

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1423

2001 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1423

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HIB 1423 A

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/09/01

Type Number	Side A	Side B	Meter #
1		X	1122-4404
Committee Clerk Signature <i>Robin L. Smell</i>			

Minutes:

REP. M. KLEIN called the hearing to order, with all committee members present.

In favor:

REP. ALAN H. CARLSON, DISTRICT 41

CARLSON introduces the bill to the committee. International family of codes and conform to local needs.

REP. M. KLEIN asks if this is going in the direction of new building codes. CARLSON replies yes. REP. DEVLIN asks if this would take away local control? CARLSON doesn't believe so.

In favor:

DOREEN MEHLHOFF, EXECUTIVE OFFICER OF THE NORTH DAKOTA ASSOCIATION OF BUILDERS

Please see attached testimony.

Page 2  
House Government and Veterans Affairs Committee  
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REP. DEVLIN comments again that he is concerned that local control is being taken away.

MEHLHOFF comments about maybe amending the state code.

In favor:

RICHARD GREY, DIVISION OF COMMUNITY SERVICES

Please see attached testimony.

JERRY RATZLAFF, PRESIDENT, NORTH DAKOTA BUILDING OFFICIALS ASSOC.

Please see attached testimony.

RICHARD GRAY addresses the committee again. GRAY talking about cities and counties participating. REP. KLEMIN asks how many are there. GRAY replies that it all depends.

REP. BRUSEGAARD asks about local jurisdiction. GRAY comments, amend the code, trying to get a state code. GRAY mentions that JOHN BJORNSEN passed out amendments, add continuation to existing code. The committee then goes over the amendments.

Oppose: (section 1)

LOIS HARTMAN, NORTH DAKOTA FIREFIGHTERS ASSOCIATION

HARTMAN comments that they are opposed to section one.

Neutral:

JERRY HJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES

HJELMSTAD states to the committee that they are in support of the amendment.

In favor:

TERRY TRAYNOR, NORTH DAKOTA ASSOCIATION OF COUNTIES

TRAYNOR states to the committee that they are in favor of this bill.

Being there was no further testimony in favor or in opposition the hearing was then closed.

Action was not taken at this time.



2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1423 B

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/15/01

Tape Number	Side A	Side B	Meter #
1	X		2925-3781
Committee Clerk Signature <i>Robin A. Small</i>			

Minutes:

COMMITTEE WORK:

REP. M. KLEIN called the committee to order. HB 1423 was heard on Feb. 9th, 2001.

ACTION:

All members were present, except REP. BRUSEGAARD.

REP. GRANDE motioned to accept the amendments, seconded by REP. HAAS. A voice vote was taken with the majority passing it. REP. CLARK then motions for a DO PASS AS AMENDED, seconded by REP. MEIER. The roll call vote was taken with 11 YES, 3 NO and 1 ABSENT AND NOT VOTING. The motion passes. The CARRIER of the bill is REP. GRANDE.

HB 1423: DO PASS AS AMENDED 11-3

CARRIER: REP. GRANDE

VX  
2/15/01

HOUSE AMENDMENTS TO HB 1423, HOUSE GVA 2/15/01  
Page 1, line 2, after "code" insert "; and to provide for transition"

HOUSE AMENDMENTS TO HB 1423, HOUSE GVA 2/15/01  
Page 2, line 1, overstrike "latest edition of the"

Page 2, line 3, after "of" insert "State", remove the overstrike over "building", after "official" insert "code", and remove the overstrike over the period

Page 2, line 4, remove the overstrike over "2"

Page 2, line 5, remove the overstrike over "2"

Page 2, line 8, remove "2"

HOUSE AMENDMENTS TO HB 1423, HOUSE GVA 2/15/01  
Page 3, after line 27, insert:

**"SECTION 4. TRANSITION.** The state building code in effect on January 1, 2001, must remain in effect until publication of rules under section 54-21.3-03 to implement the International building, residential, mechanical, and fuel gas codes as the state building code."

Renumber accordingly

Date: 2/15/01

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1423

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken Accept the Amendments

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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: Feb. 15, 2001

Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1423

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken No Pass As Amended

Motion Made By Clark Seconded By Meier

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) 11 No 3

Absent 1

Floor Assignment Rep. Grande

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

**REPORT OF STANDING COMMITTEE**

**HB 1423: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1423 was placed  
on the Sixth order on the calendar.

Page 1, line 2, after "code" insert "; and to provide for transition"

Page 2, line 1, overstrike "latest edition of the"

Page 2, line 3, after "of" insert "State", remove the overstrike over "~~building~~", after "~~officials~~"  
insert "code", and remove the overstrike over the period

Page 2, line 4, remove the overstrike over "2"

Page 2, line 5, remove the overstrike over "3"

Page 2, line 8, remove "2."

Page 3, after line 27, insert:

**"SECTION 4. TRANSITION.** The state building code in effect on January 1,  
2001, must remain in effect until publication of rules under section 54-21.3-03 to  
implement the international building, residential, mechanical, and fuel gas codes as the  
state building code."

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1423

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1423

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 9, 2001

Tape Number	Side A	Side B	Meter #
1	X		0.0-End
		X	3.4-7.6
March 15, 2001	X		17.6-19.6
March 16, 2001 1	X		0.3-27.2
Committee Clerk Signature <i>Mary Jo Wicken</i>			

Minutes:

The hearing was opened on HB1423, which relates to the state building code. All the senators were present except for Senator Lee who was absent.

REPRESENTATIVE AL CARLSON: District 41. This bill deals with the state building code. There are two main interests in the bill. That happens to be that in and give you a bit of history. The building code that we use in the state is the UBC and its the Uniform Building Code. It was last updated 1997 and as of now, these are going to be no further updates to the UBC. The UBC is one across the nation of three codes that were basically used, the UBC being one, the Building Officials and Code Administrators, (BOCA) and the Southern Building Code was the third one. For years now they have studying and trying to come with a what they call the International Building Code, or the International Family of Code which they would role all of these codes into one family of codes. That now has been accomplished. And what this bill does, is it brings those codes into play as a building codes for the state of North Dakota, International Building Family

of Codes. There are building administrators here and officials, there are representatives from the building industry as well, there is a key ingredient from my perspective is the builder is the part that gives the local jurisdictions the ability to amend the state building code to conform to local needs. And that is part of this bill. And those are the two interests that I bring. Number one I think it is time to bring the codes together and the second one I think that we're not the exactly the same as Florida or California. So we need the ability to have review and to have local jurisdiction make some adjustments to that code. Those things are both in this bill and there are some concerns about who decides what those changes will be. You will hear debate on that today and there are some amendments dealing with, who will be the group that meets and reviews this and puts together any changes necessary to adjust to local needs. My main concern as I was involved in introducing the bill, was number one to get it to the International Family of Codes and number two to make sure that we had that local control where we could make conformity to local needs in the bill. DORENE MELHOFF: North Dakota Association of Builders. See written attached testimony. She explained her handout, section by section. (Meter #3.1- 12.9) Todd Kranda for the North Dakota Society of Professional Engineers has signed in support of this and these amendments. The engineers agree that they would like to be involved at that point to in the voting. Tom Kranda had to go to another hearing but asked me to mention that for that group. SENATOR FLAKOLL: The House may amend it though, they still have to have approval in the state is that correct? DORENE MELHOFF: I am not certain of that. I don't believe so. Rich Gray from the Division of Community Services might be able to better answer your question as far as state approval from the local. SENATOR COOK: Dorene, we've been holding 1118, because it deals with the same section. Are you saying if we take out Section One, we can let HB1118 go through and then we won't have problems with codifying? DORENE



MELHOFF: Correct, and I know Joel Boeslplug is here and is the expert on that section. Yes, I believe its completely dealt with in 1118 and the reference is done in 1118, as well, so everything should be codified. JERRY HJELMSTAD: North Dakota League of Cities. See written attached testimony. Mr. Hjelmstad explained his testimony and amendments proposed to the committee. I ask for a Do Pass with these amendments. SENATOR WATNE: I look at your amendments and then I look at Dorene's amendments and both of you remove Lines 1-4 of the first part. And then you have only the eligible jurisdiction and she has five other entities am I understanding that correctly? JERRY HJELMSTAD: Right, that would be the main differences. Just a variation of how the amendments to the state building code itself would be approved. SENATOR WATNE: So do you have an objection to those other five adults outlined in Dorenes' amendments? JERRY HJELMSTAD: I guess from our viewpoint, we feel it is important to have a majority of the enforcing jurisdictions approving the amendments because we're trying to promote uniformity across the state. That's the way the procedure is now, that a majority of those enforcing jurisdictions must approve that amendment before it can be adopted, so that is the key I guess for us is that you can't get a majority of enforcing jurisdictions to agree to it, your not really going to have a fair uniform code across the state. So we would like to keep as a majority of the uniform. As far as the other votes, I don't know how that would fit in with related to getting a majority of the enforcing jurisdictions. SENATOR MATHERN: I guess I don't understand exactly what your saying? Are you opposed to the five people having a vote on the board and saying that there wouldn't be a majority with 104 compared to 5? JERRY HJELMSTAD: No, I am not saying that they wouldn't still have their majority available, but, I think the way the system is set up now, anytime there is an amendment proposed you need to get a majority of those enforcing jurisdictions. Now, when you add the five, are you really going to be doing anything. I mean you

would still get a majority but if your on that borderline, do you really want an amendment to the state building code that is going to impact the entire code, or are we, do we really want to promote uniformity, and try and get as many enforcing jurisdictions to agree to it. I think that is the key, is trying to promote uniformity, so that the different builders will know, they won't have to worry about if there is going to be a few exceptions because of different conditions around the state. But to keep as uniform as possible, so if we're going to amend the our basis set of the code, the state code, that a majority of the enforcing jurisdictions should be in agreement with that.

SENATOR COOK: Jerry, do you support this subsection five on page three that gives every governing body the ability to opt out, should I say? JERRY HJELMSTAD: Definitely that is an important part, because we do have, around the state your going to have different conditions that are different local needs that will need to be met. So, it is very important to have that in as part of the bill.

SENATOR COOK: Jerry, then my question then, is if were looking for uniformity, and you have a majority of the jurisdictions say, this is what we're going to do and that's important to you, but then yet you also allow the minority to all opt out. Is that not correct? Am I reading that right?

JERRY HJELMSTAD: Right, but I think what were referring back to though as were starting out with the basic state building code. This is what our state building code is. Now your allowed to make some corrections and those can be pointed out to the builders, but we've got that basic code that we're enforcing statewide. And if you can't get a majority of the enforcing jurisdictions to agree to that amendment to that entire code, that were all going to work with, then you know that is kind of your starting point. After that, it will be necessary to make some variations, but I think were trying to keep that basic starting point uniform as possible. SENATOR COOK: Okay, I am

looking at this pink slip here and I got to just make sure I understand this, cause sometimes people asked me what I voted on

and it always seems to make me nervous here. Okay I see here smoke rods to drain or entry door and that is in the 2000 International Resident Code, its not regulated in the 1997 Uniform Building Code. So I am assuming then that there is no regulation requiring that right now? Is that correct? JERRY HJELMSTAD: I wouldn't be able to answer, we do have a number of building of, maybe they would be able to answer that. SENATOR COOK: I will save that until later then.

