

**2013 HOUSE APPROPRIATIONS**

**HB 1007**

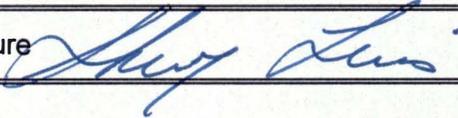
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
January 11, 2013  
Recording Job# 17106

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

## Minutes:

**Chairman Thoreson:** Opened the hearing on HB1007.

**Tony Weiler, Commissioner ND Labor Department:** See testimony Attachment 1.

04:51

**Chairman Thoreson:** How long on average does it take to get one of these things resolved?

**Tony Weiler:** It's taking us about 75 days and that's up from the previous biennium.

**Chairman Thoreson:** So how does that work? Do you contact them and then they have to submit some type of a response and then go from there?

**Tony Weiler:** That's correct. If an employee fills out a wage claim form, that can be found on our website, file it with our office, it's assigned to one of my investigators; the investigator will then contact the employer and ask them to respond; and then, we conduct our investigation based on the facts that we have gathered from both parties and make a determination.

Tony Weiler continued with his testimony.

06:35

**Representative Kempenich:** Do you have a breakdown of industries or is it across the board? Are there some industries that are more problematic than others?

**Tony Weiler:** We don't specifically track industries. We track by a county of complaint or county of origin of the employer. It is somewhat western North Dakota oil driven. We've seen we have the largest number of complaints, if you go back three months from out of state employers. So that tells me that it's primarily western North Dakota driven.

07:59

Tony Weiler continued with his testimony.

10:06

**Vice Chairman Brandenburg:** Do you deal with these H2A's and those types of people that come from other countries and settle wage claims? Do you have any of those issues?

**Tony Weiler:** We do not. Those are all issued through Job Service and they are federally regulated. So, we don't get any claims dealing with those employees.

**Representative Guggisberg:** I was wondering why you don't track these things by occupation.

**Tony Weiler:** During the last biennium, we did implement a new database. Prior that, if someone asked me a question about tracking the claims by county or anything like that, we would have had to do it by hand. I think that it's something we can look at implementing something that helps us track it by industry; but, I'd have to look at those categories. I think Job Service does some tracking by industry. We do get a lot of complaints in the service industry and with the increase in western North Dakota we're getting lots of complaints in the trucking industry and construction.

**Vice Chairman Brandenburg:** Just to follow up, wages and that sort of thing are all determined by Job Service for H1 and H2A's and everything; or do you guys tie together on the wages? Who determines that?

**Tony Weiler:** That's not something that we do. I think all those wages are federally set and regulated by Job Service.

**Representative Glassheim:** Do you have the capability to track repeat claims against an employer?

**Tony Weiler:** We do look at that. There is the ability to look at double or triple damages, potentially, in cases where there is a repeat offender. Historically, my office has never enforced that and we allow employees to go through court or take court action in cases where there may be a repeat offender.

14:35

**Chairman Thoreson:** So what are those credit transactions just a broad variety of different areas?

**Tony Weiler:** Maybe a business loan, trying to get a car loan. Any other credit transaction that wouldn't be housing related. Because if it were housing related, than we would handle that under the housing discrimination act.

15:54

**Chairman Thoreson:** Where does that language come from? Is that a mission statement of your agency?

**Tony Weiler:** It's in the code.

19:10

**Chairman Thoreson:** Did you produce those yourself or was it a federally produced PSA? Where did it come from?

**Tony Weiler:** We put out an RFP, had several bids from around the country; and we had a company from Helena MT do those ads for us, purchase the advertising all around the state. We aired those during the last year.

**Chairman Thoreson:** Are those continuing to run now or are they just available on line?

**Tony Weiler:** They're just available on line.

**Chairman Thoreson:** Did you apply for renewal of the grant or was it just a one time grant?

**Tony Weiler:** It was a one time grant of \$165,000.00. It was a competitive grant. We had to put in a grant bid which allowed us to get some new brochures, etc., we aired the PSA's. Some of them are running on what's called a good health tv that airs in all the IHS hospitals. The grant ended and we had to go to the emergency commission to get approval to increase my budget.

**Representative Glassheim:** Can you not get these free anymore through public service announcements? Do you have to pay for placement of them?

**Tony Weiler:** I don't know about that. There are television stations who will run public service announcements like that for free.

**Chairman Thoreson:** These were just television or was there a radio component involved?

**Tony Weiler:** There were both.

**Representative Glassheim:** Do you work with any community action agencies? They would have some way of reaching those people or packaging stuff with you.

**Tony Weiler:** We have worked with Legal Services of North Dakota; they partnered with us in this grant. I have worked with Counsel and Abused Women's Services, Lutheran Social Services. I can provide you with all the community action. There is a new nonprofit coming on line in Grand Forks called High Plains Fair Housing. The board members are a couple of UND Law professors, someone from the philosophy department; and what they want to do to be able to do is to help people with housing discrimination in the eastern part of the state. In the western part of the state, Legal Service of North Dakota would help them. They're working towards being an established nonprofit fair housing center and I have helped them in any way I can.

25:40

**Chairman Thoreson:** (Unintelligible)

**Tony Weiler:** We don't. We have used several of the architectural firms. We look for a firm in the city where the complaint is centered.

**Chairman Thoreson:** So what is their responsibility? Do they go out and check to see if it's accessible or do they have to come up with a design that works better?

