containers cannot be stored on the ground.
- Clothesline _____.
- Building materials, firewood, etc. must be above ground per city code.
- Old appliances, broken bicycles and toys must be removed.
-

Refusal by resident to cooperate fully with any of the foregoing rules may constitute grounds for their removal from the park. If the problem cannot be corrected within ____ hours, please contact the office. Thank you.

Rest French, Meyer
Liechty Homes
Bismarck - 255-1705
Jamestown - 252-3081

NORTH DAKOTA CONFERENCE OF CHURCHES

411 - N. 4th St. - Suite 8 • Bismarck, North Dakota 58501- 4078 • (701) 255-0604

To: Members of the Senate
From: North Dakota Conference of Churches
Subject: SB 2217
Date: 01/26/01

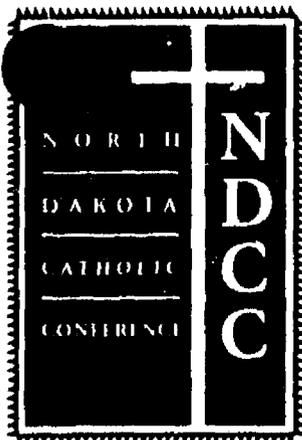
The North Dakota Conference of Churches supports SB 2217 to create a Human Rights Commission in North Dakota. As persons created in God's image, all human persons are entitled to basic human rights. North Dakota has recognized this with the passage of its Human Rights Act. The creation of a Human Rights Commission would help effectuate its purpose by enhancing education and enforcement activities.

As ministers of the Christian faith, the members of the North Dakota Conference of Churches sometimes witness the harmful effects of discrimination. That is why the Conference has historically supported the creation of a Human Rights Commission and supports this bill.

The following member denominations of the North Dakota Conference of Churches endorse the establishment of a Human Rights Commission in the state of North Dakota: American Baptist Churches of the Dakotas; Episcopal Diocese of ND; Evangelical Lutheran Church in America, Eastern ND Synod and Western ND Synod; Moravian Church in America, Northern Province; Presbyterian Church, U.S.A., Presbytery of the Northern Plains; Religious Society of Friends (Quakers); Roman Catholic Church, Bismarck Diocese and Fargo Diocese; United Church of Christ, Northern Plains Conference; and United Methodist Church, Dakotas Conference.

MEMBER DENOMINATIONS: American Baptist Churches of the Dakotas • Church of Brethren, Minn. Dak. Area • Church of God (Anderson) • Episcopal Diocese of ND • Evangelical Lutheran Church in America, Eastern ND Synod, Western ND Synod • Moravian Church in America, Northern Province • Presbyterian Church, U.S.A., Presbytery of the Northern Plains • Religious Society of Friends (Quakers) • Roman Catholic Church, Bismarck Diocese, Fargo Diocese • United Church of Christ, Northern Plains Conference • United Methodist Church, Dakotas Conference

ASSOCIATE MEMBERS: Catholic Family Service • CHARIS • Church Women United • Home on the Range • Jamestown College • Lutheran Social Services of North Dakota • University of Mary • North Dakota Chaplains Association • Unitarian/Universal Fellowship • The Village Family Service Center



*By the Executive Director
of the North Dakota Catholic Conference*

Christopher E. Dodson
Executive Director and
General Counsel

To: House Government and Veterans Affairs Committee
From: Christopher Dodson, Executive Director
Subject: Senate Bill 2217 (Human Rights Commission)
Date: January 26, 2001

The North Dakota Catholic Conference supports Senate Bill 2217.

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

1401 W. Broadway, Suite 2
Bismarck, ND 58501

701-223-9819
1-888-419-1232
FAX # 701-223-6029

**Complaints Filed with Selected State Human Rights Agencies
by Type of Discrimination**
(for the most recently reported fiscal year for each state)

State	Type of Discrimination			Total	% Other
	Employment	Housing	Other ^{1/}		
Iowa	1,853	126	178	2,157	8.3%
Kansas	1,031	16	54	1,101	4.9%
South Dakota	104	1	4	109	3.7%
Nebraska	1,304	72	24	1,400	1.7%
Montana	291	19	33	343	9.6%
Minnesota	1,176	62	133	1,371	9.7%
Total	5,759	296	426	6,481	6.6%

^{1/} Other includes public accommodations for all states, public services for SD, MT, & MN, and credit for IA & MT.

SENATE BILL 2217 HUMAN RIGHTS COMMISSION
Government and Veterans Affairs / March 8, 2001

Chairman - Members of the Committee, my name is Mary Ekstrom, I am a Representative from District 11 in South Fargo.

I am here in support of Senate Bill 2217. This measure, as you know, gives the Department of Labor the jurisdiction necessary to enforce the Human Rights Act Section 14-02.4. My primary concern by introducing HB 1315, which this committee also heard, was to ensure that the Human Rights Act that was adopted in 1983 could be enforced.

There are many here who oppose this measure because they want a freestanding Commission. I understand their position however, the legislative process is the art of the possible. I would request that this committee consider either through amendment or legislative intent signal the Labor Department that we want there to be citizen participation in the implementation of this new law.

I have discussed the need for a citizen's advisory panel with the Labor Commissioner. I believe he agrees that working with the interested groups from the around the state would be valuable to his department.

I respectfully request a DO PASS recommendation from this committee. I will try to answer any of your questions.

**HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
TESTIMONY PREPARED BY SENATOR BERCIER
SENATE BILL 2217
MARCH 9, 2001**

CHAIRMAN KLEIN, MEMBERS OF THE HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE, I AM SENATOR DENNIS BERCIER FROM DISTRICT 9, AND I AM HERE TO TESTIFY IN SUPPORT OF SENATE BILL 2217, WHICH ESTABLISHES A "STAND ALONE" HUMAN RIGHTS COMMISSION.