JEFF KOHLER: Bismarek-Mandan Home Builders Association. See written attached testimony.

COLBY WELL: See written attached testimony. Spoke in support of HB1423. The key issue here is safety and quality. By adding architects, engineers, us builders, the mechanical

subcontractors and the other subcontractors that work on town homes, condos, single family homes need a representative in this. RON STRAND: Represent the city of Fargo. I am a building official there and I also have a lot of fellow building officials from the ND Building Officials Association who would also address you I think this morning. Your not going to hear a lot of dispute about the benefits of this bill. It really boils down to one thing. And that is the benefits of one amendment versus another amendment. I thought about what I was rising to today and what I am rising to today, is really a point of principle. We get along good with the builders, we think they do a good job. We're all interested in the same things, safety. The product, what our people receive when the job is done. So to that extent at least what were going to say is the same thing. I have to diverge, however, when it comes to the issue of who's responsible for deciding what the law is going to say. I am talking specifically about the amendments and about the state code.

Don't be confused by a bunch of stuff. The only people responsible for that are the elected people that is you and the city commission that I represent, the councils and the commissions are

these people. They're responsible to the people. That's the way it should be. So, when you hear arguments about the issue of voting, that's really what you're hearing us say in it. It isn't that we have any purpose here, other than that. So what is the difference? So what happens if a few builders vote, or a few architects vote or a few engineers vote. What really happens? You look at five votes, and you say five votes, not much really happens, when you're talking in context of one hundred and four votes. But doesn't something actually happen? I mean what have we done? We've been franchised someone who is not responsible to the people. We said you're going to be part of the decision making. Is that a bad thing? Yes, I think it can be a bad thing. We have examples of what a co-consensus codes out there, in fact the state has adopted one. What are the consensus codes is the I-appliance Uniform Plumbing Code. What happens by consensus. Well consensus, means that all the parties that are interested, the suppliers, the actual contractors, the regulators all rise to the discussion to what is going to happen and make the decision jointly. That sounds good on its face, but let's have an example now in Fargo. (Meter#26.8- 27.7) The principle I am laying on the table for you this morning is hang with principle. Hang with purity. The regulators should be the people making the decision about these laws. Not the people that are being regulated. SENATOR FLAKOLL: Now, is my math right. If we potentially go from 104 to 109 people that can vote, so essentially we would go from 53 required for a simple majority to 55 required for a simple majority? RON STRAND: That certainly would be my understanding. SENATOR MATHERN: I think you were involved in the Renaissance in the building in the Fargo area correct? Did you want to have any say in what happened there with your job or did you want the Division of Community Services to dictate what Fargo was going to do? RON STRAND: I am not sure I understand the question. I don't think that I was excluded. SENATOR MATHERN: So you felt that it was important since you were doing the work that

you were included in the work, in the decision making? RON STRAND: I was included in the regulatory decision which would be appropriate for my involvement. Chairman Cook, if I might add. I am in support of the bill. I'm actually in support of nearly everything that everyone said, except in issue of voting. In the case of the voting issue I am in support of the League of Cities amendment. GARY MARTINSON: Building official for the City of Devils Lake. He spoke for Mayor Fred Bott, in support of HB1423, as amended by the amendment proposed by the League of Cities as far as the voting. See written attached testimony. Mr. Martinson also sat on the committee of the Technical Review Committee that were discussing since its inception by the office of OMB. Prior to that the updates of the building code was a complicated thing that came down here to Bismarek every time it was updated. We used to update the code by coming down, doing it by law because we always put the addition, the year of the code, in the state law. In the 1995 session that got changed where we just talked about the most recent edition of the updated codes. It was put into the office of OMB where they established these administrative rules which set up the administrative or the technical review committee and the voting. Prior to that updating a code was a messy situation, and I don't think the building officials and the city officials or the builders really cared for the way it was done. Finally we found a system that worked. By putting the building codes in the home of OMB, getting the technical review committee to review any amendments that were proposed to it and allowing the jurisdictions to vote on it after two updates of the code, the system worked real well. We wouldn't be looking at changing it, other than now we have the International Code. The state law says the Uniform Code, there is no more uniform building code after 1997. So this bill actually started out as something to update to the International Code. Now its kind of muddled up with taking an Advisory Committee which is the Technical Review Committee out of administrative rules that has worked fairly well and bringing

it into state law and making that committee a voting committee. Taking the votes away from the jurisdiction. I am here to say that I did serve on that Technical Review Committee. I think we did a good job with it. We did all the reviews of all the amendments. We didn't always agree on all of them, but it was a place where we could hash out those disagreements between engineers, architects, builders, building officials and bring them back on a majority of vote from that committee to the jurisdictions to be voted on. BONNIE STAIGER: Represent the American Institute of Architects. It is my intent to see the most confident person that you hear this morning. We are here in support of this bill and are in support of the amendments that have been proposed by the Builders Association. It is our wish that as soon as possible our state can be in compliance with the International Building Codes and we would like to see that every effort be made to move us toward that. SENATOR COOK: We accomplish that Bonnie as soon as we pass this bill, is that correct and its signed? BONNIE STAIGER: Pretty close, yuh. JERRY RATZLOFF: President of the North Dakota Building Officials. No prepared testimony. I think you have heard testimony from a lot of our people. We're a pretty unified group right now. We're in support of the way things have been done. You've heard how a few others have felt that have served on these committees. I didn't have the pleasure to serve on the committee, but I was involved in some of the amendments. We think it worked well. Our group is been polling around the state with builders. All the involved groups and I haven't had a negative comment from anybody of how it has worked. Everybody that I have talked to and members of our group, it has worked very well. We're just saying the wheel wasn't broken and I don't think it needs fixing. SENATOR WATNE: I see in that list of 104, because I am from Minot, I checked and there were nine from Minot and I see they our building officials. And your president of the building officials. How do those hundred and four get appointed to become a part of that group? In other

words, why do we have those chosen and not some others or whatever? Is that a local decision?

JERRY RATZLOFF: Those committee members is based on population of the jurisdiction. So

the number of eligible votes depends on population. Did I answer your question. SENATOR

WATNE: How did they get selected as individuals? JERRY RATZLOFF: I think maybe ask

Rich Gray to comment on that. He was in on that. MIKE WOLF: North Dakota Association of

Counties. I am also here today in an effort to not be repetitious of what you have already heard

today. We are in support of this bill. The adoption of the International Codes is very important

and its important that the local jurisdictions are able to keep and make some adjustments to meet

their local needs. So I am just here on behalf of the association to express our support.

SENATOR COOK: Do you have a problem with the amendments presented by the Builders

Association? MIKE WOLF: At this point, we don't necessarily have that, that we haven't seen

the amendments from the League of Cities but we would probably be interested in seeing those

and looking at those as well. SENATOR COOK: Okay. RICH GRAY: Division of Community

Services. See written attached testimony. SENATOR COOK: Do you want to start with Senator

Watne's question first? I assume that these people are appointed within their each individual city

or. RICH GRAY: What is happens is the, effective August 1, 1994, the building code became the

code that if your going to elect to adopt and enforce the code that's the code you have to elect to

adopt and enforce. It takes a long time, we still have communities out there that even reference

old codes. It is just a learning process. We do, typically the code is updated every three years;

and the committee meets every three years. What we do prior to that is going into the process of

updating the code. We go out and do a survey of all the communities again. Now, as we go, we

don't have to do it and survey as many cause we know what their laws are so we keep surveying

the communities and we depend on their surveys coming back. What we ask them is have you

adopted the State Building Code, and it also serves as a point for us to be able to work with communities in terms of your using some other code, you can't do that, and we work with them that way. The list that Dorene provided to you was used in 1998. Now originally in the previous Committee I said 35, but it's now 45 communities responding to the surveys that were then qualified because they have in fact started to elect to adopt and enforce the state building code. The results are from those who can get their stuff in by a certain date and said that they in fact were enforcing the state building code. From that list then, we sent out the voting packages, we did it a little different last year. We had voting packages and you will see check marks next to 28 of those. The number of votes that you see are the votes represented by the League of Cities structure of so many votes. But quite frankly we've never had to use all that. It has been all we've been able to just assign these number of votes but when you actually look at the results of the voting every city got one vote. Is what it amounted to, because the majority of people all voted for the same amendments. So we didn't have to. The only time you really have to add up all the votes is if all of a sudden you have a real close decision making voting on the amendment. Every year we have to declare who is going to be eligible to vote, and then the cities pick the person to be their representative. SENATOR COOK: Rich, right now, existing law, if there is going to be a change in the state uniform building code, first this group in the administrative code, that the professional would sit down and present the amendments to this group who is going to vote on it. Is that correct? RICH GRAY: The way it really works, essentially yes. But what happens is that everybody from building officials, to all those groups representative are encouraged to submit amendments. Those amendments are then put together as a package for that technical review committee and a public hearing is held. At the public hearing, everybody can come in and comment because we send out the whole package. Everyone gets a copy of the



complete package of proposed amendments. Then we have the public hearing, the committee sits at the public hearing and listens as everybody comes in and makes their comments, SENATOR COOK: the Technical Review Committee. RICH GRAY: The Technical Review committee. So the technical review committee listens to the comments provided by everyone who wished to testify on each one of the proposed amendments. Following that then the technical review committee votes on the amendments to either accept the amendment or reject an amendment. Their recommendations then are put out to all of the cities and counties to vote on. So their either going along with the recommendations or their going against the recommendations for this. SENATOR COOK: The only way the cities then can, they can either approve these amendments, they can't add new amendments to themselves, right there can they? RICH GRAY: What we allow, you mean at the committee hearing? SENATOR COOK: No, once the technical review committee is done and they have approved the amendments that are going to go out to..RICH GRAY: Your absolutely right. Nothing else is added at that time. The only time that anything gets added is if a local community looks at these amendments and decides that for some reason, (Ex. Given). SENATOR COOK: Now I am going to this pink slip here, and I am going to talk about hand rails. Handrails requires with three or more risers, that is the 1997 uniform building code, so if I have three or more risers, steps in a house, I am going to have to have a handrail. Is that correct? RICH GRAY: According to the UBC in its purity, yes that is absolutely correct. But again the state or the local jurisdiction could elect to handle that differently depending on that is amended. SENATOR COOK: Okay, if we pass this bill, are we going to go right away to handrails required with two or more risers? RICH GRAY: What happens, that is a comparison that takes the IRC, compliant to the Uniform Building Code which that would commercial and residential. The IRC just deals with the residential. So what happens is that when we take the

