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Yolanda Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1082

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Hal Costa Rickford

Date

10/2/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1082

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 01-13-03

Tape Number	Side A	Side B	Meter #
1	X		0-790
Committee Clerk Signature <i>Beth Leier</i>			

Minutes: **CHAIR KEISER**: called the hearing to order.

COMM. BACHMEIER (Dept of Labor): Explained bill is necessary to clarify the authority of the commissioner is to adopt rules describing standards as opposed to issuing orders to adopt standards and then to remove redundant provisions in order to clarify the process. Do not lose anything, rather they just do not have to go through two independent processes that are redundant.

CHAIR KEISER: Is there a potential problem of continuing to follow the rules, but not having the committee to guide the Commissioner?

COMM. BACHMEIER: Will not weaken the involvement the process. Notice and public comment is allowed. Reviewed by the Attorney General and by the legislative administrative rules committee.

REP. JOHNSON: Will the summary of the rules, which has to be posted and provided to every employer, be long, multiple pages?

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB1082

Hearing Date 01-13-03

COMM. BACHMEIER: That is a provision that exists today. Bill would repeal that section, so the summary provision is just being moved.

REP. NOTTESTAD: What time will these rules come before the committee after the bill is signed by the Gov?

COMM. BACHMEIER: Believe they would be making amendments to the administrative rules as they currently exist sometime during the next interim.

CHAIR KEISER: Closed hearing on HB 1082

(End at 790)

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1082

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/20/03

Tape Number	Side A	Side B	Meter #
1	X		0.0-2.2
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **CHAIR KEISER:** Called for committee work on HB 1082.

REP. KASPER: Provided update, has consulted Administrative Rules Committee, amendment will be ready for committee review and action at committee work session by Wednesday, Jan. 22.

Concluded.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1082

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/22/03

Tape Number	Side A	Side B	Meter #
4	x		29.1-38.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser called for committee work on HB 1082.

Rep. Kasper explained that currently, before the Labor Commissioner can hold a rules committee hearing, he must convene a board of nine people, an advisory board. This is cumbersome and not productive. The labor commissioner is proposing that the conference committee be eliminated. Organized labor is not totally conducive to this proposal but not adamantly opposed either.

Rep. Kasper moved to adopt the amendments as presented. Rep. Klein seconded the motion. A voice vote carried the motion to adopt the amendments..

Rep. Klein moved a Do Pass As Amended. Rep. Zaiser seconded the motion.

The roll call vote was 12-0-2.

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: HB 1082

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

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	(\$925)	\$0	(\$975)	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

HB 1082 proposes changes to the process required to be undertaken by the Commissioner of Labor to amend the North Dakota Wage and Working Conditions Order (Department of Labor administrative rules relating to wages and working conditions). Original law regulating the process is antiquated by current procedures for promulgating administrative rules under the North Dakota Administrative Practices Act. Among the original provisions proposed for repeal is a section providing for the Commissioner to convene a conference committee to seek recommendation on proposed rule changes. The fiscal impact of HB 1082 comes from saving the cost of convening the conference committee, primarily expense reimbursements for committee members.

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

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

There would be no impact on agency revenues.

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

HB 1082 would reduce Department of Labor general fund operating expenditures for non-employee travel by approximately \$925 for the 2003-05 biennium and \$975 for the 2005-07 biennium. These estimates are derived by adding an inflationary estimate to the department's most recent actual costs for these expenses and assume that the department would amend its administrative rules once each biennium.

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

There would be no impact on agency appropriations.

Name:	Mark D. Bachmeier	Agency:	Department of Labor (406)
Phone Number:	328-3708	Date Prepared:	01/08/2003

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10/2/03
Date

38215.0101
Title.0200

Adopted by the Industry, Business and Labor
Committee

January 24, 2003

VR
1/24/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1082 IBL 1-27-03

Page 2, line 2, after the overstruck period insert "Before filing the notice of rulemaking and the proposed draft of rules under section 28-32-10, the commissioner shall send notice of the proposed rules to and solicit input from associations with statewide membership of which the primary focus is representing business or labor interests."