(EXPLAIN NOTE SUPPORTING LABOR DEPARTMENT BILL)

NORTH DAKOTA HAS LONG BEEN A "SELF-OPTIONAL" STATE WHEN IT COMES TO MONITORING AND PROHIBITING DISCRIMINATION, AND TO DETERRING THOSE WHO AID, INDUCE DISCRIMINATION, OR COERCE OTHERS TO DISCRIMINATE. HOWEVER, WHERE DOES A PERSON GO TO HAVE THEIR GRIEVANCES ADDRESSED? A NORTH DAKOTA CITIZEN CURRENTLY HAS NO AVENUE AVAILABLE TO PROTECT THEM EXCEPT THE COURT SYSTEM.

WHY DOESN'T NORTH DAKOTA HAVE A HUMAN RIGHTS COMMISSION? IT CAN'T BE THAT WE DON'T CARE ABOUT OUR CITIZENS AND THEIR RIGHT TO BE FREE FROM ANY FORM OF DISCRIMINATION. WE HAVE HUMAN RIGHTS LAWS, AND HAVE HAD 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 BI-PARTISAN ISSUE; DISCRIMINATION KNOWS NO BOUNDARIES.

THE ESTABLISHMENT OF A HUMAN RIGHTS COMMISSION IS NECESSARY AND LONG OVERDUE. IT IS THE RIGHT THING TO DO. WE MUST PROVIDE OUR CITIZENS AND VISITORS WITH A PLACE TO GO TO TO HAVE THEIR GRIEVANCES ADDRESSED - WITHOUT HAVING TO RESORT TO THE COSTLY EXPENSE OF A LAWSUIT. THIS BILL PROVIDES A DISTINCT AVENUE OF REDRESS, INCLUDING THE ADMINISTRATIVE HEARING PROCESS AND DISPUTE RESOLUTION SERVICES.

NOT EVERY COMPLAINT MUST, NOR SHOULD, GO TO COURT. BUT EVERY COMPLAINT OF DISCRIMINATION SHOULD BE INVESTIGATED. OUR CITIZENS DESERVE NO LESS FROM THEIR GOVERNMENT AND STATE.

THIS BILL WILL ALSO PROVIDE EDUCATION PROGRAMS TO PREVENT

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
TESTIMONY PREPARED BY SENATOR BERCIER
SENATE BILL 2217
MARCH 9, 2001

DISCRIMINATION IN WORKPLACES, PUBLIC ACCOMMODATIONS, AND OTHER PROVIDERS OF SERVICES TO OUR CITIZENS AND VISITORS. PROVIDING EDUCATION ON DISCRIMINATION AND HOW TO PREVENT DISCRIMINATION IS AN EXCELLENT METHOD TO PREVENTING COSTLY AND LENGTHY LAWSUITS. THE HUMAN RIGHTS COMMISSION WILL HAVE THE AUTHORITY TO RESOLVE CONFLICTS BETWEEN PARTIES THROUGH "CONFERENCE, CONCILIATION AND PERSUASION." THIS IS FOUND ON LINES 5-22 ON PAGE FOUR. IT ALSO ALLOWS THE COMMISSION TO CONDUCT HEARINGS SIMILAR TO OTHER AGENCIES THAT CONDUCT ADMINISTRATIVE HEARINGS ON TAX ISSUES, EMPLOYMENT ISSUES, WORKERS COMPENSATION ISSUES, ETC.

SENATE BILL 2217 PROVIDES FOR THE TIMELY FILING OF COMPLAINTS, AND TIMELY INVESTIGATIONS AND RESOLUTION OF ALL COMPLAINTS. THE ONLY SOLUTION A PERSON HAS RIGHT NOW IS TO SUE. NOT EVERY CASE OF DISCRIMINATION SCREAMS FOR A LAWSUIT. THIS BILL WILL ALLOW FOR ADDITIONAL AVENUES OF SOLUTION OR RESOLUTION TO EITHER PARTY. PASSING THIS BILL IS THE RIGHT THING TO DO FOR OUR STATE AND OUR CITIZENS.

IT IS A SAD FACT THAT VARIOUS FORMS OF DISCRIMINATION EXISTS, BUT IT DOES. AND, UNFORTUNATELY, IT EXISTS IN NORTH DAKOTA, EVEN AS WE SPEAK. THIS STATE MUST TAKE A POSITIVE AND DISTINCTIVE STAND, AND WE MUST PROVIDE RECOURSE TO OUR CITIZENS AND VISITORS WHEN DISCRIMINATION OCCURS. THIS BILL WILL DO THAT.

FELLOW COLLEAGUES, PLEASE TAKE A MOMENT AND CONSIDER YOUR VOTE TODAY AND ITS IMPACT ON THE LIVES OF THOSE WHO ARE, OR HAVE BEEN, DISCRIMINATED AGAINST. THIS IS A BASIC RIGHT OUR VETERANS HAVE FOUGHT FOR. THEY HAVE GIVEN THE SUPREME SACRIFICE OF LIFE OR LIMB. PLEASE SHOW YOU UNDERSTAND THEIR SACRIFICE, AND ENSURE THAT ALL OUR CITIZENS AND VISITORS ARE GIVEN EQUAL TREATMENT UNDER OUR LAWS.

**HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
TESTIMONY PREPARED BY SENATOR BERCIER
SENATE BILL 2217
MARCH 9, 2001**

I STRONGLY URGE YOUR SUPPORT OF SENATE BILL 2217 IN ITS ORIGINAL VERSION, AND I URGE A "DC PASS" VOTE.

THANK YOU FOR YOUR TIME. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.



STATEMENT BY DALE O. ANDERSON, PRESIDENT, GREATER NORTH DAKOTA ASSOCIATION, REGARDING ENGROSSED SB 2217, NORTH DAKOTA HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE; March 8, 2001

Chairman Klein and members of the House Government and Veterans Affairs Committee. I am Dale O. Anderson, President, Greater North Dakota Association. Thank you for this opportunity to provide comments regarding Engrossed SB 2217.