**Tony Weiler:** They may look at the accessibility of the dwelling. They may look at ANSI standards, they may come up with a recommendation for us; but, they are mostly talking about the requirements to make someplace accessible as opposed to what is there.

**Chairman Thoreson:** How often does this occur? How many times do you use a firm such as that?

**Tony Weiler:** It's infrequent. In the time that I've been there, maybe four times.

27:37

**Chairman Thoreson:** What is your procurement process for getting those? Do you go through the state? How many computers are you looking at; do you know the total number of devices you're looking to replace in the agency? If you have an estimate, could you give it to the committee?

**Tony Weiler:** I know at one point agencies were trying to replace their computers every other biennium. We didn't do that last biennium because I thought our computers were fine. Now we're to the point where we need to replace them. I would say that we would need 13 computers.

**Chairman Thoreson:** If you have any of that information we can get it at a later point. I'm trying to get a handle on how often we're buying new devices amongst the agencies.

33:31

**Chairman Thoreson:** Have you made any requests for one time funding or you just didn't have any this time?

**Tony Weiler:** No, we did not have any or request any.

37:12

**Chairman Thoreson:** We do greatly appreciate the hard work of our state employees; especially in a time where our state is in a unique position, unlike most around us; that we are gaining people, gaining employment. It puts extra demands on government to keep employees from going to the private sector. As to the position that you're for, it would be good to have some kind of a visual breakdown.

**Tony Weiler:** I appreciate that and I will relay that to my employees.

**Representative Sanford:** If things change and workload drops, what is the process for reducing staff? How do you make that decision and who makes it?

**Tony Weiler:** I think we'll continue to be busy. I could see this person moving up and then potentially we would have some roll up dollars then. If I came back in two years and said we have very little going, there's a potential for that attrition.

**Chairman Thoreson:** It's not a usual circumstance where that happens where someone comes back and says I have too many fte's.

**Representative Kathy Hawken:** One of the issues that has repeatedly come up is the human rights piece. I would like some more information on how you handle that; and more specifically, how you let people know you have handled that. Is there some way that we can help you do that job better?

**Tony Weiler:** That is a question that I have asked as to why we don't have a human rights commission in North Dakota. We do everything we can to let people know we are the department of labor; and we do have a human rights division.

**Representative Hawken:** Are there ways that we can help? It needs to be acknowledged that we care.

**Representative Kempenich:** I was getting back to your increase in one fte. I know the former commissioner requested two. Can you provide a workload schedule?

**Tony Weiler:** I believe it was 2009. For awhile, my department had a huge backload; so, we worked to reduce the amount of time it's taken us to handle our claims. I'll provide that to you.

**Representative Kempenich:** Some of the decreases must be the \$165,000.00 that you pulled out of your budget from this last time?

**Tony Weiler:** Correct. Also we had a \$10,000.00 technology carry over from last biennium that came out.

**Representative Kempenich:** Do you have any turn back out of the agency?

**Tony Weiler:** Lonnie and I looked at that yesterday; and we thought we'd be around \$90,000.00.

**Representative Kempenich:** You don't carry any temp funds in your salary line?

**Tony Weiler:** In July of this last year, when all the agencies tried to move all their employees to the bottom of the new classifications, it was extremely difficult for my department because we are so thin in that area.

**Representative Kempenich:** Does that \$24,000.00 that you requested get you in the middle of where your range is at?

**Tony Weiler:** The compression issue is more than \$24,000.00. I thought that we could do it with less; but, when you look at the funding for state employees salary increases, but it's

about \$155,000.00 of new funds; \$88,000.00 relates to performance increases and \$66,000.00 for market equity adjustments.

**Representative Kempenich:** Is that including the normal percentage increase?

**Tony Weiler:** My understanding is that includes everything.

**Representative Kempenich:** Is that the \$24,500.00, Joe? What's the \$24,500.00 on your detail?

**Joe Morrisette, ND Office of Management and Budget:** That \$24,500.00 as well as included in the agency's request based on their calculation.

**Representative Kempenich:** That was just their request. So, that wasn't what was budgeted?

**Joe Morrisette:** You'll see that in lots of agencies where they may have had a request for a certain amount; and it was all over the board how agencies maybe calculated that need for equity. So in the recommendation, we used a consistent methodology and said let's budget for a certain percentage to move people in the first quarter tile or if they're in the second quarter tile, to move them closer to the midpoint.

**Representative Sanford:** I notice that there are not audit findings. In auditing is it, for the agency, related to the financial management of it? Is it related to the types of case load that you have? Are those also part of the audit considerations?

**Tony Weiler:** It's both. You are looking at how we handle our finances, they audit us on how we pay our bills, they look at some of our requests for funding. They also look at our program area to make sure that we're complying with what we're supposed to do under the statute. They may give you some informal recommendations that don't show up in the audit report.

**Representative Guggisberg:** How many of these employees were moved up to the bottom?

**Tony Weiler:** It was three employees that were significantly under the bottom of that classification.

**Representative Kempenich:** Can you provide where you are before and after?

**Joe Morrisette:** Do you mean how an individual employee would progress through the pay range assuming the compensation package that was recommended?

**Representative Kempenich:** Yes, but, I was thinking more agency to agency comparison.

**Joe Morrisette:** The best agency to agency comparison might be a chart.

**Chairman Thoreson:** I would like that very much.

**Tony Weiler:** Because we're a smaller agency the percentage would be bigger. I also think if I look at the quarter of the new classifications, at least 4 of them are in that very first quarter tile.