International Residential Code we will take it in its pure form and then that will be reviewed, that will go out and say do you have any amendments to this thing. And if local communities and the Home Builders and so forth want to propose an amendment to that, that amendment will be considered as part of the process of updating to the IRC. SENATOR COOK: So, if we pass this bill, we do not immediately make changes to building code that will affect citizens of North Dakota? RICH GRAY: Exactly, we still have to go through the process of allowing everyone to comment on those codes. SENATOR COOK: And is the process of the review committee still in place then where they would be able to take a look at all the changes that are brought forth because of the IBC and are they able to first then make the amendments that goes out to the cities and building officials to vote on? RICH GRAY: Typically, what will happen, is as soon as we know that it's the International Codes are approved so that we can make the transition, and we have to go through an administrative, or we might have to change administrative rules. But when we get down to the point of the code what we'll do is we will notify everybody that the technical review committee is now entertaining amendments to the code. And we put out a form and send it out everywhere. We sent it out across the state and so at that particular point in time everyone has a chance to go ahead and provide amendments to. We don't have a separate review committee sit down and look it. We give everyone the opportunity to bring in amendments at one time. SENATOR POLOVITZ: How do you get these people appointed that are going vote? RICH GRAY: Well now, the cities decide. SENATOR POLOVITZ: Okay. SENATOR WATNE: We have the 1997 Uniform Building Code now that covers residential and commercial. And the 2000 International covers the residential. What's' happening with the commercial? RICH GRAY: First, of all if I may just add one thing. The current state building code says that we use the uniform building code and uniform mechanical code produced by the

International Conference of Building Officials. That is the 1997. What were doing now is the family of codes is split up a little bit different. You have the building code, the IBC will pertain to commercial structures and then certain types of residential structures over three stories, apt buildings and so forth. The IRC which, in fact the Home Builders were very much a part of the committee that put that together, will deal with single family homes and anything less than three stories. So you still have the IBC for commercial and that and the IRC simply for single family.

SENATOR FLAKOLL: In terms of you know, we have a lot of state buildings and we also have a lot of federal buildings, and there covered by a different set of codes then, what happens if the city someplace has some state buildings, even state owned residential buildings and the city says well we need to change this and because of that someone, do we have a fear about any litigation involved because some municipalities may go into change a state code, and because of that there be injured parties as an example. Can you make me feel better about not having to worry about the state getting sued because we allowed cities to change their codes? RICH GRAY: That's an interesting...I am not an attorney. I will tell you that what we, what typically is that the state building code is mandatory for state buildings, local government buildings and schools. We allow the local jurisdictions to enforce the code. The state does not enforce the code. So the codes are enforced at the local level. Typically, what will happen, I'll use Bismarck as an example, is that the state isn't required to take out building permits and the federal government really isn't required to take out building permits either. What will happen is that the city of Bismarck, will do inspections on work that is done here at the state level on state buildings. If there are local amendments to those codes, it really hasn't been an issue in terms of whether or not any local amendments are going to be a problem., unless they get less restrictive. If they are more restrictive as I understand from the attorneys it won't be a problem, if they get less

restrictive there may be a possibility of a problem. SENATOR FLAKOLL: One of my biggest concerns is in the city I am at, the university is probably the biggest perpetrator of not even bothering with building codes half the time or building permits half the time. You have to beg them. There wasn't much of a question in there, but you will probably agree that you have to track them down a lot of times to get a building code out of them, or building permit. RICH GRAY: That is probably very true. It varies from agencies to agencies. Remember the state agencies have control over their own buildings, so it does but, usually there is working arrangements and there has been some issues up at UND with some things with the city, but they get worked out. SENATOR COOK: One more time. I am looking at subsection three on page three, the state building code advisory committee, and that's who were talking about is who's going to be on that committee, but this committee shall meet with the Director of Office Management and Budget or a designee, that designee is you? So it says that this committee will meet with the designee at least once each year to address proposed amendments to the state building code. Now If I listening to you right, your telling me if I understand you, that this technical review committee will still be bringing forth those amendments. However, when I read the testimony here, its that by amending, by passing HB1423, it moves the technical review committee from the administrative code to the century code and basically changes its name to the State Building Code Advisory Committee. Now are you saying that your going to keep in administrative rules the technical review committee and keep their place, their function in this whole process in place or is it, going to be gone? RICH GRAY: First of all, I guess I am not willing to say anything. The Technical Review Committee and the Advisory Committee are the same committee. There isn't any change in the makeup of that. The voting in terms of how we all vote and so forth, no, administrative rules are still going to be required because now you have the

whole process of how voting will take place. How we're going to get amendments in and how the amendments are going to be reviewed and so forth and you still have the scooping requirements in terms of what or who the code is applicable to and so forth. So now, you're not really changing anything in administrative rules other than the fact that when we rewrite the rules, we'll take, we'll simply change the technical review committee and the makeup of that committee and make just reference to the advisory committee, because it will already be in law. So we don't touch that again in administrative rules. SENATOR CHRISTENSON: Can you help me out with the idea of enforcement? Exactly what kind of authority empowered to this advisory committee have and where does it take place and follow through with me if you will? RICH GRAY: The International Code Council is the body that puts together the international codes. They set up committees for the various parts of the code. People go to the committees to bring proposals to them, in fact there are associate proposals right now for various committees. At the committee hearings then all of the if and but about the codes are hassled out. And then the committee and the people at the committee meetings, they have two votes, the committee vote and an assembly vote. The results of those votes on each of the proposed amendments to the code go to the whole body, in this case all building officials. That is the same principle that we've been using. We have a committee that represents broad interests and then that committee will solicit from everybody what do you think we should change? And in representing broad interest they're then going to take those and they will hassle out and we'll have the public hearings just like we do at the national level. And then that committee is responsible for developing recommendations to go to the whole body, and who's the whole body. The whole body is the cities and counties, right now. And so they don't have any authority other than making recommendations. The cities then vote, once they vote, we publish the state building code in a

little booklet, we tell them what version of the code so we'll be in this case the International Building Code 2000, and then we publish the amendments to the various parts of the code so that cities have that and they can automatically just adopt that or they can make additional amendments to it and then they do all the enforcement's. So that is the only enforcement's in this at the local level. BILL WOCKEN: City Administrator of the City of Bismarek. See written attached testimony. SENATOR COOK: And you are comfortable that deleting Section One takes care of our concern with 1118? BILL WOCKEN: I am very comfortable with that. The groups that testified on HB1118 did a lot of work to revise that language I wouldn't want to see it moved backward with 1423 inadvertently when this group has spent a lot time thinking about those changes.

Hearing Closed on HB1423.

**March 15, 2001 ( Tape 1, Side A, Meter # 17.6-19.6)**

Senator Cook asked the committee to review the amendments that were prepared by the Legislative Council for this bill. After short discussion it was decided to continue their discussion on Friday morning. Meeting adjourned.

**March 16, 2001 (Tape 1, Side A, Meter #0.3-27.2)**

All the senators were present except for Senator Flakoll.

Senator Cook asked the committee to discuss the amendments related to HB1423. Rich Gray, Division of Community Services came in and explained the amendments that have been proposed. Much discussion with questions and responses followed.

Senator Watne moved to Adopt the amendments of the North Dakota Association of Builders adding A through E, that would be written then in administrative rules.

Senator Lee- 2nd.

Page 17

Senate Political Subdivisions Committee

Bill/Resolution Number HB1423

Hearing Date March 9, 2001

Roll call vote: 8 Yeas, 0 No, 0 Ab.

Senator Lee moved a Do Pass as Amended HB1423

Senator Mathern- 2nd

Roll call vote: 8 Yeas, 0 No, 0 Ab.

Carrier: Senator Watne

Date: Mar 16, 2001  
Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. H.B. 1423

Senate Political Subdivisions Committee

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

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

Action Taken Move to adopt amendments of N.D. Association of Builders

Motion Made By Sen. Watne Seconded By Sen. Lee

Senators	Yes	No	Senators	Yes	No
Senator Cook	✓		Senator Christenson	✓	
Senator Lyson	✓		Senator Mathern	✓	
Senator Flakoll	✓		Senator Polovitz	✓	
Senator Lee	✓				
Senator Watne	✓				

Total (Yes) 8 No 0

Absent 0

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

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



Date: Mar 16, 2001  
Roll Call Vote #: 2

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. *H.B. 1423***

Senate	Political Subdivisions	Committee
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☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

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

Action Taken No Pass As Amended HB 1423

Motion Made By Sen. Lee Seconded By Sen. Mathern

[illegible]

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Watne

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

**REPORT OF STANDING COMMITTEE**

HB 1423, as engrossed: 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). Engrossed HB 1423 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "18-08-12," and remove the second comma

Page 1, remove lines 4 through 22

Page 3, line 18, after "of" Insert ":

- a. One representative appointed by the North Dakota chapter of the American Institute of architects;
- b. One representative appointed by the North Dakota society of professional engineers;
- c. One representative appointed by the North Dakota association of builders;
- d. One representative appointed by the North Dakota association of mechanical contractors;
- e. One representative appointed by the associated general contractors; and
- f. Representatives of eligible jurisdictions as established by administrative rule."

Page 3, remove line 19

Renumber accordingly

2001 TESTIMONY

HB 1423

**Testimony before the Government and Veterans Affairs Committee**

**February 9, 2001**

**House Bill 1423**

**Jerry Ratzlaff, President, North Dakota Building Officials Association**

Chairman Klein, Committee Members: My name is Jerry Ratzlaff. I am President of the North Dakota Building Officials Association and the Ramsey County Building Official.

I am representing the North Dakota Building Officials Association as their President together with several code enforcement personnel from across the state that are also present today.

My testimony is concerning subsection 3, page 3 of the above-mentioned proposed amendment.

The North Dakota Building Officials Association supports legislation regarding the adoption of the International Codes as stated on the attached resolution.

We *do not* support legislation that would remove authority now available to local jurisdictions to vote on adoption and amendments to the state building code.

Our organization has strived to include jurisdictions across the state to be involved in preserving the public health, safety and welfare while promoting statewide uniformity for our built environment. We feel this has been accomplished by allowing communities to vote on development and amending of the state building code.

House Bill 1423 as written would remove the voting authority of local jurisdictions and allow control of special interests to influence the state building code advisory committee.

This process may encourage each community to amend the state building code to their local needs rather than adopting and enforcing the wishes of these special interest groups. This would defeat our efforts to have a uniform statewide building code with minimum local amendments.

Therefore, to keep North Dakota communities working together towards uniformity, please amend Subsection 3, page 3 of House Bill 1423 to read as follows: The state building code advisory committee shall meet with the director of the office of management and budget or a designee of the director at least once each calendar year to address proposed amendments to the state building code. The director of the office of management and budget may not adopt an amendment to the state building code unless the amendment is approved by a majority of the eligible jurisdictions in a manner as established in the administrative rules of the Office of Management and Budget.