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 1,000 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 entities. GNDA is governed by a 25 member Board of Directors elected by GNDA's membership. The Board of Directors sets the organization policy.

As we listen to testimony on this issue over the years, there appear to be issues that are not being addressed. Therefore, we are encouraged by the formation of the new Division of Human Rights recently created in the ND Department of Labor.

I present the following in support of Engrossed SB 2217 as the vehicle to address discrimination issues presented today and past hearings:

1. **GNDA believes the North Dakota Legislature has established appropriate measures to address discrimination which includes:**
 - **A state policy to prohibit discrimination;**
 - **A law defining discrimination;**
 - **A law defining consequences of discrimination;**
 - **Issues of employment can be investigated through the Department of Labor;**
 - **Issues of housing can be investigated through the ND Department of Labor. The 1999 Legislative Assembly passed HB 1043, which GNDA supported. It created N. D. C. C. chapter 14-02.5, the North Dakota Housing Discrimination Act;**
 - **A division of Human Rights within the ND Department of Labor was created within the past year;**
 - **Discriminatory practices can also be brought before the court system for resolution; and**
 - **Engrossed SB 2217 expands the division of Human Rights to investigate discrimination in public access and accomodation.**

2. **GNDA does not support or condone actions that discriminate. GNDA provides its members with educational opportunities to help them unravel today's complex discrimination laws and issues. One educational program is a 250 page report entitled: "Employment Discrimination – An Employer's Guide." (A flyer describing the 2000 guide is included with this testimony.) Local chambers provide a wide range of programs for businesses in their communities. We also participate in a new program developed in cooperation with the U.S. Chamber, entitled ChamberBiz. ChamberBiz is the small business portal for programs and services.**

3. **GNDA is currently involved in a new project called the New Economy Initiative. This initiative employs a cluster collaborative strategy process. This is an open process for the common good. It creates an action platform for existing and new initiatives within a new economy framework. Cluster groups will increase partnerships between businesses, education and service providers to create more dynamic and growing industry clusters in our state.**
4. **Action teams are being organized. The purpose of action teams is to engage as many North Dakotans as possible and promote a New Economy environment that benefits all communities. One of the action teams is "E-Learning and Talent." This team will develop an action plan for immediate implementation regarding a wide range of workforce issues and attracting talent from diverse groups.**
5. **GNDA supports the new Division of Human Rights within the ND Department of Labor.**
6. **GNDA supports Engrossed SB 2217 because it:**
 - **sets up the division of human rights within the department of labor as the Department;**
 - **empowers the Department to receive and investigate complaints alleging violations;**
 - **empowers the Department to foster prevention of discrimination through education;**
 - **emphasizes conciliation to resolve complaints; and**
 - **requires the Department to publish and report back to the legislature – its recommendations on human rights.**

Thank you Chairman Klein and members of the Committee for this opportunity. GNDA recommends a do pass recommendation on Engrossed SB 2217.

Thank you, Mr. Chairman. I welcome your questions.

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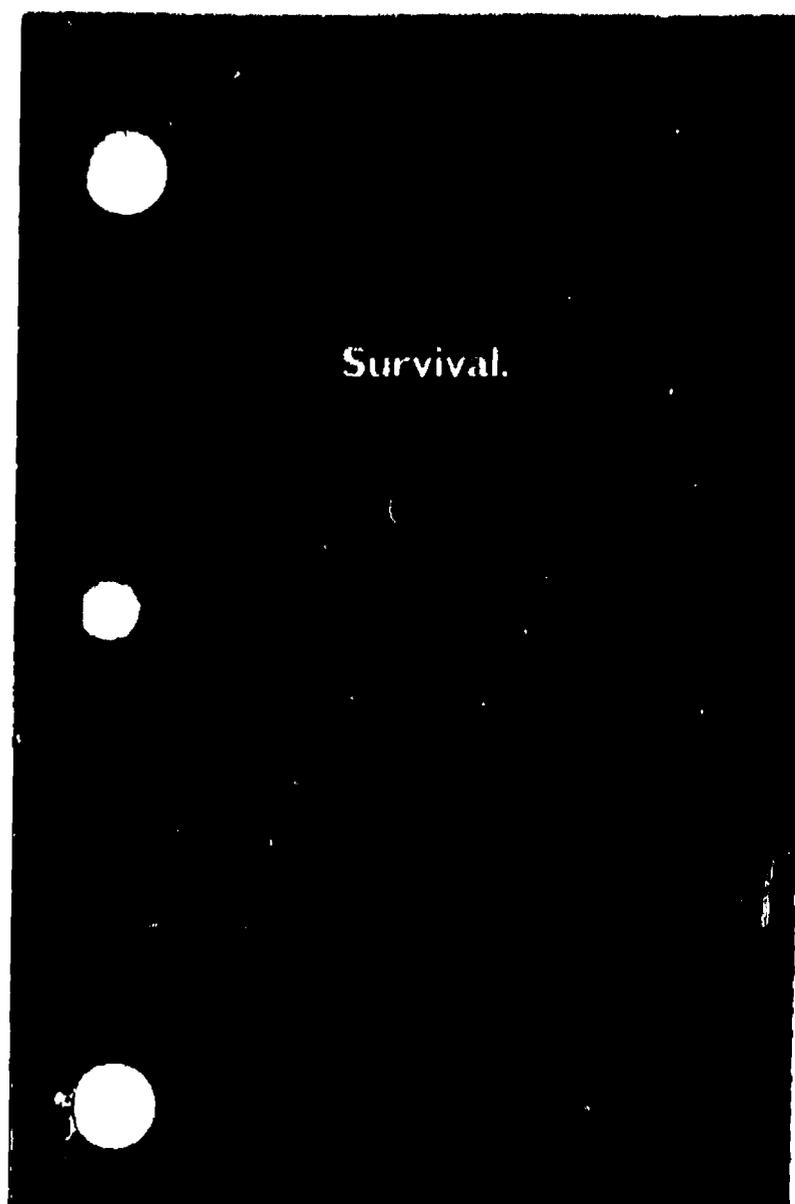
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MARCH 8, 2001

HOUSE POLITICAL SUBDIVISIONS COMMITTEE
SB 2217

CHAIRMAN FROSETH AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We strongly support the amendment we've listed below to SB 2217, and urge you to adopt the amendments regardless of what you do with the bill itself.