**Chairman Thoreson:** Closed the hearing on HB1007.

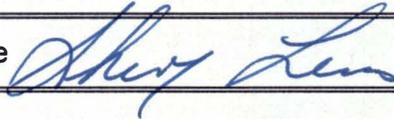
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
January 21, 2013  
Recorder Job# 17412

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

## Minutes:

Chairman Thoreson: Opened the hearing on HB1007. It was noted that all members are present.

**Joe Morrissette, Fiscal Analyst, ND Office of Management and Budget:** Explained the handout that he distributed. See attachment 1.

**Chairman Thoreson:** You said this is one section of the report. Is the entire report accessible on line?

**Ken Purdy, Human Resources Management Services, ND Office of Management and Budget:** The full report is linked on our website. I can send the committee the link if you'd like. He then explained attachment 1.

4:34

**Chairman Thoreson:** Which two markets? It says both markets; which ones are they referring to do you know?

**Ken Purdy:** I don't know if it's single or family; or if they're talking about general and the central states, if they looked at them separately.

**Ken Purdy:** Explained attachment 2.

09:01

**Chairman Thoreson:** What is that column next to it between the two that says grade?

**Ken Purdy:** That's the grade assignment. We have grades A thru V; and each job class is assigned a grade. He continued with his explanation of attachment 2.

14:45

**Vice Chairman Brandenburg:** What reference is the \$34,000.00 in comparison to the 2013 and 2014 salaries? Is that what the Hay Study is saying is the market?

**Ken Purdy:** Initially the Hay Study projected the market and the ranges to July 1, 2011. When the implementation was postponed to July 1, 2012, we know that the market is moving. In consultation with the Hay Group, we estimated where we needed to assign the market policy point for July 1, 2012; instead of 2011. Overall, nationwide, the employment market salary budgets are projected around 3%; as they narrowed it to government settings nationwide, probably less than 1%. They agreed and recommended that we use 3%. Our intent is to increment the ranges another 3% on July 1, 2013 and July 1, 2014. In 2014, we'd like to redo the market analysis during the budget cycle.

**Vice Chairman Brandenburg:** Dealing with smaller agencies versus larger agencies, can you explain the flexibility of having more employees to work with?

**Ken Purdy:** There are a lot of factors influencing agency flexibility. To a degree the larger agencies have a little more flexibility in providing some interim increases in addition to the appropriated general increases. That's tempered significantly by their funding sources. The agencies with federal funding are pretty restricted; and a lot of the federal funding is being reduced, so they're feeling less flexibility now. Whether its general fund or special fund over the years has influenced how easy it is to justify a little extra increase.

**Representative Sanford:** The range for the grades is 80% to 120%?

**Ken Purdy:** It's 75% to 125%. The Hay Group recommended that the minimums should be 80% of the market policy point.

**Representative Sanford:** Somebody that has high performance and over time continues to get a bigger increase; essentially they're going to bump up against the top of the range. The only thing they'll be eligible for a range movement then?

**Ken Purdy:** That's correct. Over time and with the spread of our ranges it would be over a long period of time. If they're paid at 125% of their market policy point, they're being well compensated for the level of work.

23:33

**Vice Chairman Brandenburg:** I think I understand the first two bars; but, I'm confused with 3 and 4.

**Ken Purdy:** Explained attachment 3.

25:09

**Chairman Thoreson:** So you're trying to push those two colors down to the bottom.

**Ken Purdy:** To an appropriate level.

**Vice Chairman Brandenburg:** I can see with a smaller agency and a larger agency where it can change quite a bit.

**Ken Purdy:** That's true. The key is we're varying the amount based on where they are in relation to their market policy point. Those agencies that are falling below are being proposed for more appropriation.

**Vice Chairman Brandenburg:** If you just take first glance at the charts, it can give you a false impression.

**Ken Purdy:** As I've said the bar charts, as you break it down to individual agencies; one employee can make quite a bit of difference in where that bar chart falls. If all the employees are low in their quartile, they're still going to be low in their quartile at the end of this biennium. If a lot of them are near that first or second quartile break, and they jump past that second quartile, it's going to show much more progress.

**Representative Sanford:** If you trail the market, this is pretty straight forward. If you have positions that don't trail the market, that demand more than the market; does it start to make bulges?

**Ken Purdy:** What we're trying to do is effect the funding; based on the overall analysis. We're trying to set up a baseline model; in other words, really provide agencies with tools and not regulation to apply and guidelines to follow. It's the agency's responsibility to go down this list and look at the numbers by employee.

**Representative Sanford:** In terms of performance, in your opinion, when it comes to measuring performance; how much is science and how much is art?

**Ken Purdy:** It's a definite mix. In a production line factory, it's much easier to measure performance. In an office setting, it's more difficult.

**Representative Glassheim:** How do you get to the medium; what's included? Is the private sector included? How do you mediate between wages in the east and wages in the west? What's the component of the methodology; are we getting a fair look at what the actual salaries are or should be.

**Ken Purdy:** Since the mid 1980's we've been doing a market analysis focusing on 10 surrounding state governments; ten surrounding state governments because they're similar to us in characteristics and they have common jobs like we have. We go through a process with an organization of states that ensures precise matching of the jobs. In the early 1980's, we conducted an in-state survey; we surveyed 612 North Dakota employers from a list that we obtained from North Dakota Job Service; we surveyed them with a sampling of our job classes. When we surveyed a private employer, they didn't like to give us information on their higher level jobs. They didn't want to reply for one person upper management jobs; so our sample would deteriorate as we went higher in the grade structure. In the analysis that the Hay Group did, there's a much stronger component of North Dakota employers of all sizes and industries; from public sector, private sector, energy and businesses.