Renumber accordingly

Page No. 1

38215.0101

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Yolanda Rickford

Date

10/2/03

Date: 11/22/03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1082

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

38215.0101
0200

Action Taken

Do Pass As Amended

Motion Made By

Klein

Seconded By

Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe		
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth	✓		Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad					
Ruby	✓				
Tieman	✓				

Total

(Yes)

12

No

0

Absent

2

Floor Assignment

Thorpe

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

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Yalosta Rickford

Date

10/2/03

REPORT OF STANDING COMMITTEE (410)
January 27, 2003 1:14 p.m.

Module No: HR-15-1121
Carrier: Thorpe
Insert LC: 38215.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1082: Industry, Business and Labor Committee (Rep. Kelsor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1082 was placed on the Sixth order on the calendar.

Page 2, line 2, after the overstruck period insert "Before filing the notice of rulemaking and the proposed draft of rules under section 28-32-10, the commissioner shall send notice of the proposed rules to and solicit input from associations with statewide membership of which the primary focus is representing business or labor interests."

Renumber accordingly

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1082

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Operator's Signature

Val Costa Rickford

Date

10/2/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1082

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-18-03

Tape Number	Side A	Side B	Meter #
1		xxx	1670-2900
Committee Clerk Signature <i>Lisa Van Berken</i>			

Minutes: Chairman Mutch opened the hearing on HB 1082. Senator Espgaard was absent.

HB 1082 relates to authority of the labor commissioner to issue orders on wages and working conditions for employment in this state.

Testimony in support of HB 1082

Mark Bachmeyer, Labor Commissioner, introduced the bill. See written testimony.

Senator Krebsbach: How would you send this notice?

Mark: By regular mail.

Senator Krebsbach: How would the organizations be determined?

Mark: That would be at the burden of the labor commissioner.

Dave Kemnitz, AFL-CIO, spoke in support of the bill.

There was no opposition. The hearing was closed.

Senator Klein moved a DO PASS. Senator Nething seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent. Carrier: Senator Klein

Date: 3-18-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1082

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Nothing

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espgaard	A				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Klein

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

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10/2/03
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REPORT OF STANDING COMMITTEE (410)
March 18, 2003 11:38 a.m.

Module No: SR-48-5018
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1082, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1082 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-48-5018

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2003 TESTIMONY

HB 1082

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10/2/03
Date

John Hoeven
Governor

Mark D. Bachmeler
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58506-0340

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

Testimony on HB 1082
Prepared for the
House Industry, Business, and Labor Committee

January 13, 2003

Chairman Kelser and members of the Industry, Business, and Labor Committee, good morning. For the record, I am Mark Bachmeler, Commissioner of Labor.

Chapter 34-06 authorizes the Commissioner of Labor to investigate and prescribe standards relating to the wages and working conditions of employment in North Dakota. The intent of HB 1082 is to clarify the process for the Commissioner to prescribe such standards.

When the office of Labor Commissioner was created, it was a statewide elected office to which North Dakota law gave authority to issue orders establishing standards for wages and working conditions. The process to be undertaken by the elected Commissioner was to convene a conference committee made up of employers, employees, and disinterested parties and to seek recommendations from the conference committee on any proposed changes. The Commissioner could then, in his or her discretion, accept or reject the recommendations and issue an order making any changes.

In 1989, the North Dakota Attorney General issued an opinion stating that orders by the Commissioner of Labor could not have the force and effect of law unless they were promulgated as administrative rules under the North Dakota Administrative Practices Act (N.D.C.C. Chapter 28-32). It is my opinion that the two processes are redundant. The administrative rules promulgation process provides for notification to interested parties and the public, public hearings, and consideration of public comment, essentially the same functions of the conference committee provisions. The administrative rules process further provides for review by the Attorney General and the legislative Administrative Rules Committee.

HB 1082 first clarifies that the authority of the Commissioner is to adopt rules under the Chapter 28-32, rather than to issue orders, and then repeals sections of law relating to the convening of a conference committee. The bill carries a small fiscal savings, primarily from saving the cost of reimbursing conference committee members for travel and lodging expenses.

Thank you for your time. I would be happy to answer any questions you have.