Our amendments would make just the complaints open records and would make this portion of the bill comply not only with the state's open records laws, but also with the housing discrimination complaints also handled by the Labor Department. In this way, all of the complaints would be treated in the same manner.

North Dakota has a long tradition of open government that has served its citizens well. It was one of the first states to pass comprehensive open records/open meetings laws in 1957 and the very first state to put these provisions into its Constitution.

The records that this bill closes are the same as the housing discrimination complaints which have been open. We're not aware of any problems that require that they now be closed. We support the efforts of the Labor Department regarding fair housing discrimination. It was our industry that led the effort in 1999 to give the Labor Department this authority.

We understand the main concern is with the confidentiality of investigatory records. We can understand that, since most investigatory records are closed until the investigation has concluded. Our amendments keep these records closed.

Therefore, we are proposing the following amendment to keep the ongoing investigatory records confidential, but that will allow the complaints to be public, and allow the investigatory records to be public after the investigation is complete. This is the same system that is now the law for law enforcement records. We think it will work for the Labor Department as well.

On the reverse side of this testimony you'll find the portion of SB 2154 from this session dealing with the housing discrimination complaints. Again, we respectfully urge you to adopt the amendments. If you have any questions, I'd be glad to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS TO ENGROSSED SB 2217

On page 7, line 2, after the word "department" insert "under this chapter is an open record.", and overstrike the words "and information" and insert immediately thereafter the word "information"

On page 7, line 5, after the word chapter insert ",or prior to the administrative closure of a complaint by the department"

Renumber accordingly

1 may not award the monetary relief if that aggrieved individual person has not complied with
2 discovery orders entered by the court.

3 **SECTION 12. AMENDMENT.** Subsections 3 and 5 of section 14-02.5-39 of the 1999
4 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5 3. An aggrieved individual person may file a claim for relief whether a complaint has
6 been filed under section 14-02.5-18 and without regard to the status of any
7 complaint filed under that section.

8 5. An aggrieved individual person may not file a claim for relief with respect to an
9 alleged discriminatory housing practice that forms the basis of a charge issued by
10 the department if the department has begun a hearing on the record under this
11 chapter with respect to the charge.

12 **SECTION 13.** Section 14-02.5-46 of the North Dakota Century Code is created and
13 enacted as follows:

14 **14-02.5-46. Records exempt.** A complaint filed with the department under section
15 14-02.5-18 is an open record. Information obtained during an investigation conducted by the
16 department under this chapter is exempt from section 44-04-18 prior to the administrative
17 closure of a complaint by the department. The commissioner may disclose to the complainant
18 or the respondent, or representatives of the complainant or respondent, information obtained
19 under this section if deemed necessary by the commissioner for securing an appropriate
20 resolution of a complaint. Investigative working papers are exempt from section 44-04-18.

21 **SECTION 14. EMERGENCY.** This Act is declared to be an emergency measure.

Testimony for Senate Bill 2217

(prepared for, the hearing before the North Dakota House Committee on Government and Veteran Affairs, scheduled for Thursday, March 8th)

My name is Allan Peterson from Fargo. I am testifying before you today as a spokes-person for our coalition, North Dakotans for a Human Rights Commission. Our coalition includes sixty-six member organizations that represent people from throughout North Dakota. The work of our coalition is a true grassroots campaign whose sole mission is to establish an independent Human Rights Commission. As a coalition we remain steadfast in our belief that this is the most effective means by which enforcement of the State's Human rights laws can be achieved.

Our support for an independent Commission is based upon (1) the experience of other state's whose Commission styled agencies have led to popular satisfaction among its citizens in the work of resolving claims of discrimination; (2) the numerous claims of discrimination we have received from throughout North Dakota by our Help Line; and, (3) the recommendations of the November, 1999 Report of the North Dakota Advisory Committee to the U.S. Commission on Civil Rights. The Advisory Committee's "Report on Civil Rights Enforcement in North Dakota" recommended that the State of North Dakota should establish a Human Rights Commission and fashion it to be as independent as possible from unwarranted political interference. The Advisory Committee also recommended that the composition of the members of the Commission should be reflective of the diversity of the states population.

It is important to note that the Advisory Committee that prepared the Report on the State's Civil Rights Enforcement had a broad representation of members from throughout the political spectrum within North Dakota. Another important fact to note about the Report is that the Advisory Committee did come to a unanimous conclusion as it reached consensus on the findings within this public document.

Our coalition believes that the North Dakota Legislature is entrusted with protecting its citizens from all forms of discrimination. Accordingly, this public trust mandates that human rights be enforced to the fullest extent possible for improved protection of all of its citizens. North Dakota citizens need a place where they can voice their concerns, seek information, obtain assistance, and when necessary file discrimination complaints. We believe, the legislation to establish a Commission can provide citizens of North Dakota with the ability to negotiate, conciliate, mediate, and when necessary to enforce findings of discrimination.

We, of the coalition, very much desire and are committed to building the strong bipartisan support that is necessary for passage of legislation to establish a Commission for Human Rights in North Dakota. We wish to work with all parties to seek the legislation that is needed to protect the citizens of North Dakota from unwarranted acts of discrimination.