This concludes my testimony. I will respond to any questions you may have.

**A RESOLUTION REGARDING THE ADOPTION AND USE OF  
THE INTERNATIONAL CODES AS PROMULGATED BY THE  
INTERNATIONAL CODE COUNCIL BY THE**

**NORTH DAKOTA BUILDING OFFICIALS ASSOCIATION CHAPTER  
OF THE  
INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS**

WHEREAS, the model codes system in the United States has been successful in preserving the public health, safety and welfare while promoting regional consistency in regulations for our built environment; and,

WHEREAS, improvements in both communication and transportation continue to facilitate national and global trade in construction and construction-related manufacturing industries; and,

WHEREAS, the model code system of development has been, and will continue to be, based on scientifically based safety criteria which are universal in their application; and,

WHEREAS, the consensus procedures of the International Code Council (ICC) ensure the participation in the development of the International Codes by all interested parties with the final determination of code provisions remaining beyond the control of vested and proprietary interests and reserved for those dedicated to the preservation of the public health, safety and welfare - Code officials; and,

WHEREAS, the International Code Council is an organization comprised of Building Officials and Code Administrators International, Inc., International Conference of Building Officials, Inc., and Southern Building Code Congress International, Inc., all of whose model code documents are respected and adopted throughout the country; and,

WHEREAS, the purpose and mission of the North Dakota Building Officials Association Chapter of the International Conference of Building Officials, Inc., is to promote uniformity in codes and their enforcement, and to enhance the efficiency and effectiveness of code enforcement, both of which are facilitated by the adoption of a comprehensive and coordinated family of International Codes; now therefore

BE IT RESOLVED, that at a meeting of the members on this 12th day of October, 2000, the North Dakota Building Officials Association Chapter of the International Conference of Building Officials, Inc. did hereby endorse the International Code Council and the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, and encourage their adoption and use by all units of local, state and federal governments; and

BE IT FURTHER RESOLVED, that the members here assembled encourage all of their colleagues to bring the message and content of this resolution to the attention of the officials tasked with enacting the laws intended to protect the public from the inherent threats and dangers in the built environment; and,

BE IT FURTHER RESOLVED, that the members here assembled are committed to supporting the International Code Council and the International Codes through attendance at, and participation in, the ICC Code development Processes to the extent possible.

Resolution was adopted this 12th day of October, 2000.

  
\_\_\_\_\_  
President

Attest:

  
\_\_\_\_\_  
Secretary/Treasurer

Testimony By Richard Gray  
On  
House Bill 1423

Mr. Chairman, committee members, my name is Richard Gray. I am with the Division of Community Services and one of my responsibilities is to oversee the North Dakota State Building Code. I am here to speak in support of the provisions of HIB 1423 that will enable us to update the State Building Code to the International Codes.

The reason for HIB 1423 is that our current law requires that the state building code must consist of the Uniform Building Code (UBC) and the Uniform Mechanical Code (UMC), which are no longer being published. As a result, the state building code is quickly becoming outdated. Beginning back in 1994 the three model code groups in the United States - the International Conference of Building Officials, the Building Officials Code Administrators International, and the Southern Building Code Congress International - began responding to concerns that American businesses and manufacturers would not be able to compete globally because of the multiplicity of codes and standards used in the United States. There was, and still is to some extent, a concern that if something wasn't done by the three code groups, that the Federal government would enter the field of building codes. To this end, the three code groups banded together under the banner of the International Code Council, announced the ceasing of the publication of their respective building codes, and proceeded to develop one set of building codes for the entire nation, as well as other countries, to adopt, called the International Family of Codes

The International Codes actually consist of a series of interrelated codes that are designed to complement one another so that they work together to build safe, affordable, and easy to maintain commercial and residential structures. The intent is to provide a family of codes that are consistent with one another and can be used in any location. It is also an effort to create more uniformity in the codes being used throughout the country. HB1423 is not written, however, to enable the adoption of the entire family of the International Codes. It only includes for use in the state building code the International Building Code, the International Residential Code, the International Mechanical Code, and the International Fuel Gas Code. These codes, however, cross reference other members of the family such as the International Fire Code, International Plumbing Code, and International Electrical Code, and the International Energy Conservation Code. With passage of this Bill, we will then implement the administrative rules to adopt the specific publication year and appropriate amendments. We will also need to harmonize these codes with the state plumbing code, since the Plumbing Board elected not to adopt the International Plumbing Code.

It is important to note that while the term "International Codes" is new, the codes themselves are not new. They have been compiled through a process of reviewing the three existing model codes, and then deciding the most appropriate provisions and language to use in the International Codes.. Some things may be new to those of us that belong to the International Conference of Building Officials and have been using the Uniform Building Code and Uniform Mechanical

Code, but they have been tested and used by one or both of the other two code groups. In some cases, the provisions streamline the previous codes and make the provisions less restrictive. However, it is important to note that the I Codes do rely heavily on the existing contents in the UMC and UBC.

To update and amend to state building code, a process was instituted through administrative rule making in 1994. That process involves the use of a Technical Review Committee to solicit proposals for amendments to the codes. A public hearing is held to give everyone the opportunity to comment on proposed amendments. The Committee develops a recommendation on each proposed amendment, and the code enforcing cities then vote to uphold or reject each recommendation. Following the vote by the cities, we publish the state building code, indicating the specific publication year and approved amendments. The intent of this process is to encourage the members of the organizations represented on the committee to propose amendments at the state level instead of city by city, and to minimize the need for the cities to further amend the codes, since they get to vote on all of the amendments submitted to the committee. This process has worked well and it goes a long way in helping to create more uniformity statewide in the application of the codes. As now written, HB 1423 will change the adoption and amendment process. It puts into law the Technical Review Committee now identified in our administrative rules, renaming it the Building Code Advisory Committee. We support this because it does elevate the stature of the Committee and hopefully will encourage more participation by members of the represented entities on the Committee. Then, however, it indicates that instead of the code enforcing jurisdictions being able to vote on recommendations from that committee on proposed amendments, the Committee will do the voting.

We first proposed incorporating the International Codes into the state building code during the 1999 Legislative session, but since some of the actual code documents had not yet been published, the Legislature decided to wait until the entire family of International Codes was available. That time is now, and I urge you to give a due pass on HB1423 so that we can ensure that the state building code keeps pace with the most up to date codes and standards now being used in the 21<sup>st</sup> Century.

Thank you for the opportunity to comment on HB 1423. I will be happy to answer any questions.




# CITY OF MANDAN

MANDAN CITY HALL — 205 2nd Ave. N.W.  
MANDAN, NORTH DAKOTA 58554

CITY DEPARTMENTS	
ADMINISTRATION	667-1210
ASSESSING/BUILDING INSPECTION	667-1230
ENGINEER/PLANNING	667-1225
FINANCE	667-1213
FIRE	667-1288
PERSONNEL	667-1257
POLICE	667-1250
PUBLIC WORKS	667-1240
SPECIAL ASSESSMENTS	667-1211
WATER BILLING	667-1219
FAX	667-1223

**TO:** CHAIRPERSON KLEIN/COMMITTEE MEMBER  
GOV & VETERAN'S AFFAIRS COMMITTEE

**FROM:** RICHARD L BARTA/BUILDING OFFICIAL  
BOARD MEMBER OF NDBOA 

**DATE:** FEBRUARY 8, 2001

**SUBJECT:** HB 1423  
ADOPTION OF STATE BUILDING CODES

I would like to begin by suggesting to the Committee that the adoption of the State building codes be approved as it has been in the previous two or three sessions. By this, I am requesting that you do not consider any new amendments being recommended by the North Dakota builders.

My main concern is that we building officials, be the last individuals to make an amendment to the code because we are responsible for the life and safety to the people in the state of North Dakota. If the community over sees amendments after the adoption of the code, they could make modifications in different directions and then we would lose the consistency and/or uniformity through out the state. This is the main reason why we have gone through the present process when adopting codes.

Anyone has the right to submit an amendment, but the Technical Review committee is responsible for reviewing these submittals and then either determines if it should be considered or not. This committee would consist of:

- a. Two representatives appointed by the ND building officials association, one of whom must be from a jurisdiction of fewer than ten thousand people.
- b. One representative appointed by the ND chapter of the American institute of architects.
- c. One representative appointed by the ND society of professional engineers.



- d. One representative appointed by the ND association of builders.
- e. One representative appointed by the ND association of mechanical contractors.
- f. One representative appointed by the associated general contractors.
- g. A fire marshal appointed by the state fire marshal.
- h. One individual appointed by the state electrical board.

These building officials would have the authority to correct and to make any final decisions. If anyone feels there should be changes in the community, they could have a hearing before the review board and then it would go before the City or County board. The reason for creating the Technical Review board was so that individuals or agencies could discuss with the committee for their input on the codes.

You can either pass these codes as always and make the individual make all recommendations to the Technical Review committee and keep the current guidelines or if you would decide to not adopt the codes as in the past, I then recommend that Subsection 3, Page 3, be revised as follows:

The state building code advisory committee shall meet with the director of the office of management and budget or a designee of the director at least once each calendar year to address proposed amendments to the state building code. The director of the office of management and budget may not adopt an amendment to the state building code unless the amendment is approved by a majority of eligible jurisdictions in a manner as established in the administrative rules of the Office of Management and Budget.

However, once again, I would like to strongly urge the committee to consider approval as in the last few sessions due to the fact that with this formality, it appears to go smoothly for the building officials, committee members, and the builders. Why would we want to create situations that could create inequities for the state I codes in ND?

**CITY OF JAMESTOWN**



**NORTH DAKOTA**

Building  
Plumbing  
Mechanical  
Electrical

INSPECTION DEPARTMENT  
City Hall  
102 3rd Ave. S.E.  
Jamestown, ND 58401  
Phone 701-252-5900  
Fax # 701-252-5903

February 9, 2001

Legislative Committee Members  
Acting on H.B. 1423

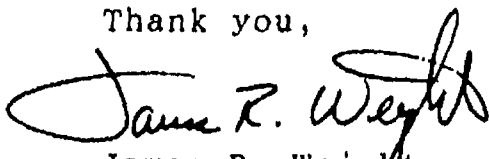
I encourage the committee to approve H.B. 1423 and the proposed amendment, which is to allow the eligible jurisdictions across the State of ND to have a say in any future changes to the state building code.

It is those jurisdictions in our state, which employ inspection departments, that enforce and maintain good contractual practices. Therefore, it is with great interest and concern that changes and decisions proposed to be made relative to the state building code, should include the input from those jurisdictions working with these codes on a daily basis.