Telephone: (701) 328-2660

ND Toll Free: 1-800-582-8032

Fax: (701) 328-2031

TTY: 1-800-366-6888

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Operator's Signature

10/2/03
Date

"Bachmeier, Mark D."
<mbachmei@state.nd.
us>

To: "Kasper, Jim M." <jkasper@state.nd.us>
cc:
Subject: HB 1082

01/22/2003 12:56 AM

Representative Kasper,

Per your request, I am writing to reiterate my intent in proposing HB 1082 and to provide a draft amendment (attached) that I hope is a suitable compromise between my original bill and the concern Dave expressed.

Again, my belief is that the provisions of 34-06 relating to the convening of a conference committee were enacted to ensure that the Commissioner of Labor would seek input from employers and employees before issuing an order prescribing any standards for wages and working conditions. The process for promulgating administrative rules under the Administrative Practices Act, which the Commissioner is now required to follow, contains very stringent requirements for seeking comment on proposed rules. I think the purpose of the conference committee is more than served by these requirements and that it is redundant for us to have to undertake both formal processes.

HB 1082 will update the section to accurately reflect the authority of the Labor Commissioner and the process to be undertaken by the Commissioner for prescribing standards for wages and working conditions.

In the attached amendment, I propose to add language to the original bill that requires the Commissioner to provide notice of proposed rules to and solicit recommendations from associations with statewide membership whose primary purpose is to represent the interests of labor or business prior to undertaking the administrative rules process. The conference committee process that would be repealed in the bill calls for the Commissioner to appoint a maximum of nine individuals to a committee from which to seek recommendations. The proposed amendment ensures that the Commissioner would specifically solicit input from organizations which represent business or labor statewide.

The bill, with the proposed amendment, would satisfy my intent to update the section and also provide a mechanism for representative input from both employers and employees prior to commencing the formal rule-making process.

Thank you for your time. Please contact me if you have any questions or comments or if you need anything else from me.

--Mark



<<2003 Amendments to HB 1082.doc>> 2003 Amendments to HB 1082.doc

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John Hoeven
Governor

Mark D. Bachmeler
Commissioner



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

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

Testimony on HB 1082
Prepared for the
Senate Industry, Business, and Labor Committee

March 18, 2003

Chairman Mutch and members of the Industry, Business, and Labor Committee, good morning. For the record, I am Mark Bachmeler, Commissioner of Labor.

Chapter 34-06 authorizes the Commissioner of Labor to investigate and prescribe standards relating to the wages and working conditions of employment in North Dakota. The intent of HB 1082 is to clarify the process for the Commissioner to prescribe such standards.

When the office of Labor Commissioner was created, it was a statewide elected office to which North Dakota law gave authority to issue orders establishing standards for wages and working conditions. The process to be undertaken by the elected Commissioner was to convene a conference committee, composed of not more than three representatives of employers, an equal number of representatives of employees, and not more than three disinterested persons representing the public, and to seek recommendations from the conference committee on any proposed changes. The Commissioner could then, in his or her discretion, accept or reject the recommendations and issue an order making any changes. The purpose of the conference committee provisions, as I understand them, was to ensure that the Commissioner did not unilaterally issue orders without first seeking input from representatives of effected parties.

In 1989, the North Dakota Attorney General issued an opinion stating that orders by the Commissioner of Labor could not have the force and effect of law unless they were promulgated as administrative rules under the North Dakota Administrative Practices Act (N.D.C.C. Chapter 28-32). The administrative rules process requires full notification to interested parties and the public, holding public hearings, and consideration of public comment, essentially the same functions of the conference committee provisions. The administrative rules process further provides for review by the Attorney General and the legislative Administrative Rules Committee.

HB 1082 clarifies that the authority of the Commissioner is to adopt rules, rather than to issue orders, repeals sections of law relating to the convening of a conference committee, and adds a requirement for the Commissioner to solicit input on proposed rules changes from associations representing business or labor interests prior to undertaking the administrative rules process. The bill carries a very small fiscal savings, primarily from saving the cost of reimbursing conference committee members for travel and lodging expenses.

Thank you for your time. I would be happy to answer any questions you have.

Telephone: (701) 328-2660 ND Toll Free: 1-800-582-8032 Fax: (701) 328-2031 TTY: 1-800-366-6888

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