Let there be no mistake about our position, the coalition that I represent is committed to the formation of an independent Commission.

**TESTIMONY BEFORE THE
HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
REGARDING SB 2217
MARCH 8, 2001**

Chairman Klein and members of the Committee, I am Raylynn Lauderdale, Executive Director of People First of North Dakota. Not long ago many of us stood before you asking for your vote in passing HB 1315. Only four of you voted in favor of this bill. So, what is it any of us can say today to persuade you to change your mind regarding an independent Human Rights Commission? You have heard numerous stories about the discrimination which exists in North Dakota, a fact that I do not believe is debatable. The Tribes have agreed to commit money to an independent Commission. Therefore, money is no longer an issue.

In a previous session you passed one of the best human rights laws in the country. Yet, the ability to enforce this law is limited. If we limited the enforcement of violent crimes, how many more would be the victim of assault, murder, rape, or physical abuse? By enforcing the law, we help to eliminate the number of incidences. . .that, I believe, is the reason we pass laws in the first place.

Why have we passed stricter laws on drinking and driving? Because the victims and their families created an outcry! Mothers Against Drunk Driving became a driving force in passing stricter laws. Now, victims of discrimination and advocates speaking up for those who are afraid to do so, stand before you asking you to finish the job that began with the passage of the North Dakota Human Rights Law. Put into place a Commission who understands discrimination . . . one who can hear and judge fairly. Please listen to those who need your

leadership. . . listen to those who need your voice to be heard . . . listen to the hearts of all those who have been victimized by discrimination rather than those who are in a position to discriminate against others. Be the citizens' legislature that North Dakota so proudly professes to have! We need a Human Rights Commission 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 2217.

Respectfully,

Raylynn Lauderdale
People First of North Dakota
400 E. Broadway, Suite 515
Bismarck, ND 58501
701-250-6745



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**Government and Veteran's Affairs Committee
North Dakota House of Representatives
57th Legislative Assembly**

**Testimony of Three Affiliated Tribes
Mandan, Hidatsa and Arikara Nation**

**Lex G. Hall
Chairman
on SB 2217, as amended
March 8, 2001**

Doshal (Hello). Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today concerning SB 2217, as amended, concerning enforcement of the North Dakota Human Rights Act. For your information, I am Chairman of the Three Affiliated Tribes, the Mandan, Hidatsa and Arikara Nation located in northwest North Dakota.

For reasons stated herein, we must reluctantly oppose SB 2217 as amended by the State Senate, because the bill now does not create a Human Rights Commission as originally contemplated by SB 2217. We strongly believe that the citizens of North Dakota need to be the enforcers of a Human Rights laws in North Dakota through a public Commission because they are the ones that will be most affected by this legislation. We do not understand why the Legislature would be afraid of its citizens being members of a functioning Human Rights Commission; just about every Board and Commission in North Dakota, from the Board of Animal Health to the Zoning Commissions of many towns and cities, is composed of citizens of this state. Our citizens are the people who should be deciding whether discrimination has occurred and what the remedies should be.

I also represent the many Tribal members who off the reservation in North Dakota, such as those that live in Bismarck, Fargo, Grand Forks, Minot and all of other towns and cities in North Dakota. As Chairman of the Three Affiliated Tribes, I am amazed that in the year 2001, more than 35 years after the passage of the federal Civil Rights Act of 1964, I would be talking to the North Dakota Legislature about the need for Human Rights enforcement, and the need for a Human Rights Commission. I am amazed that despite the fact that the fastest growing segment of our population is our Native American population, who continue to be discriminated against and despite the fact that the North Dakota Advisory Committee to the U.S. Commission on Civil Rights in its report issued November, 1999 has strongly recommended the formation of a Human Rights Commission, past legislatures have failed to enact what is really fairly simple legislation, for reasons that I fail to understand.

Simply put, every person in this state deserves to be treated fairly, in all of the areas covered by the North Dakota Human Rights. No one should have to fear discrimination in the 21st Century in North Dakota in the areas of housing, employment, labor union membership, property rights, public accommodations, public services, or credit transactions. No one should be left without a swift and sure remedy for discriminatory acts against them on the

Testimony of Three Affiliated Tribes, Chairman Tex G. Hall
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basis of race, color, physical or mental disability, religion, age, sex, status with respect to marital status or public assistance or participation in lawful activities off the employer's premises. At least that's what the present North Dakota Human Rights Act would lead a person to believe is prohibited under state law.

That's where a remedy comes in. Tribal members who are discriminated against don't call their legislators to complain, they call their Tribal leaders and their friends, if they call at all. I have received many complaints of discrimination from Tribal members in towns both on and off the Fort Berthold Reservation about housing, employment, credit discrimination and public accommodations discrimination. I could talk all day about the incidents I have witnessed and that have been related to me. Many others will tell you of their experiences here today.

But what am I able to tell a constituent, a Tribal member when they ask what can be done? What agency is there to help them? At present, there is very little I can tell them.

I am aware that the Department of Labor has a "Human Rights Division", but right now that Division only enforces the Housing Discrimination Act passed in the last legislative session and can investigate and mediate employment discrimination complaints. But for anything other than those areas, there is only the unlikely prospect of getting relief before an all-white jury in what is a lengthy and often demoralizing process of going through the state courts. Very few people even bother to make the effort of suing on such a case in state court. It is too costly and time consuming. Going to court before that all-white jury is not an acceptable remedy.

I am also aware that enforcement of the North Dakota Human Rights Act has been assigned to the "Human Rights Division" as a result of the amendments of the Senate to SB 2217. We certainly need enforcement of the Human Rights laws. But enforcement by a single bureaucrat who is a political appointment poses severe questions about the likelihood of swift, effective enforcement and even worse, it raises questions about whether such enforcement will be respected by all parties involved because of the original political nature of the appointment. Further, a single bureaucrat will be less likely to understand the context of the alleged discriminatory acts from the variety of groups against which discrimination can occur. In addition, a single bureaucrat, no matter how well meaning, will be unlikely to be able to concentrate as much effort on education about the need to battle discrimination.