Employed as a building inspector in the state of North Dakota for 21 years, I understand and appreciate the need and proper enforcement of building codes and hope to be able to offer positive changes and adoptions of new codes in the future. Code enforcement officials and their knowledge will continue to be a benefit to everyone building, working and living in North Dakota.

I appreciate your consideration and encourage an affirmative vote to H.B. 1423 with the proposed amendments.

Thank you,

  
James R. Weight  
Building Official  
City of Jamestown

**- CITY OFFICES -**

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P.O. Box 1048  
Devils Lake, ND 58301-1048  
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**- CITY COMMISSION -**

Fred Bott, President  
Dick Johnson  
Tim Haistor  
Rick Morbo  
Craig Stromme

February 8, 2001

**Chairman Klein and members of the  
Government and Veterans Affairs Committee**

As the Building Official for the City of Devils Lake and member of the technical review committee for the past two code cycles, I wish to express my view toward the changes being proposed through H.B. 1423.

I have been in contact the last couple of weeks with other members of the North Dakota Building Officials Association and I can assure you we all feel caught off guard with H.B. 1423 as written. Our primary interest has been, through significant review the last few years, the adoption by the State of North Dakota of the new International Codes. I was under the impression that H.B. 1423 was the vehicle to accomplish this objective.

It's true H.B. 1423 includes the adoption of the International Codes. This I support. It unfortunately includes much I cannot support. I am opposed to the transfer of the former Technical Review Committee from the administrative rules of the Office of Management and Budget to the newly formed Advisory Committee and it's capacity to write law regarding building codes and amendments.

Attached is a copy of the present rules and regulations that the Office of Management and Budget has adopted for the State Building Code. I think these regulations are clear and thorough.

As a member of the present technical review committee I have found the procedures now in place to be thorough, efficient, and inclusive to the many parties having an interest in code development. The most important aspect of the present system in my view, is the voting process. This process insures that the communities charged with the responsibility to enforce codes, not special interests, are casting the votes.

Much effort went into establishing this process and it has worked very well for the past two code cycles. I feel changing it now will not only disrupt the process but thwart the uniformity we've gained throughout the state.

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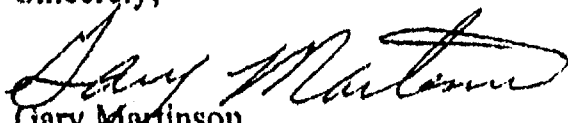
E-mail: ljaeger@steliarnet.com

J. THOMAS TRAYNOR, JR.  
City Attorney  
(701) 662-4077

E-mail: tomtraynor@traynor-rutten.com

The City of Devils Lake's support for H.B. 1423 is limited to the adoption of the International Codes. Although I can see no harm in transferring the Technical Review Committee to state law, I see no purpose in doing it. I do see great harm in making this committee anything other than a review committee with recommendation authority. In the event the advisory committee as so named in H.B. 1423 remain as proposed, I support and strongly recommend you consider the amendment that is being proposed by the North Dakota Building Officials Association that would retain the present, successful voting procedure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Martinson".

Gary Martinson  
Building Official

## **ARTICLE 4-08**

### **STATE BUILDING CODE AND ENERGY CONSERVATION STANDARDS IN NEW BUILDING CONSTRUCTION**

**Chapter**  
**4-08-01**                      **State Building Code and Energy Conservation Standards  
in New Building Construction**

#### **CHAPTER 4-08-01 STATE BUILDING CODE AND ENERGY CONSERVATION STANDARDS IN NEW BUILDING CONSTRUCTION**

<b>Section</b>	
<b>4-08-01-01</b>	<b>Organization of the State Building Code and Energy Conservation Standards in New Building Construction</b>
<b>4-08-01-02</b>	<b>Intent</b>
<b>4-08-01-03</b>	<b>Scope</b>
<b>4-08-01-04</b>	<b>Definitions</b>
<b>4-08-01-05</b>	<b>Responsible Agency</b>
<b>4-08-01-06</b>	<b>Code Administration and Enforcement</b>
<b>4-08-01-07</b>	<b>Updating and Amending the Codes</b>
<b>4-08-01-08</b>	<b>Limitation</b>
<b>4-08-01-09</b>	<b>Supplements</b>
<b>4-08-01-10</b>	<b>Appendix Chapter of the UBC and UMC</b>

**4-08-01-01. Organization of the state building code and energy  
conservation standards in new building construction.**

- 1. History.** The legislative assembly adopted the state building code in 1979 and the state energy conservation standards in 1977. The state building code is codified as North Dakota Century Code chapter 54-21.3, and the energy conservation standards in new building construction is codified in North Dakota Century Code chapter 54-21.2. In 1983 the legislative assembly transferred responsibility of the state building code from the state construction superintendent to the director of the office of management and budget and removed reference in the energy conservation standards to any designated office. In 1993 the legislative assembly amended the energy conservation standards, giving the office of management and budget responsibility for implementing, updating, and amending the code.

The legislative assembly designated that the state building code will consist of the uniform building code published by the international conference of building officials. In 1985 the legislative assembly added the uniform mechanical code as a component of the state building code, with an amendment to section 504(f), LPG Appliances, of that code. For manufactured housing, the legislative assembly identified the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Construction and Safety Standards Act [42 U.S.C. 5401 et seq.] as the state building code for manufactured housing. In 1991 the legislative assembly amended North Dakota Century Code section 54-21.3-03, designating the 1989 edition of the model energy code as the minimum energy conservation standards that must be met.

In 1991 the legislative assembly amended subsection 3 of North Dakota Century Code section 54-21.3-03 to allow cities, townships, and counties to amend the state building code to conform to local needs. In 1993 the legislative assembly amended subsection 1 of North Dakota Century Code section 54-21.3-03 to permit the director of the office of management and budget to adopt rules to implement and periodically update the code, and to adopt rules to amend the code. Subsection 3 of North Dakota Century Code section 54-21.3-03 was also amended by the legislative assembly to require cities, townships, and counties that elect to administer and enforce a building code to adopt and enforce the state building code. This provision became effective August 1, 1994.

2. **Administration.** Administration and enforcement of the state building code and energy conservation standards in new building construction are local responsibilities. The director of the office of management and budget assigned the director of the office of intergovernmental assistance the responsibility to develop rules and regulations to implement, update, and amend both codes as necessary.
3. **Inquiries.** Inquiries regarding the office of intergovernmental assistance may be addressed to the building code administrator:

Building Code Administrator  
Office of Intergovernmental Assistance  
State Capitol - 14th Floor  
600 East Boulevard Avenue  
Bismarck, ND 58505-0170

**History:** Effective December 1, 1994.  
**General Authority:** NDCC 54-21.2-03, 54-21.3-03  
**Law Implemented:** NDCC 54-21.2-03, 54-21.3-03

**4-08-01-02.. Intent.** It is the intent of this chapter to prescribe rules for implementing, updating, and amending nationally recognized standards for use in the construction, alteration, movement, demolition, repair, and use of buildings in the state of North Dakota.

**History:** Effective December 1, 1994.

**General Authority:** NDCC 54-21.2-03, 54-21.3-03

**Law Implemented:** NDCC 54-21.2-03, 54-21.3-03

**4-08-01-03. Scope.**

1. This chapter supplements all laws defined within the North Dakota Century Code relating to construction, alterations, improvements, and siting of buildings, unless specifically exempted.
2. This chapter applies to all counties, cities, and townships that adopt, administer, and enforce building codes within their jurisdictional boundaries.
3. This chapter applies to all state and local government public buildings.

**History:** Effective December 1, 1994.

**General Authority:** NDCC 54-21.2-03, 54-21.3-03

**Law Implemented:** NDCC 11-33-01, 18-12-06, 23-13-04, 40-47-01, 54-21.2-03, 54-21.3-03, 58-03-11

**4-08-01-04. Definitions.** The following definitions shall be used when referred to in this chapter:

1. "ASHRAE" means the American society of heating, refrigerating, and air conditioning engineers.
2. "Codes" means the state building code in North Dakota Century Code chapter 54-21.3 and the energy conservation standards in new building construction in North Dakota Century Code chapter 54-21.2.
3. "ICBO" means the international conference of building officials.
4. "MEC" means model energy code published by the council of American building officials.
5. "OIA" means office of intergovernmental assistance.
6. "UBC" means uniform building code published by the international conference of building officials.

7. "UMC" means uniform mechanical code published by the international conference of building officials.

History: Effective December 1, 1994.

General Authority: NDCC 54-21.2-03, 54-21.3-03

Law Implemented: NDCC 54-21.2-03, 54-21.3-03

4-08-01-05. Responsible agency. The office of intergovernmental assistance is responsible for implementing the procedures for updating and amending the state building code and the energy conservation standards for new building construction. The OIA will publish and distribute amendments, if made, to the state building code and energy conservation standards in new building construction.

History: Effective December 1, 1994.

General Authority: NDCC 54-21.2-03, 54-21.3-03

Law Implemented: NDCC 54-21.2-03, 54-21.3-03

4-08-01-06. Code administration and enforcement. The administration and enforcement of the state building code and energy conservation standards for new construction are the responsibility of each city, township, and county. No jurisdiction is required to administer and enforce building codes, but those that elect to administer and enforce building codes must adopt and enforce the state building code as of August 1, 1994, and thereafter. The energy conservation standards for new building construction must be separately adopted by each city, township, and county to be administered and enforced.

History: Effective December 1, 1994.

General Authority: NDCC 54-21.2-03, 54-21.3-03

Law Implemented: NDCC 54-21.2-03, 54-21.3-03

4-08-01-07. Updating and amending the codes. The following procedures will be used to update and amend the codes:

1. Technical review committee. The OIA will assemble a technical review committee within six months of the publication by the ICBO of updated versions of the UBC and UMC, changes announced by the secretary of energy concerning energy conservation standards, and updates to the MEC and ASHRAE energy conservation standards. The committee will be assembled by nominations from the following entities:

- a. Two members from the North Dakota building officials association. One member must be from a jurisdiction of less than ten thousand people. The size of a county will be determined by the population of nonincorporated areas, and jurisdictions that have relinquished their authority to administer and enforce the codes to the county;



- b. One member from the North Dakota chapter of the American institute of architects;
- c. One member from the North Dakota society of professional engineers;
- d. One member from the North Dakota association of builders;
- e. One member from the North Dakota association of mechanical contractors;
- f. One fire marshal nominated by the North Dakota state fire marshal;
- g. One member nominated from the North Dakota electrical board; and
- h. One member from the associated general contractors.

One committee member will be selected by the committee members as the chairman. The chairman will vote only in the case of a tie.

The technical review committee will meet once for up to two days to review the updated UBC and UMC, MEC, and ASHRAE 90-1, as applicable, and statewide proposed amendments. The committee may also propose amendments. All proposed amendments will be made available by the OIA, and a second meeting of the committee will be scheduled for one day to receive testimony on each proposed amendment. The committee will then develop a recommendation on each proposed amendment, and for adoption of the UBC, UMC, MEC, and ASHRAE 90-1, as applicable. The committee's recommendations will be distributed by the OIA to all interested parties.