**Representative Hawken:** My question goes back to the E Performance piece. What makes it easier to use? What makes it different?

**Ken Purdy:** It carries a lot of base line information in the system. We've gone through a starting point analysis of the competencies required for each job class and put those into the system. Depending on how the agency prefers to use it, the employee may and the supervisor will determine what their competency, customer service skills, and so on. Then it goes on to actual observations about their responsibilities. It's easy to customize and our staff has been working directly with the agencies to customize the templates for their purpose. Within an organization, they can customize the templates to fit their organizational areas.

**Representative Hawken:** Would it be possible to get a template for just one job?

**Ken Purdy:** I think we can pull up an example.

**Representative Sanford:** The rate of turnover with state employees overall.

**Ken Purdy:** We've just updated that for the full calendar 2012. The overall rate was 10.4%. For 2011 it was 9.2%.

**Representative Sanford:** Is there greater attrition in grade levels?

**Ken Purdy:** I don't have an analysis of that.

**Vice Chairman Brandenburg:** There is quite a difference in that survey of the different states; when you said it's the oil activity that's pushing that.

**Ken Purdy:** That has spread across the state. We were seeing it primarily in Williston; then it went to Minot and Dickinson; now we're seeing it in Bismarck. I know some of the agencies are experiencing quality of hire issues; they're getting a fair amount of applicants, bringing in employees from other states. Some of those employees come here and within a very short they start filing grievances; and start complaining about working too hard.

**Representative Guggisberg:** I was just wondering if we could get a copy of the turnover rates; also for the last 5 years so we can see if there's any trending.

**Ken Purdy:** It's been stable, in summary, back to the mid-2000's; in that 8% to 9% range. We've seen that upper trend just in 2011-2012. The overall rate doesn't rise as much as some of the individual agencies. We'll provide that full table for you.

**Representative Kempenich:** We've been going through and there are certain positions within state agency. Do we have something in place for salaries?

**Ken Purdy:** We've looked at that some and we've talked to some of the agencies who have raised the issue of losing employees to other agencies because they can pay more. As we have looked at the actual numbers, we find it much smaller than they claim. We generally find that they've taken a promotional opportunity. That's a very difficult issue to regulate; we don't want to restrict employees from opportunities. Overall, when an

employee goes from one agency to another for an opportunity; we retain them as state employees. I don't think it's as much as a problem as some agencies have perceived.

**Representative Kempenich:** On this spreadsheet using 100% compensation?

**Ken Purdy:** One hundred percent of the market policy point.

**Representative Kempenich:** If that changed to 95%, that gets to get another issue doesn't it?

**Ken Purdy:** We're working on a request from council on that question. That's one of the things that the Hay Group has found in their initial study. They Hay Group said if you're going to look at market, you need to deal with market.

**Laurie Sterioti Hammeren, Director, Human Resource Management Services, ND Office of Management and Budget:** Currently 73% of our employees are below market policy point; if we change that to 95%, it would be 68% of employees. We've already kept our minimum salary range lower than the Hay Group recommended; because we couldn't afford to bring people to the 80%. We have people already 25% lower than the market policy point.

**Representative Kempenich:** One of the problematic parts of the Hay study is no real impact of benefits on it. I think that's a concern of how that's rolled out.

**Laurie Sterioti Hammeren:** I'm sorry that you did miss the first part of our conversation; because we did present a document that shows that they Hay system did evaluate benefits relative to salaries in North Dakota. When they compared our positions, we do have a lot of office positions; so we're a big employer.

**Representative Kempenich:** its salaries and benefits?

**Laurie Sterioti Hammeren:** That's correct. They looked at both and if you see that document, you'll see that they did an analysis of benefits as well.

56:46

**Tony Weiler, Commissioner, ND Department of Labor:** See attachment 4.

**Vice Chairman Brandenburg:** If you just want to explain your organizational chart a little bit.

Tony Weiler went into more detail of explaining the organizational chart.

59:45

**Vice Chairman Brandenburg:** Looking at your chart, you have two compliance I; and the rest are all compliance II, is that correct?

**Tony Weiler:** That is our administrative assistant I's; those are our two front line staff. They answer the phones and help us with both program areas. The investigators are all investigator II; and we're looking to add an investigator I.

**Representative Kempenich:** Are these all located in Bismarck or are they located around the state?

**Tony Weiler:** Everyone is in Bismarck except my human rights director. She is in Fargo and spends three days a month in Bismarck. She does all of her work by phone and email; she's housed in the human service center in Fargo.

**Representative Kempenich:** Then they just go from here to wherever they need to?

**Tony Weiler:** Most of my employees do all of their work from Bismarck; they don't get out.

**Representative Kempenich:** On your computers, do you know an average

**Tony Weiler:** We haven't done this for a few years either.

**Representative Kempenich:** Do you have an average cost for your desktops and laptops? I see you're requesting about \$16,000.00.

**Tony Weiler:** We tried to go the middle of the road with that. I think everyone in my office would get a desktop; except my human rights director, she needs a laptop to be mobile. Right now I have a laptop that stays on my desk. We were looking at upgrading the software and installation; that installation number is lower than what I was quoted.