A commission, on the other hand, as outlined in the original Senate bill, modified as requested by the Tribes to include the Chairmen from each of the five Tribes with a significant presence in North Dakota, and amended to include a standard review mechanism under the state's Administrative Procedures Act, will be a citizen based Commission that draws on the experiences of the groups which have been the subject of discrimination. It is far more likely

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that such a Commission will be utilized by those against whom discrimination has occurred and it will be far more likely that the Commission will be used to actually correct discriminatory practices that we as Native Americans know are common in North Dakota. A Human Rights Commission that is empowered to enforce all of the Human Rights laws of the State of North Dakota is what is needed. That mechanism alone can provide the kind of remedies that are relatively swift, unbiased, and which can truly help stop the kind of discrimination that occurs against Native Americans in this state.

Empowering a Human Rights Commission is important to me for another critical reason: Economic development. As our Tribal Nations in North Dakota continue to grow, we are putting our Tribal members in the North Dakota work force at an increasing rate. In fact, the growth of our Native American population in the past 10 years kept North Dakota from losing population. We are the fastest growing minority in the United States. The new employees and workers we produce graduate from our community colleges, from United Tribes Technical College, from the University of North Dakota and North Dakota State University, from our high schools, from schools out of state. Will they stay and help North Dakota be prosperous, or will they get some experience here or leave the state entirely when it appears that it will be hard for them to be treated fairly because they are Native Americans as well as North Dakota citizens? As a Tribal leader, I need to know that my Tribal members will in fact get fair treatment in the lives they choose to live in North Dakota, wherever in the state they may be located.

Again, a Commission that has the broad respect of all that come before it is the mechanism that I favor, and I believe all other Tribes in North Dakota favor. The only assurance I can get that something will be done if a Tribal member is discriminated against is to have a functioning Human Rights Commission that enforces the Human Rights laws of North Dakota that are now the law of this State. Otherwise, the plain fact is that people, good people, hardworking people who can and do contribute a lot to the economy of this state will leave, and businesses others will not come into this state, because they cannot be assured that they will be treated fairly.

I want to emphasize that the issue of a Human Rights Commission will not go away. We will be here next session as long as it takes to get a citizen based Commission enacted into law. This is not expensive legislation. Even if the fiscal note were at \$100,000, that would be less than 8 cents per citizen per year, a small price to pay for Human Rights enforcement.

Right now, I do not have an amendment to propose to the present bill to make it right. However, I urge you to go back to the original bill, with the amendments that were suggested by us and by others concerning the review mechanism for the Commission's actions. If this Committee cannot trust the people of North Dakota and provide for the formation of a real Human Rights Commission, then I will urge a DO NOT PASS recommendation for SB 2217 as amended.

LIST OF 61 ORGANIZATIONS AND BUSINESSES THAT SUPPORT A NORTH DAKOTA HUMAN RIGHTS COMMISSION

AARP ND
ACLU of the Dakotas
AFSCME Council 59 (American Federation of State, County,
and Municipal
Employees)
Alpha Phi Gamma Professional Journalism Fraternity, Grand
Forks
American Association of University Women, Fargo
American Association of University Women, Grand Forks
American Association of University Women, Minot
The Arc of Cass County
The Arc Upper Valley
Bismarck Society of Friends (Quakers)
Catholic Family Services
Central Dakota PFLAG
Eastern Synod, Evangelical Lutheran Church of America
Equality North Dakota
Family Voices
Fargo Mayor's Committee on Employment of People with
Disabilities
Fort Berthold Community College
The Forum (editorial staff)
Freedom Resource Center
Grand Forks Herald
Grand Forks Human Rights Commission
Grand Forks PFLAG
Independence Inc., a Center for Independent Living, Minot
Kappi Phi Sorority Alumni Chapter, Grand Forks
League of Women Voters of North Dakota
Mental Health Association in North Dakota
Minot Mayor's Committee on Employment of People with
Disabilities
St. Anthony Catholic Church, Fargo
Neglect Our Children No More, Fargo-Moorhead
Newcomers Outreach Council, Grand Forks
North Dakota Association for the Blind
North Dakota Catholic Conference
North Dakota Coalition for Homeless People, Inc.
North Dakota Conference of Churches
North Dakota Council on Abused Women's Services
North Dakota Disabilities Advocacy Consortium
North Dakota Peace Coalition

North Dakota Progressive Coalition
North Dakota Protection and Advocacy
North Dakota ND Public Employees Association, AFT
Options Resource Center for Independent Living, Grand
Forks/East Grand Forks
People Escaping Poverty Project
People First of North Dakota
PFLAG of Fargo-Moorhead
Presentation Sisters of Fargo
Pride Collective and Community Center (Fargo-Moorhead)
Project Tomorrow
Red River Friends (Quakers)
Sisseton Wahpeton Sioux Tribe
Spirit Lake Tribe
Standing Rock Sioux Tribe
State Independent Living Council
Temple Beth El, Fargo
Three Affiliated Tribes
Turtle Mountain Band of Chippewa
Turtle Mountain Community College
Unitarian Universalists, Bismarck
United Methodist Church
United Tribes of North Dakota
United Tribes Technical College
Women's Network of the Red River Valley
YWCA, Fargo-Moorhead
YWCA, Minot

North Dakotans for a Human Rights Commission – March, 2001

Spearheaded by the Arc of Cass County, a coalition of more than 60 statewide organizations began an effort “to ensure the creation of a Human Rights Commission in ND”. The group is North Dakotans for a Human Rights Commission (**NDHRC**).

Why establish a Human Rights Commission?