- 2. Submission of an amendment. Each proposed amendment must be submitted to the OIA for consideration by the technical review committee within one hundred twenty days of the publication of the updated code.
- 3. Statewide meeting. Within thirty days of the publication of the recommendations from the technical review committee, a statewide meeting will be held to hear testimony and vote on the recommendations. The statewide meeting may be held for up to two days.
- 4. Voting. Each jurisdiction that has adopted and administers and enforces the state building code and the energy conservation standards for new building construction may vote on the recommendations developed by the technical review committee. The OIA will be responsible for certifying voting eligibility up to one week prior to the statewide meeting.

The number of votes permitted by each eligible jurisdiction will be as follows:

<u>Number of Residents</u>	<u>Number of Votes</u>
1 - 999	1
1,000 - 4,999	2
5,000 - 9,999	3
10,000 - 29,999	4
30,000 - 49,999	5
50,000 +	6

The population of an eligible county will be determined by subtracting the population of eligible cities.

5. **Publication of amendments.** The OIA will publish and distribute all adopted amendments.
6. **Contingency.** During interim years, supplements are published for the UBC and UMC by the ICBO. If the OIA, in consultation with the entities represented on the technical review committee, determines that significant changes have been made to the codes, a technical review committee may be assembled and statewide voting may occur.

**History:** Effective December 1, 1994.

**General Authority:** NDCC 54-21.2-03, 54-21.3-03

**Law Implemented:** NDCC 54-21.2-03, 54-21.3-03

**4-08-01-08. Limitation.** Subsection 2 of North Dakota Century Code section 54-21.3-03 specifies that for manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.]. This subsection may not be amended as these are federal minimum standards for construction of manufactured homes inspected by the department of housing and urban development. Each manufactured home carries a label of inspection indicating that it meets these standards.

**History:** Effective December 1, 1994.

**General Authority:** NDCC 54-21.2-03, 54-21.3-03

**Law Implemented:** NDCC 54-21.2-03, 54-21.3-03

**4-08-01-09. Supplements.** The ICBO publishes interim yearly supplements to the UMC and UBC. The provisions of those supplements are included in the updates to the UMC and UBC every three years. The

supplements will not be considered as part of the state building code, except as provided in subsection 6 of section 4-08-01-07.

History: Effective December 1, 1994.  
General Authority: NDCC 54-21.2-03, 54-21.3-03  
Law Implemented: NDCC 54-21.2-03, 54-21.3-03

4-08-01-10. Appendix chapter of the UBC and UMC. These chapters must be separately adopted by statewide voting to be included as part of the state building code, with or without amendments.

History: Effective December 1, 1994.  
General Authority: NDCC 54-21.2-03, 54-21.3-03  
Law Implemented: NDCC 54-21.2-03, 54-21.3-03

# **AIA North Dakota**

A Chapter of The American Institute of Architects



**Testimony in Favor of HB 1423  
Hearing Date and Time: February 9, 2001 8:30am  
House Government Affairs Committee**

Chairman Klein and Members of the Committee

My name is Bonnie Larson Staiger (Lobbyist #215), Executive Director of AIA North Dakota. I am unable to attend this hearing due to a meeting out of town. However, we do want to offer our position on this bill for your consideration.

We are in favor of HB1423 as long as it continues to include the multi-disciplinary advisory committee and International Building Code recently adopted by the professions. These two features of the bill give the design and building industries much needed uniformity; further protect the health, safety, and welfare of North Dakotans; and offer a means to insure the code is updates via the advisory committee.

If you have any questions, please feel free to call me.



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**PRESIDENT-ELECT & ALT. NATIONAL DIRECTOR**  
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Doreen Steyer, Muhlhoff  
Executive Officer



## ***Testimony in Support of House Bill 1423*** ***House Government and Veterans Affairs Committee***

Doreen Muhlhoff, Executive Officer  
North Dakota Association of Builders  
February 9, 2001

Chairman Klein and members of the House Government and Veterans Affairs Committee, the North Dakota Association of Builders (NDAB) respectfully asks for your support of HB 1423 which provides for the updating and amending of the State Building Code.

The NDAB represents approximately 1,400 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot. We are also part of a larger federation, the National Association of Home Builders (NAHB), which has over 200,000 members across the nation.

The State Building Code (*NDCC 54-21.3 - attached*) currently references the Uniform Building Code (UBC), a model code last updated in 1997, and which will have no further updates. The UBC has been one of three sets of model building codes used across the country - the others are the Building Officials and Code Administrators (BOCA) Code, and the Southern Building Code. In 1994, the three groups formed the International Codes Council, working together to develop a single set of comprehensive and coordinated model codes - the International Family of Codes.

This single, complete set of construction codes eliminates the technical disparities among the three codes and provides for greater nationwide consistency. Homebuilders participated in the drafting of the International Residential Code, and NAHB is represented on the code maintenance committee. NAHB's policy

is to support codes governing home building that are fair and maintain housing affordability, while providing for the health and safety of the home occupants.

The NDAB supports the International Residential Code (IRC) that builders may use to construct one- and two-family dwellings, and townhomes. Here are some reasons why NDAB supports the adoption of the IRC:

- Written in a clear and understandable code language.
- Format is preferable for builders, following the order of the building process. *(2000 IRC Table of Contents attached on yellow paper)*
- Simplified, understandable, and easier to enforce.
- Includes new building technologies and products.
- Stand-alone code – the only code the builder needs to construct a home.
- Compares to the UBC in many aspects. *(Comparison chart attached)*

As of February 5, 2001, states' adoption of the IRC is in process as follows:  
*(33 states responded to this NAHB survey)*

- Starting adoption process: 16 states  
(includes North Dakota, Montana, and Minnesota)
- Considering adoption: 11 states  
(includes South Dakota)
- Adopted: 2 states  
(South Carolina and Utah)

Article 4-08 of the North Dakota Administrative Code *(attached)* provides for the updating and amending of the State Building Code by the Technical Review Committee *(4-08-01-07, page 4)*. HB1423 moves the Technical Review Committee from the Administrative Code to the Century Code, as most committees are structured in law, and changes its name to the State Building Code Advisory Committee, a more identifying name. This is not establishing a

new committee, since the committee has been in place. Also, we are not proposing any changes to the make-up of the committee, which we believe is a well-rounded group of representatives from building-related organizations.

The nine members of the Technical Review Committee are building officials (two) and representatives of various groups within the building industry (4-08-01-07, page 4-5). This committee reviews proposed amendments, receives testimony, and develops recommendations, but is not allowed to vote on the amendments. Voting (4-08-01-07, page 5) is turned over to local jurisdictions having adopted the State Building Code, with the number of votes based on population levels (4-08-01-07, page 6), and generally cast by building officials. Being a member of the committee, but not having a vote, is discerning to our members.

Since the State Building Code is mandatory for state government and school buildings, it would be more appropriate to have a state group vote on and determine amendments to the code. The State Building Code Advisory Committee consists of representatives of statewide organizations who have an interest in the codes, and who deserve a voice in voting on amendments (HB1423, page 3, lines 14-19).

Local jurisdictions will continue to have the authority to amend the State Building Code to conform with local needs, as they presently exercise. In addition, building officials from the local jurisdictions will maintain the ability to propose and submit amendments to the State Building Code Advisory Committee. We recognize that the building officials are excellent resources in this process, providing committee members with valuable information and recommendations.

The North Dakota Association of Builders and its membership strongly support the adoption of the International Codes, the renaming and codifying of the State Building Code Advisory Committee, and the attainment of voting rights for the State Building Code Advisory Committee in the amendment process. We ask the House Government and Veterans Affairs Committee to support House Bill 1423.

## **CHAPTER 54-21.3**

### **STATE BUILDING CODE**

**54-21.3-01. Purposes of chapter.** The purposes of this chapter are to:

1. Provide the citizens of this state with nationally recognized standards and requirements for construction and construction materials.
2. Eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.
3. Ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the people of this state.

**54-21.3-02. Definitions.** As used in this chapter, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.
2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof".
3. "City" means any city organized under the laws of this state.
4. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
5. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
6. "State building code" means the state building code provided for in this chapter.

**54-21.3-03. State building code - Amendments.**

1. The state building code consists of the Uniform Building Code with any existing supplements and the Uniform Mechanical Code with any existing supplements as referenced by the Uniform Building Code, except that section 504(f) of the Uniform Mechanical Code is amended to read as follows:

Section 504(f). LPG Appliances.

Liquefied petroleum gas burning appliances, both automatically and manually controlled, may be installed in basements or similar locations only if (a) the appliances are of an American gas association-approved type and installed in accordance with national fire protection association pamphlets 54 and 58, (b) automatically controlled appliances are equipped with safety shutoff devices of the complete shutoff type, and (c) gas piping has been pressure tested and proven to be gastight.

The director of the office of management and budget shall adopt rules to implement and periodically update the code and may adopt rules to amend the code.

2. For the purposes of manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].

3. The governing body of a city, township, or county that elects to administer and enforce a building code shall adopt and enforce the state building code. However, the state building code may be amended by cities, townships, and counties to conform to local needs.



#### **54-21.3-04. Exemptions.**

1. The following statewide codes are exempt from this chapter:

- a. The Standards for Electrical Wiring and Equipment, as contained in North Dakota Administrative Code article 24-02.
- b. The State Plumbing Code, as contained in North Dakota Administrative Code article 62-03.
- c. The State Fire Code, as contained in the rules of the state fire marshal as provided in section 18-01-04.

2. The following buildings are exempt from this chapter:

- a. Buildings which are neither heated nor cooled.
- b. Buildings used whose peak design rate of energy usage is less than one watt per square foot [929.0304 square centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.
- c. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

3. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from this chapter.

**54-21.3-04.1. Accessibility standards.** Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336;

104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code

of Federal Regulations, part 36 [28 CFR 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable. A state agency or the governing body of a political subdivision shall require from any person preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that person, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to the exception stated in this section. A statement of conformance must be submitted to the division of community services for recording.

**54-21.3-04.2. Notice of federal accessibility guidelines required.** A building permit issued under section 11-33-18, subsection 6 of section 40-05-02, or other similar grant of authority must contain the following statement:

Federal law may require this construction project to conform with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

**54-21.3-05. Enforcement of code by city, township, county - Relinquishment.** A city or township may administer and enforce the state building code only within its jurisdictional area.