**Representative Kempenich:** For the software, is it licensing and fees mostly? Or is it upgrading?

**Tony Weiler:** It was software upgrades; like going to the newest version of windows, and the licensing fees for that.

**Representative Kempenich:** Have you looked at everything so that it flows back through?

**Tony Weiler:** We didn't get into that much detail; but, we would make sure that it's all compatible with what we're running now. We have a new database that I think would work with any new software we have.

**Representative Glassheim:** I'm looking at your organizational chart and I see that the person in charge of wage and hours is also the human rights director. Is that a conflict? Do you really need a separate human rights director? Are all the compliance investigators cross trained to human rights work as well as wage and hour claims?

**Tony Weiler:** I don't know why she has the title of human rights director; it used to be the deputy commissioner of labor at one point. At some point they changed that position to a classified position and the title of human rights director was what she was given once the

change came. She's the supervisor of all the investigators; she could really be the wage and hour and human rights director. She does both. All investigators are cross trained.

**Vice Chairman Brandenburg:** If I understand it right, you spent \$124,000.00 getting out the information about the human rights division. Is that correct?

**Tony Weiler:** This is what I spent for the housing campaign. We did this with a specific HUD grant; that I had to go to the emergency commission for to increase my spending authority. They gave us a grant to get the word out on housing discrimination.

**Vice Chairman Brandenburg:** So is that \$165,400.00 the number then?

**Tony Weiler:** The \$165,400.00 was the total amount. If you add these numbers up, it will get you real close to that amount.

**Chairman Thoreson:** Closed the hearing.

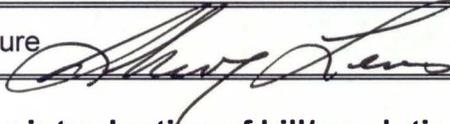
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
February 11, 2013  
Recording Job# 18735

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

## Minutes:

**Chairman Thoreson:** Opened the discussion on HB1007.

**Representative Glasheim:** See attachment 1.

**Chairman Thoreson:** Closed the discussion.

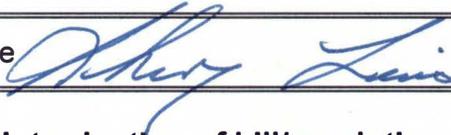
## 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
February 13, 2013  
Recording Job# 18865

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

### Minutes:

**Chairman Thoreson:** Opened the discussion on HB1007. All members were present except for Representative Hawken who will be present late.

**Representative Glasheim:** See attachment 1.

**Chairman Thoreson:** Are there any programs in place or people doing this type of training now without funding through the department of labor that you're aware of?

**Representative Glasheim:** I believe there are.

**Carla Tice:** There is not any self-advocacy organization funded in the state of North Dakota. There are programs throughout the state that might have self-advocacy as part; but the true meaning of self-advocacy is an organization run by and for with disabilities. At this point there isn't any funding for such a training program.

**Chairman Thoreson:** Are you part of a program as such?

**Carla Tice:** Right now I work at the Listen Drop In Center. I have been involved as an ally to the self-advocacy in the past.

**Representative Guggisberg:** Do you belong to the organization that works on self-advocacy or just something you're doing in your spare time?

**Carla Tice:** In the past I have been an advisor or consultant to a group of self-advocates. The self-advocates that are here today have been involved in the movement since 1991. She then gave a brief history of the self-advocacy program in North Dakota.

**Representative Guggisberg:** I'm looking at this email that Representative Glasheim passed out (attachment 2). Are you with Able Inc?

**Carla Tice:** No.

**Representative Guggisberg:** How many organizations are there in the state that would apply for this grant? Could they provide resources to the entire state to make something happen with the grant?

**Carla Tice:** In the past self-advocacy has been organized by a state group so I think at this point there would be one or two groups that probably would apply for it. I think they could service the state.

**Representative Glassheim:** The people who are here today are part of SAS, Self-Advocacy Solutions; which is in Grand Forks. They've been existing on minimal funding from different place for 20 years. They have provided statewide training as they could and as they've been asked. I have written this so that there could be one or two other groups that might apply.

**Carla Tice:** There are 13 self-advocacy local groups in the state. As Representative Glassheim mentioned SAS has provided support with training.

**Representative Kempenich:** How does P & A fit into your organization?

**Carla Tice:** How the movement has gone is that initially were supported by Protection and Advocacy, the ARC of North Dakota. As the groups developed they've graduated and became a group of their own.

**Vice Chairman Brandenburg:** There are a lot of groups out there helping with disabilities. How would this tie together to go to the next step?

**Carla Tice:** With the self-advocacy movement instead of a group of professionals stating that this is what is right; there's never been anyone asking what would be the job that would best fit your passion. With self-advocacy it becomes non-threatening to sit with your peers and discuss different situations.

**Vice Chairman Brandenburg:** You have transit and these things that work. So what you're saying as this helps them lead a normal life.

**Carla Tice:** That's right.

**Darcy Endahl:** I've served on the DD council; where you need to be appointed by the governor. So 60% of that has to be either consumer parents or guardians. The North Dakota Center for Persons With Disabilities at Minot State University, Protection and Advocacy and the DD Council all work together. The DD Council didn't fund the SAS Group; so they would receive \$50,000.00 per biennium.