North Dakota is one of very few states without an agency specifically designated to educate, mediate and litigate violations of human and civil rights laws. In November 1999, the North Dakota Advisory Committee to the U.S. Commission on Civil Rights held a press conference announcing the results of their report, *Civil Rights Enforcement in North Dakota*. The report determined that the Human Rights Act “**lacks effective administrative enforcement mechanisms to accomplish its mandate.**” The Committee report further identified the following issues:

- Significant concern regarding the effectiveness of the Labor Department’s ability to resolve discrimination complaints.
- Antidiscriminatory provisions of the ND Human Rights Act are not well publicized or generally known by the public.
- In North Dakota people of color and persons with disabilities are subjected to acts of discrimination *on a daily basis*.

How does North Dakota currently handle human rights issues?

- The North Dakota Human Rights Act, 1983, officially states that North Dakota “does not sanction bigotry and prejudice.”
- ND Department of Labor accepts and processes employment and housing discrimination complaints. The Advisory Committee report investigated several perspectives of discrimination from a variety of people throughout North Dakota including federal, state, tribal and local governments, business people, private and community organizations, and citizens’ perspectives. The findings revealed that citizens are dissatisfied with the current level of performance. The report also included a recommendation to create a **Human Rights Commission in North Dakota**.

What is needed to pass NDHRC legislation?

- **TESTIMONY.** Personal stories of human rights violations are vital.
- **TALK TO YOUR LEGISLATOR.** Share your human rights issues.
- **BROAD BASED GRASS ROOTS SUPPORT.** Contact 1-800-472-2911 to report human rights violations or e-mail mharry@juno.com to join the grass roots initiative.
- **CONTRIBUTIONS.** In-kind or monetary contributions are needed to support the mailings and other NDHRC Coalition activities.

WITH YOUR HELP WE WILL MAKE A DIFFERENCE!

For more information e-mail ndforhrc@yahoo.com

For reporting human rights violations contact: **HELP-LINE 1-800-472-2911**

MARCH 8, 2001 RE SB 2217 (ENGROSSED)

H. CHAIRMAN KLEIN & MEMBERS OF THE COMMITTEE, MY NAME IS CAROL TWO EAGLES - I AM SPEAKING AGAINST THE ENGROSSED VERSION OF SB 2217 BECAUSE, FOR ALL THIS VERSION SHOWS A GREAT AMOUNT OF THOUGHT & WORK, IT HAS ONE VERY LARGE FLAW - IN PUTTING THESE EFFORTS IN THE DEPARTMENT OF LABOR, THIS APPROACH PUTS EVERYTHING UNDER THE DIRECT CONTROL OF AN APPOINTED OFFICIAL & WHOEVER IS GOVERNOR OF NORTH DAKOTA AT ANY GIVEN TIME. FIRST, THE FORM OF N.D.'S GOVERNMENT IS DEMOCRACY, & THIS IS NOT DEMOCRATIC. SECOND, IT LEAVES THE DOOR TO FOOT-DRAWING, SHOULD THE PEOPLE EVER ELECT A GOVERNOR WHO IS ORIENTED TO ANY FORM OF DISCRIMINATION AGAINST ANY PART OF THE CITIZENRY - YOU MAY LIKELY SAY THIS IS UNLIKELY, SO I MUST PLAY ^{THE} GODS! SAFELY & POINT OUT THIS IS STILL LIKELY, BECAUSE OF THE SITUATION RELATIVE TO THE OFFICE OF INDIAN AFFAIRS & ITS COMMISSIONER. HAVE YOU/WE SEEN OR HEARD FROM THIS PERSON? NO. WHY NOT? BECAUSE THE COMMISSIONER WAS "ORDERED" BY THE PREVIOUS GOVERNOR NOT TO TESTIFY, ON BEHALF OF AN HRC, AS WAS THE CURRENT COMMISSIONER'S PREDECESSOR. NO MATTER WHAT THE REASON FOR THIS ORDERING, (A) IT LOOKS BAD OR SUSPICIOUS; (B) IT LEAVES THE DOOR WIDE OPEN TO INTERFERENCE WITH THE EFFECTIVE REMEDYING OF DISCRIMINATION COMPLAINTS AS POINTED OUT ABOVE. OUR CITIZEN LEGISLATURE IS ACTUALLY A CITIZEN COMMISSION,

ON THIS ISSUE

MARCH 8, 2001 -2- RE SB 2217 (ENGROSSED)

JUST ON A LARGER SCALE. TO PUT THE REMEDY
APPROACH TO DISCRIMINATION UNDER APPOINTEES
FLIES IN THE FACE OF THAT DEMOCRACY & CITIZEN LEGISLATURE
(ON THAT BASIS, I AM AGAINST THE ENGROSSED
VERSION OF SB 2217 & REQUEST YOU ALL
SUPPORT THE PETERSON AMENDMENT & RETURN
TO SUPPORT OF THE ORIGINAL VERSION OF
SB 2217.

THANK YOU FOR HEARING ME -

CAROL TWO EAGLES Carol Two Eagles
Box 293
Mandan, ND 58554

Testimony on SB 2217
Government and Veterans Affairs Committee

Submitted by:

Rev. James Moos
Pastor, Bismarck United Church of Christ

Human rights are about freedom. Those who possess rights are free. Those whose rights are systematically denied are not free, even if they live in America, even if they live in North Dakota.

There is no serious disagreement that discrimination exists in North Dakota. Yesterday, a Native American professional was in my office, and he shared with me that he is regularly denied service in local businesses until he provides proof of his professional status. Those of us in the majority community find it difficult to understand the daily humiliation that members of minority communities are subjected to. During this session, even the opponents of a Human Rights Commission have acknowledged the fact of discrimination. The debate has centered around how best to address the injustices.