A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may

relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section 11-33-20. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

**54-21.3-06. Continuing education - Responsibility.** Repealed by S.L. 1983, ch. 511, § 8.

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# The 2000 IRC: Changes Affecting Field Inspection

By Bob Foote, Code Services International and Tom Meyers, City of Broomfield

2000 INTERNATIONAL RESIDENTIAL CODE	1997 UNIFORM BUILDING CODE
200 sf detached accessory exempt	120 sf single story detached exempt
Floodplain inspection required	Not specifically required
Dead loads of structures "limited"	Not limited
Sleeping area live load = 30psf	Sleeping area live load = 40 psf
8% floor area = natural light	10% floor area = natural light
Artificial light allowed (exc. Egress)	Artificial light only allowed in kitchens
4% floor area = natural ventilation	5% floor area = natural ventilation
Min one habitable room = 150 sf	Min one habitable room = 120 sf
Kitchen = 70sf minimum	Kitchen not regulated
7'-0" minimum habitable headroom	7'-6" minimum for habitable rooms
Non-habitable basement = 6'8" (6'4" to underside of beams, ducts, etc.)	Not regulated
Garage separation = 1/2" standard GWB	Materials req'd for 1 side of a 1-hr
Slope garage to drain or entry door	Not regulated
5.0 sf egress opening at grade	5.7 sf required everywhere
Basement egress if habitable only	Basement egress required regardless
Handrails required with 2 or more risers	Handrails required with 3 or more risers
Handrail cross section = 2-5/8" max	Handrail cross section = 2" max
Handrails may encroach 4-1/2" max	Handrails may encroach 3-1/2" max
7-3/4" max rise - 10" min. run	8" max rise - 9" min. run
Spiral stairs permitted as an exit	Spiral stairs serving only 400 sf as exit
Stair guards shall not be climbable	Climbability is not regulated
Duplex - 1 hr FR construction to deck	1 hr FR construction w/attic draftstop
Townhouse = 2 hr party wall permitted	Independent 1 hr walls required
"Townhouse" does not need property lines	Property lines required for R-3
Flood resistant construction regulated	Only regulated if appendix adopted
Foundation must extend 4" above grade when Masonry veneer is used	Not specifically regulated (6" wood to earth separation)
Ventilation & access req'd for all crawlspaces	Required for wood only
Steel floor construction addressed	Not addressed prescriptively
Double top plate splice = 24 inches	Double top plate splice = 48 inches
Fireblocking = 1/2 inch GWB	GWB thickness not specified
16" high fiberglass = acceptable fireblock	Fiberglass quantity not regulated
Prescriptive Insulated Concrete Form criteria	See ICBO-ES report - PCA criteria
Ceiling green board: 12 for 1/2" and 16" for 5/8"	No modification for 5/8" board
Masonry tie to support up to 3-1/4 square	2 square feet maximum
Truss modification prohibited w/o "engineer"	Not prescriptively addressed
Roof ventilation mandated	Roof ventilation when required by the BO

# **Associated General Contractors of North Dakota**



**Curt Peterson**  
**Executive Vice President**

422 North 2nd Street, Box 1624, Bismarck, North Dakota 58502 • Phone: 701-223-2770 • FAX: 701-223-6719

## **TESTIMONY ON HB1423 PROVIDED BY CURT PETERSON, EXECUTIVE VICE PRESIDENT ASSOCIATED GENERAL CONTRACTORS OF NORTH DAKOTA**

**2-9-01**

Chairman Klein and members of the House Government and Veterans Affairs Committee, House Bill 1423 provides for use of the International Building Code as a reference for the State Building Code, and codifies the State Building Code Advisory Committee, allowing members of the committee to vote on the amendments to the State Building Code.

By updating the State Building Code to reference the International Building Code, our state will join others in adopting this new code that will be used nationwide, as opposed to having multiple building codes around the country that could potentially cause confusion in the building industry. The Uniform Building Code will no longer be updated, and we recognize the new code will provide for consistency in our industry and take into consideration new technologies in the building world today.

Our association strongly supports the renaming and codifying of the State Building Code Advisory Committee, currently known as the Technical Review Committee, and providing committee members with voting rights in the amending of the State Building Code in North Dakota. We, along with other statewide groups in the building industry, have a member on this committee, and believe we should be involved in the final voting process on amendments to the State Building Code.

The Associated General Contractors of North Dakota support House Bill 1423 and encourage the House Government and Veterans Affairs Committee to favorably consider passage of this legislation.

**BUILD WITH THE BEST**



**To: Senate Political Subdivisions Committee**  
**From: Jerry Hjelmstad, North Dakota League of Cities**  
**Date: March 9, 2001**  
**Re: House Bill No. 1423**

House Bill 1423 has three distinct sections. Section 1 is included in the bill only because there is a reference to the state building code. Changes to that section of the law were also made in House Bill 1118, which received a unanimous "do pass" recommendation from this committee. The changes made in HB 1118 were supported by the state fire marshal, the fire chief's association, the firefighter's association, and the state risk manager. We ask that the committee delete section 1 from this bill so that there will be no confusion about the changes.

Section 2 of the bill provides for the adoption of the international codes as the state building code. This is an important change since the uniform code will no longer be published. We understand that 29 states have adopted or are in the process of adopting the international codes. We support the adoption of these international codes.

Section 3 of the bill relates to the procedure for making amendments to the state building code. We support an amendment to keep the current procedure calling for these building code amendments to be approved by a majority of the enforcing jurisdictions. Part of the goal is to have as much uniformity as possible, so it seems logical that the amendments should need to be supported by a majority of the enforcing jurisdictions. The advisory committee still has a very important role because they are the group that develops proposed amendments to the state building code.

We ask that you recommend a "do pass" on HB 1423 with these amendments.

To: Senate Political Subdivisions Committee  
From: North Dakota League of Cities  
Date: March 9, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1423

Page 1, line 1, remove "18-08-12," and the second comma

Page 1, remove lines 4 through 22

Page 3, line 19, replace "members of the state building code advisory committee" with "eligible jurisdictions in a manner as established in the administrative rules of the office of management and budget"

Renumber accordingly



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**PRESIDENT ELECT & ALT. NATIONAL DIRECTOR**  
Jack Knutson, Bismarck

**SECRETARY/TREASURER**  
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**NORTH DAKOTA ASSOCIATION OF BUILDERS**  
Doreen Streyhle Mehlhoff,  
Executive Officer



## **Testimony in Support of House Bill 1423** **Senate Political Subdivisions Committee**

Doreen Mehlhoff, Executive Officer  
North Dakota Association of Builders  
March 9, 2001

Chairman Cook and members of the Senate Political Subdivisions Committee, the North Dakota Association of Builders (NDAB) respectfully asks for your support of HB 1423 which provides for the updating and amending of the State Building Code.

The NDAB represents approximately 1,400 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot. We are also part of a larger federation, the National Association of Home Builders (NAHB), which has over 200,000 members across the nation.

The State Building Code (*NDCC 54-21.3 - attached*) currently references the Uniform Building Code (UBC), a model code last updated in 1997, and which will have no further updates. The UBC has been one of three sets of model building codes used across the country - the others are the Building Officials and Code Administrators (BOCA) Code, and the Southern Building Code. In 1994, the three groups formed the International Codes Council, working together to develop a single set of comprehensive and coordinated model codes - the International Family of Codes.

This single, complete set of construction codes eliminates the technical disparities among the three codes and provides for greater nationwide consistency. Homebuilders participated in the drafting of the International Residential Code, and NAHB is represented on the code maintenance committee. NAHB's policy

is to support codes governing home building that are fair and maintain housing affordability, while providing for the health and safety of the home occupants.

The NDAIB supports the International Residential Code (IRC) that builders may use to construct one- and two-family dwellings, and townhomes. Here are some reasons why NDAIB supports the adoption of the IRC:

- Written in a clear and understandable code language.
- Format is preferable for builders, following the order of the building process. *(2000 IRC Table of Contents attached on yellow paper)*
- Simplified, understandable, and easier to enforce.
- Includes new building technologies and products.
- Stand-alone code -- the only code the builder needs to construct a home.
- Compares to the UBC in many aspects. *(Comparison chart attached)*

As of February 5, 2001, states' adoption of the IRC is in process as follows:  
*(33 states responded to this NAIHB survey)*

- Starting adoption process: 16 states  
(includes North Dakota, Montana, and Minnesota)
- Considering adoption: 11 states  
(includes South Dakota)
- Adopted: 2 states  
(South Carolina and Utah)

Article 4-08 of the North Dakota Administrative Code *(attached)* provides for the updating and amending of the State Building Code by the Technical Review Committee *(4-08-01-07, page 4)*. HB1423 moves the Technical Review Committee from the Administrative Code to the Century Code, as most committees are structured in law, and changes its name to the State Building Code Advisory Committee, a more identifying name. This is not establishing a

new committee, since the committee has been in place. Also, we are not proposing any changes to the make-up of the committee, which we believe is a well-rounded group of representatives from building-related organizations.

The nine members of the Technical Review Committee are building officials (two) and representatives of various groups within the building industry (4-08-01-07, page 4-5). This committee reviews proposed amendments, receives testimony, and develops recommendations, but is currently not allowed to vote on the amendments. Voting (4-08-01-07, page 5) is turned over to local jurisdictions having adopted the State Building Code, with the number of votes based on population levels (4-08-01-07, page 6), and generally cast by building officials. Being a member of the committee, but not having a vote, is discerning to our members, and they would certainly like to have a voice when voting on this new set of codes.

With our proposed amendments, we have kept the voting in place for jurisdictions, and are simply adding five votes for representatives of the building industry. Having a group of industry professionals from the architects, engineers, builders, associated general contractors, and mechanical contractors included in the voting process is advantageous and should be welcomed by all parties involved.

The eligible votes from the jurisdictions (attachment) numbered 104 in 1998, and we believe that the five single votes we are asking for in this amendment will not control or hamper the process, but will add the industry expertise which is greatly needed. Current voters are often building inspectors, but may also be city assessors and auditors who may not be well-versed in building codes.

We strongly believe that these five members of the State Building Code Advisory Committee, who work with building codes on a daily basis, deserve a voice in voting on amendments (HB1423, page 3, lines 14-19).

Local jurisdictions will continue to have the authority to amend the State Building Code to conform with local needs, as they presently exercise. In addition, building officials from the local jurisdictions will maintain the ability to propose and submit amendments to the State Building Code Advisory

Committee. We recognize that the building officials are excellent resources in this process, providing committee members with valuable information and recommendations.

The North Dakota Association of Builders and its membership strongly support the adoption of the International Codes, the renaming and codifying of the State Building Code Advisory Committee, and the attainment of voting rights for the State Building Code Advisory Committee in the amendment process. We ask the House Government and Veterans Affairs Committee to support House Bill 1423.



**Provided by the North Dakota Association of Builders**  
**AMENDMENT TO HB1423**  
(New language in boldface type.)

Remove Section 1 from line 4 through 22. (This section is in HB1118, with appropriate reference changes made in that bill.)

Amendment to Section 3 on page 3.