**Representative Glassheim:** What kinds of things do you visualize doing with the money?

**Carla Tice:** The self-advocates come together as groups and talk about the pressing issues in their communities. One type of training would be to go around the state and introduce people to the public transportation.

**Helen Bechold:** We tell the boss what's wrong and they change it.

**Carla Tice:** I've heard the hot line with Helen and they advocated to get accessible busses so that people who use wheelchairs can use the regular transportation route. They signed petitions to get a night time bus.

**Allan Marx:** One of the things I've seen in the Dickinson area; some of the advocates I know, their providers won't let them go to functions or make them leave at a certain time. I live on the family farm and in the rural areas it's very tough. Sometimes transportation is not there.

**John Birkeland:** I've done contract work with some of the self-advocacy groups for the last ten years. We trained 650 self-advocates across the state this last year in voting. When you're doing a training for one thing, other opportunities come up. In the voter training we worked with 30 organizations in those communities.

**Chairman Thoreson:** What goes on during the voter training? Do you have materials you provide or do you bring people in to discuss the elections?

**John Birkeland:** P&A and North Dakota Association of Counties put together this funding and they wanted it specifically for a disability advocacy to train for election voting. With that training we had a group of self-advocates from Grand Forks and Fargo and were trained by them.

**Chairman Thoreson:** You said it was the Association of Counties you worked with?

**John Birkeland:** The Association of Counties and Protection and Advocacy.

**Chairman Thoreson:** Was the Secretary of State's office involved in all this?

**John Birkeland:** Yes. They provided the material.

**Chairman Thoreson:** I know there was federal funding provided to the states for specifically the Automark and that type of thing.

**John Birkeland:** This was the first funding for this type of just disability advocacy groups to do the training.

**Representative Glassheim:** Are many people with disabilities employed? What is your activity with regard to employment?

**Carla Tice:** Lori is someone who has been an advocate and trainer in the self-advocacy movement for people to get employment and some of the barriers that you come across.

**Representative Kempenich:** It's coming back to the Protection and Advocacy. Why would the labor commissioner be a better fit for something like this?

**Representative Glassheim:** The labor commissioner has a portfolio of human rights and I thought this would meld nicely.

**Representative Kempenich:** I think we would have to see what Protection and Advocacy is doing to make this work.

**Carla Tice:** The self-advocacy groups have come to a place where they have graduated. Protection and Advocacy do great work in being an advocate for people with disabilities and their rights; they don't have a group that's run by and for people with disabilities. The self-advocacy groups are groups of people with disabilities who are on the board.

**Chairman Thoreson:** Is this something that you have looked at?

**Tony Weiler, Commissioner, North Dakota Tax Department:** I saw the amendment this morning and my first reaction this morning is that I would probably go to P & A and ask them what they would do with something like this. As a regulatory agency we've never let any grants and I'd probably need some guidance from other organizations who have done this.

**Chairman Thoreson:** Closed the discussion.

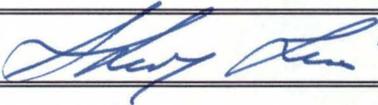
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
February 15, 2013  
Recording Job# 19055

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

## Minutes:

**Chairman Thoreson:** Opened the discussion

**Representative Glassheim:** Made a motion to move his amendment.

**Representative Guggisberg:** Seconded the motion.

**Representative Glassheim:** There was some discussion as to whether the labor department was the proper place to put this. He then read a description of the duties of the labor commissioner. It's important to have people who are the victims of discrimination training other people in how to be self-assertive and become more independent.

**Representative Kempenich:** You can bring up the argument that they are educating; but it's a fine line between education and advocacy for a specific issue.

**Representative Hawken:** We are not able to put an amendment on the P & A budget are we?

**Chairman Thoreson:** That bill will come from the human resources section to the full committee and we can offer any amendment we wish.

**Representative Hawken:** If we did this so we had the money, could we transfer it from one bill to another?

**Chairman Thoreson:** From reading the amendment the money is taken from the general fund; so, we could put it on another budget and say the source of the funding is from the general fund.

**Representative Hawken:** I'm not sure this is the vehicle but I don't want it to get lost either.

**Representative Glassheim:** I don't think we're talking about legalistic rights. I think we're talking about people asking things for themselves. It's getting people to understand what is needed by this group of people who are discriminated against without perhaps intention or ill will.

**Chairman Thoreson:** Since we don't have that budget, when we get it to the full committee we can line it up.

**Representative Glassheim:** There was some question about the HAVA money and I did speak to the secretary of state about that and he does have money; but, he didn't want anything earmarked.

**Chairman Thoreson:** Did he indicate how much is left in the HAVA fund?

**Representative Kempenich:** I think there was about \$3 million.

**Representative Hawken:** I will check with the Department of Public Instruction to see if there are any specialized funds for adult special needs education.

**Representative Glassheim:** I think it was more of a general comment that they want to stand on their own and not be part of other agencies.

A voice vote was made on the amendment and adopted.

**Representative Hawken:** Made a motion for a "Do Pass as Amended."

**Representative Glassheim:** Seconded the motion.

A roll call vote was made. 5 Yeas 2 Nays 0 Absent.

**Representative Hawken:** Carried the bill.

**Chairman Thoreson:** Closed the discussion.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1007  
2/20/13  
Job 19226

Conference Committee

Committee Clerk Signature

*David Hanson*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

### Minutes:

**Chairman Delzer:** Called the committee to order to take up HB 1007.

**Rep. Hawken:** Moved amendment .01003 and explained it. Rep. Thoreson seconded the motion.

**Chairman Delzer:** Isn't that \$100,000 for P&A?

**Rep. Hawken:** Yes, it was put here. The Labor Department would end up working with P&A on implementation. There were no further changes in operating. This amendment would add \$100,000 for the training of disabled citizens for self-advocacy.