I urge the creation of an independent Human Rights Commission. In opposing the creation of a division of human rights within the Department of Labor, I do not question integrity of the current administration or of anyone in the Department of Labor. The issue is not one of departmental integrity, but of legislative responsiveness to the needs of North Dakota's minority communities.

For decades, these communities have pleaded for the creation of an independent Human Rights Commission. Their requests have fallen on deaf ears. The result has been disillusionment with the political process, anger against the establishment, and a diminished value of citizenship itself. The creation of a division of human rights would not heal the wounds of disenfranchised North Dakotans who have asked that their freedom be protected with an independent commission.

Creating an independent Human Rights Commission would send a message to our

minority populations that state government values their freedom and citizenship, and is not willing to compromise on their rights. A human rights division within the Department of Labor is already being perceived as a half-hearted measure. Lacking independence and meaningful citizen participation, it would be subject to prevailing political winds, and not firmly grounded in the principles of American freedom.

Furthermore, human rights is not a stand alone issue--it is related to other concerns we face in our state. Clearly, a priority for all North Dakotans is economic development. The best we can currently say about the decades long slide in our population base is that it has leveled off, at least for now. In order to grow our economy, we need to attract new and skilled workers and professionals. I believe they will come, if we adequately prepare the way for them.

It is unlikely that prospective North Dakotans will be overwhelmingly German and Norwegian. Following national trends, they will be people of color. That is a good to be celebrated, not a threat to be feared. They will come and help to grow our economic base if they are made welcome. Part of that welcome is displaying an absolute commitment to their freedom and dignity. In North Dakota as in other states, that commitment can be made manifest only in an independent Human Rights Commission.

Today, our state is privileged to receive a visit from President Bush. In a state with a Republican governor and legislature, I trust he will feel at home. As a candidate, President Bush pledged to return the Republican party to its roots as a party that is open to and inclusive of all Americans. It is, after all, the party of Abraham Lincoln.

The legislature has the opportunity to respond to the President's call by showing its commitment to the rights of all North Dakotans. The creation of an independent Human Rights Commission would be, in Lincoln's words, "a new birth of freedom."

TESTIMONY

Monday, 12 March 2001

To: House Committee on Government and
Veteran Affairs.

From: Herbert J. Wilson, Chair, District 47
Democrat Party.

Concerning: SB2217, Human Rights.

Dear Legislators,

It is a terrible disappointment to many of us that we will not be getting a full Human Rights Commission directed by a board made up of all segments of our society.

As a weak second best we might accept the caching of the "Commission" in the Department of Labor, if the Department were required to report annually on Human Rights Violations, and also required to report on efforts at correction.

I would urge the House Government and Veterans Affairs Committee to consider a further amendment to 2217 such as presented by Austin Engel. This new amendment should make the Labor Department somewhat accountable annually to the Legislature - accountable on a broad array of human rights issues, --issues more extensive in scope than merely discrimination in employment and housing.

Sincerely yours,

Herbert J. Wilson

Herbert J. Wilson, MD

SOCIAL ISSUES GROUP
Bismarck-Mandan United Church of Christ
1200 E. Highland Acres Road
Bismarck, N.D. 58501

March 9, 2001

TO: House Committee on Government and Veterans Affairs

FR: Austin Engel, Chairman, Social Issues Group

RE: Amendment to SB2217, on accountability

SB2217 in its present form requires no accountability from the Department of Labor on its work in receiving and acting on complaints. The following proposed amendment would require annual reports that will be vital to the Legislature and all concerned in knowing the extent and nature of discrimination in North Dakota:

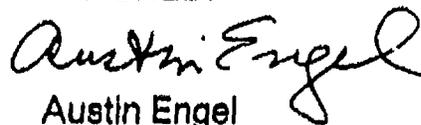
On page 4 at line 31, add the following sentence:

"In January of each year, the Department shall publish a statistical report giving: the total complaints received the previous year; a breakdown of those complaints by the kind of discrimination involved in each area of 'benefit of enjoyment' covered by Chapters 14-02.4 and 14-02.5 of the Century Code; the total number of investigations conducted by the Department; and a breakdown of the final dispositions of the complaints in the previous calendar year."

This amendment would require a basic statistical accountability on the Department's work on discrimination, without violating the exemption from Section 44-04-18 contained in Section 14-02.4-21 of the Bill. None of the other reporting requirements now in SB2217 require this basic statistical reporting. The reporting proposed in this amendment would not be an undue burden upon the Department.

Thank you for your consideration of this proposed amendment.

SIGNED:


Austin Engel

John Hoeven
Governor

Mark D. Bachmeier
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58505-0340

www.state.nd.us/labor
E-mail: labor@state.nd.us

Testimony on SB 2217
Prepared for the
House Appropriations Committee

March 27, 2001

Chairman Timm and members of the Committee, good morning. For the record, my name is Mark Bachmeier and I am the Commissioner of Labor.

I was responsible for preparing the fiscal note for SB 2217. The total projected impact on the Department of Labor for the 2001-2003 Biennium includes:

Salary and Benefits for One FTE:	\$72,104
IT Operating Expenses:	\$ 1,200
Office Equipment:	\$ 1,158
IT Equipment:	\$ 1,824
Professional Fees & Services:	\$ 4,320
Travel:	<u>\$ 2,500</u>
Total:	\$83,106

The total projected impact on the Department of Labor for the 2003-2005 Biennium includes:

Salary and Benefits for One FTE:	\$75,017
IT Operating Expenses:	\$ 1,224
Office Equipment:	\$ 0
IT Equipment:	\$ 0
Professional Fees & Services:	\$ 4,320
Travel:	<u>\$ 2,500</u>
Total:	\$83,061

I would be happy to answer any questions you have about these projected costs. In addition, I was involved in the drafting of the Senate amendments to this bill at the request of the Senate Political Subdivisions Committee and would do my best to answer any questions you have about those changes.

Thank you for your time.