14        3. The state building code advisory committee shall meet with the director of the  
15        office of management and budget or a designee of the director at least once each  
16        calendar year to address proposed amendments to the state building code. The  
17        director of the office of management and budget may not adopt an amendment to  
18        the state building code unless the amendment is approved by a majority vote of  
19        the members of the state building code advisory committee.

20                a. One representative appointed by the North Dakota chapter of the  
21                American institute of architects.

22                b. One representative appointed by the North Dakota society of  
23                professional engineers.

24                c. One representative appointed by the North Dakota association of  
25                builders.

26                d. One representative appointed by the North Dakota association of  
27                mechanical contractors.

28                e. One representative appointed by the associated general contractors.

29                f. Representatives of eligible jurisdictions as established in administrative  
30                rules.

✓ Cindy Bwonluk  
City Auditor  
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11

6

11

Each jurisdiction was counted as one vote, since the majority of votes ruled. When we initially recorded the votes, we used the number of votes assigned by size, but these numbers weren't needed to determine the outcomes.

Seventeen jurisdictions either did not send in their votes or they were received after the deadline.

Total votes  
of eligible  
jurisdictions = 104  
(Those attending = 75 votes)

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- CITY COMMISSION -

Fred Bott, President  
Dick Johnson  
Tim Heisler  
Rick Morse  
Craig Stromme

March 6, 2001

Chairperson Dwight Cook  
& Senate Political Subdivisions Committee  
600 East Boulevard Ave.  
Bismarck, ND 58505

Dear Chairperson Cook:

With this letter we are expressing our support for House Bill 1423 with the proposed amendment to line 19, page 3, which amended would delete "... Members of the state building code advisory committee" from line 3 and substitute "... Eligible jurisdictions in a manner as established in the administrative rules of the Office of Management and Budget."

Our community supports the concept of a uniform building code for the State of North Dakota and its jurisdictions. This bill will accomplish that end with the inclusion of the proposed amendment. The bill and its amendment will maintain the present hearing and adoption process and enable the upgrade of our present state code to the International Building Code set.

Failure to pass the amended version of this bill will eliminate the jurisdictions' present prerogative to vote on the code and its amendments. If the amendment is not included in the passage of this bill, the decision-making body will become the building code advisory committee and render the cities and counties lobbyists rather than a part of the decision-making process. This would represent a significant reduction in the jurisdictions' authority. In turn this could lead to an erosion of the very uniformity we desire and support.

Fred Bott  
Mayor, City of Devils Lake

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## Testimony In Support of House Bill 1423

**Colby Well**

**Well-Built Homes, Inc.**

I am Colby Well, owner of Well-Built Homes here in the Bismarck-Mandan area. I am secretary/treasurer of the Bismarck-Mandan Home Builders Association (HBA). As a builder who uses building codes every day, I encourage this committee to support House Bill 1423 and the amendments provided by the North Dakota Association of Builders.

As a builder and member of the Bismarck-Mandan HBA and the North Dakota Association of Builders, I want my association to have a representative involved in voting on amendments to the State Building Code. If there are technical questions or issues that may be best answered by a builder, engineer, architect, building inspector or a mechanical contractor; I want to be assured that these issues are addressed. In moving to the new International Building and Residential Codes, it is more important than ever for all these entities to have a representative at the table when the voting is done.

Please give me and my colleagues across North Dakota a voice in the amending of, and voting on, the State Building Code. Leaving it only to jurisdictional voters, who are sometimes city assessors and city auditors, is not good for us or for others in the building industry. I ask you to support House Bill 1423 as amended by the North Dakota Association of Builders.

*Discover the affordability of living well...*



HOME BUILDERS ASSOCIATION

## Testimony in Support of House Bill 1423

Jeff Kohler, President

Bismarck-Mandan Home Builders Association

My name is Jeff Kohler, a builder in this area doing business as Kohler Home Improvements, Inc., and currently serving as president of the Bismarck-Mandan Home Builders Association (HBA). Our association represents approximately 280 builder and associate members in the Bismarck-Mandan area. The Bismarck-Mandan HBA encourages this committee to support House Bill 1423 and the amendments provided by the North Dakota Association of Builders.

In voting on amendments to the State Building Code, we believe it is important to have representatives of the five professional building industry groups involved in the voting process. If there is discussion on particular issues affecting builders, we certainly want a representative of our organization involved from the beginning to the end in the amendment process. Especially since we are moving to a new set of codes, there may be information that a builder or an architect, for example, could assist with and help explain during the voting process.

We understand and respect the building officials' roles in the amendment process of the State Building Code. Cities and counties across the state are given a certain number of votes, based on population, and those votes are usually cast by building officials and city assessors. We simply ask that our professional building industry is granted the right to participate in the voting process by having a single vote.

Builders need a voice in the amending of and voting on the State Building Code, and we ask you to support House Bill 1423 as amended by the North Dakota Association of Builders.

Testimony By Richard Gray  
On  
House Bill 1423

Mr. Chairman, Committee members, my name is Richard Gray. I am with the Division of Community Services and one of my responsibilities is to maintain and promote the North Dakota State Building Code.

The reason for the introduction of House Bill 1423 was supposed to be very simple; current state law requires that the State Building Code consist of the Uniform Building Code and Uniform Mechanical Code published by the International Conference of Building Officials, and those codes are no longer being published. The last publication was the 1997 Uniform Building Code and the 1997 Uniform Mechanical Code. As a result, the State Building Code is quickly becoming outdated and we need to change state law to permit using a new set of codes called the International Codes.

The International Codes are actually not new, just the name is new. Beginning in 1994, the three national building code groups - the International Conference of Building Officials, the Building Officials and Code Administrators International, and the Southern Building Code Conference International - came together to form the International Code Council. They agreed that the time was right because of growing pressure from the European Union, to create a single set of building and related codes, before the Federal Government decided to get involved in the building code arena. These codes were developed by reviewing the codes of the three code groups and incorporating into the International Codes the most appropriated provisions and language. As a result, some provisions may be new to those of us that belong to the International Conference of Building Officials, but they have been tested and used elsewhere, and very few new provisions have been added.

The International Codes consist of a series of interrelated codes that are designed to provide a "family" of codes that are consistent with one another, and can be used in any location. By having just one set of codes nationally it is hoped that more uniformity in code adoption and enforcement will occur. This is very important for economic development nationally and on a global basis. As written, HB 1423 will enable the State Building Code to use the International Building Code, International Mechanical Code, International Residential Code, and the International Fuel Gas Code. There are other International Code referenced in these, such as the International Plumbing Code, the International Electrical Code, and International Fire Code, but it is up to other state agencies to deal with these. We need to update the State Building Code to these International Codes and support wholeheartedly this part of HB 1423. The National Conference of States on Building Codes and Standards also supports the need to have one set of building codes nationally for economic development purposes.

Now, as I stated at the beginning of my testimony, HB 1423 was supposed to be a simple Bill that would enable us to begin using the International Codes in our State Building Code. However, the simple has now become somewhat complicated. In 1994 we, through

administrative rules, created a process for implementing, amending, and updating the State Building Code. The goal was to create a process that would encourage code enforcing communities and interested code using organizations to work together to amend the State Building Code to meet the needs of all jurisdictions statewide. Everyone believed this would go a long way in promoting uniformity in the use of codes and reduce the need for code enforcing jurisdictions to make additional local amendments. In addition, it coincides with the national trend for more uniformity to enhance economic development.

The process created involves the use of a Technical Review Committee (the same committee now proposed in HB 1423 as the State Building Code Advisory Committee) to solicit proposed amendments to the codes that make up the State Building Code. The Committee conducts a public hearing to receive comments on the proposed amendments, and then votes on each proposed amendment in order to develop a recommendation for cities and counties to adopt or reject. The results of the Committee's recommendations are then forwarded to each jurisdiction declared eligible to vote for the final version of the State Building Code. The cities and counties get the final vote because that is how the International Codes are created, and because they are the entities charged with protecting the health, safety, and welfare of their citizens. In addition, if they all agree on the contents of the State Building Code, then there is little need to further amend the code to "conform to local needs," because their needs have been addressed. This process worked well in 1995 and 1998. We have a long way to go in promoting more code uniformity statewide, but this process has helped us to come a long, long way.

HB 1423, as now written, will change this voting process. It moves the Technical Review Committee from the administrative rules and it gives the Committee the final vote on the State Building Code instead of the cities and counties. On one hand this may serve to simplify things since we won't have to produce, send out, and follow-up on voting packages sent to various jurisdictions for voting. On the other hand, however, it takes authority away from the cities and counties that have to adopt and enforce the code, and it sets up the real possibility that jurisdictions will make their own local amendments. This, however, is what we have all been trying to minimize, so that we won't have, as one Legislator commented to me, a "mish-mash" of codes statewide. The question boils down to this, who should have the final say on what the contents of the State Building Code should be? Should it be a committee that includes a couple of local building officials and a variety of special interest groups who use the code to build? Or should it be up to those who are responsible for adopting and enforcing the code for the protection of the health, safety, and welfare of their citizens who live and work in buildings? It also comes down to whether or not we as a state believe it is in everyone's best interest to try to have more uniformity in code adoption and administration statewide, which is the intent of the International Codes and the code enforcement community nationally and globally, or if we want to continue to let everyone do their own fragmented thing, which in most cases results in more restrictive requirements and increased costs and is clearly not the trend today.



Testimony before the Senate Political Subdivisions Committee  
Engrossed Senate Bill 1423  
March 9, 2001

Good morning Mr. Chairman and committee members. My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am appearing on my own behalf and not representing the city.

I would like to propose an amendment to HB 1423. I understand the desire of the building officials to preserve their rights to vote on the modifications to the building code they enforce in their communities and I understand the desire of the building professions to be represented when the code changes are voted.

This practice will promote a consensus building code which I believe is important.

I think the bill can be amended to offer both parties that which they seek.

I would propose to amend this bill on Line 18, Page 3 by adding "52%" between "a" and "majority" and to add the amendments proposed by the builders. Since there were 104 votes allowed the last time the code was changed, this amendment would increase that number to 109 but it would require a 52% super-majority to enact the changes. In this way the building industry would be given its five new votes and the building officials would guarantee the need for a majority of their members to favor a code change in order for it to occur.

Thank you for allowing me to speak to you this morning.

# City of Minot

Office of the Mayor

March 7, 2001

Chairperson Dwight Cook  
Senate Political Subdivisions Committee  
600 E Boulevard Avenue  
Bismarck, North Dakota 58505

Dear Chairperson Cook,

With this letter we are expressing our support for House Bill #1423 with the proposed amendment to line 19, page 3, which amended would delete "...Members of the state building code advisory committee" from line 3 and substitute "....Eligible jurisdictions in a manner as established in the administrative rules of the Office of Management and Budget."

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Therefore I urge you to support House Bill #1423 with the proposed amendment as stated above.

Sincerely,



Carroll W. Erickson  
Mayor  
City of Minot

★ The Magic City ★

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