**Rep. Skarphol:** I would like to understand why it is more appropriate here than P&A or human services.

**Rep. Hawken:** I think it could be appropriately done on any of those bills

**Rep. Glassheim:** The training would be led by people with disabilities. That is different from other things, where professionals assist people with disabilities. The thing that is unique about it is they speak from their life experience to others and get them to speak for themselves to say what they need. It's not agency people assisting. They also do training of employers, bus drivers, how to treat people with disabilities based on personal experience.

**Rep. Skarphol:** Why can't they do that in conjunction with P&A and get even greater benefit? It seems an odd link to put in the Labor Department.

**Rep. Glassheim:** One reason for putting it here is the labor commissioner is also involved with the division of human rights and that is linked. In the law, one of his duties is to

to further human rights. He has not done things like this before, but this is in his purview. In writing the RFP for the grant, he would probably go to P&A for assistance. I attempted to have it put in P&A, but was unsuccessful. If the committee wants to fund the grant and put it in P&A, that is fine.

**Chairman Delzer:** You said this is mostly being done with P&A already.

**Rep. Glassheim:** They are not the same. This grant would go to an organization which is led by people with disabilities who are influential with doing the training themselves. That is the distinction between a bureaucratic approach the people with disabilities doing it themselves.

10:00

**Rep. Skarphol:** Maybe we should just tell P&A they need to use that resource to do this

**Rep. Kempenich:** Explained number 6 on their performance measures.

**Rep. Pollert:** We just had the discussion yesterday morning, so we had talked to the head of P&A and asked if they had any...did they know this \$100,000 was out there and being asked for, and they had just heard about it a few days earlier. We asked if they had funds and were going in this direction already, she answered this was enhanced...the money was to go to an advocacy center.

**Rep. Hawken:** In reference to the HAVA funds, there are none for them to use.

**Rep. Skarphol:** Lori In bars, there is a line it had \$116,000 in it this budget was reduced by \$100,000 to take that down to \$16,000. Can you tell why?

**Lori Laschkewitsch, OMB:** They went away.

**Rep. Skarphol:** There was a \$100,000 reduction in operating. Is there a reason why?

**Sheila Sandness, Legislative Council:** I don't know.

**Chairman Delzer:** Was that asked?

**Rep. Thoreson:** I don't recall that it was.

**Chairman Delzer:** We have a motion before us.

**Voice vote was taken. The Chair declared the motion failed.**

**Roll call vote on the motion was asked and taken.**

**Motion failed. Aye-7 Nay-15 Absent-0**

**Rep. Hawken:** Moved amendment .01003 without Section 2. Rep. Skarphol seconded the motion.

**Voice vote was taken and motion carried.**

17:00

**Rep. Hawken:** Went through the green sheet.

**Rep. Hawken:** Moved HB 1007 do pass as amended and seconded by Rep. Thoreson.

**Motion carried Aye-20 Nay-2 Absent-0**

**Hearing closed.**

*Handwritten notes:*  
 2/21  
 10/15  
 8/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1007

Page 1, replace lines 11 through 13 with:

"Salaries and wages	\$1,648,342	\$231,256	\$1,879,598
Accrued leave payments	0	39,609	39,609
Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
Total all funds	\$1,964,636	\$278,265	\$2,242,901"

Page 1, replace line 15 with:

"Total general fund	\$1,540,125	\$264,850	\$1,804,975"
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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$2,001,449	(\$121,851)	\$1,879,598
Operating expenses	323,694		323,694
Accrued leave payments		39,609	39,609
Total all funds	\$2,325,143	(\$82,242)	\$2,242,901
Less estimated income	<u>437,926</u>	<u>0</u>	<u>437,926</u>
General fund	\$1,887,217	(\$82,242)	\$1,804,975
FTE	13.00	0.00	13.00

**Department No. 406 - Labor Commissioner - Detail of House Changes**

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>3</sup>	Total House Changes
Salaries and wages	\$5,731	(\$87,973)	(\$39,609)	(\$121,851)
Operating expenses				
Accrued leave payments			39,609	39,609
Total all funds	\$5,731	(\$87,973)	\$0	(\$82,242)
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$5,731	(\$87,973)	\$0	(\$82,242)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.

2/2

- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of salaries and wages funding from the general fund (\$32,626) and from other funds (\$6,983) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.



Date: 2/20/13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1007**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .01003

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Rep. Streyle		X
Vice Chairman Kempenich		X	Rep. Thoreson		X
Rep. Bellew		X	Rep. Wieland		X
Rep. Brandenburg		X			
Rep. Dosch		X			
Rep. Grande		X	Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt		X	Rep. Guggisberg	X	
Rep. Martinson		X	Rep. Holman	X	
Rep. Monson		X	Rep. Williams	X	
Rep. Nelson		X			
Rep. Pollert		X			
Rep. Sanford	X				
Rep. Skarphol		X			

Total Yes 7 No 15

Absent \_\_\_\_\_

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

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

*voice vote fails  
 uncertain  
 roll call done  
 motion failed*

Date: 2/20/13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1007

House Appropriations Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

.01003 amendment without section 2  
voice vote carries

Date: 2/20/13  
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1007**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 13,8136.01004

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland		X
Rep. Brandenburg	X				
Rep. Dosch		X			
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 20 No 2

Absent 0

Floor Assignment Rep. Hawken

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

**REPORT OF STANDING COMMITTEE**

**HB 1007: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1007 was placed on the Sixth order on the calendar.

Page 1, replace lines 11 through 13 with:

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Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
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Renumber accordingly

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General fund	\$5,731	(\$87,973)	\$0	(\$82,242)
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**2013 SENATE APPROPRIATIONS**

**HB 1007**

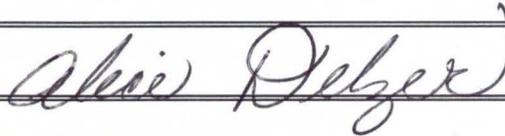
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1007  
03-06-2013  
Job # 19525

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an appropriation for the Labor Commission.

### Minutes:

See attached testimony

**Chairman Holmberg** called the committee to order on Wednesday, March 06, 2013 at 3:30 pm in regards to HB 1007. All committee members were present except Vice Chairman Grindberg. Brittani Reim from Legislative Council and Laney Herauf from OMB were also present.

**Tony Weiler: Commissioner of Labor** presented Testimony attached # 1 and testified in favor of HB 1007. His testimony states his commission has two primary areas of responsibility. The first is establishing and enforcing rules relating to the wages and working conditions of employees in ND. This is our Wage and Hour division. 2<sup>nd</sup>: the department administers and enforces human rights laws under the ND Human Rights Act and the ND Housing Discrimination Act. He continued with his testimony. He believes they will continue to see a high number of wage claims. They anticipate the number of human services complaints to increase.(6.00) He continued with Public Education on page 3. He turned to the budget requests. (8.06) He stated after purchasing the computers for \$23,000 they should have a turn back. He stated he supported the governor's recommendation regarding salary and asked the appropriations committee to restore it as the House had amended this portion of the budget.

**Chairman Holmberg:** The appointment of the new FTE is in the governor's budget and the House did approve that.

**Tony Weiler:** They changed the compensation package but they did approve the new FTE. He continued with his testimony on page 4. (12.16) my workers do everything they are cross trained with the exception of one employee. For now this new FTE will focus solely on wage claims.(14.09)

**Chairman Holmberg:** I have to ask you a question because it's an event that occurred here exactly one month ago from tomorrow. We had an agency head in asking about a particular problem that had occurred and the question was asked, quote: "**In your opinion have there been any examples of unprofessionalism, insubordination, or any other**

**action on the part of any employee regarding the handling of this project which has or may warrant any sort of retaliation or discipline?"** And now it comes to our attention that that individual may have been fired. Is the Labor Department having anything to do with the whistle blowing in Higher Education or are they separate? (14.52)

**Tony Weiler:** There are two avenues. A state employee has protection under the Administrative Agencies Practices Act and legislation that have been passed previously by this legislative body. Whistle blower complaints can be filed with my office. We don't have a lot of enforcement power there but we can suggest is some sort of whether the employer wants to enter into any sort of negotiation or some way to settle that. So for State employees there are avenues that they can take that protect their due process rights and most of those are through the Administrative Agencies Practices Act and through laws that are established there under.

**Chairman Holmberg:** The university system has their own regulations on that.

**Tony Weiler:** You very well may be right that they have their own regulations or their own system in place to deal with complaints of any kind that may be whistle blower related or not that would allow due process rights for that employee. (15.58)

**Chairman Holmberg:** Your agency, if this came from Agency X and you had an individual represented that kind of information, and I don't know all of the facts obviously yet, I was just notified about an hour ago, would that be something that your agency would investigate if those facts were true that they've been told no one had done anything wrong and then within a month that person is cashiered out.

**Tony Weiler:** On any complaints like that or any complaint that my office receives, we would take a look at it on what would be called a case by case basis, so I would certainly encourage someone if they felt that they had a grievance to file with my office. At that point we do an investigation, whether we have jurisdiction over that issue, whether we felt that it was within our purview to handle that, if it is then we would do an investigation in looking at the rights we have, the powers we have to investigate any sort of whistle blower complaint. We don't have a lot of power on a whistle blower, we really can just suggest that they come to some sort of an agreement. But if they couldn't we would let that employee know that we couldn't help them and perhaps there would be other avenues that they could pursue if they feel they have a valid grievance. There are avenues available to protect any state employees' due process rights. (17.18)

**Senator Mathern** had questions regarding how much time it takes to get to a case, in light of the case load that they have, from start to closure, and asked to have that information provided to him. He stated he would like to see how many employees they need in their department. It seems there is a lot of work to be done there.

**Tony Weiler:** Stated he would supply that information to him. Looking at July 1, 2012 through the end of February, because that is the most recent statistics I'd have, the average days to open, which is how long we have a case open if you are talking about a complaint of retaliations about 57 days, in employment discrimination cases would be 157; Housing case about 192.

**Senator Mathern:** Is that how many days before you can get to it or that many days to resolve it?

**Tony Weiler:** Absolutely not. That is days from open to closure.

**Senator Mathern:** How many days does it get to even open a case if you're backlogged.

**Tony Weiler:** Any case that comes in as part of our intake process or intake procedures. We are going to bring the complaint in, make sure we have jurisdiction, we're going to draft it right away and get it to the employer so that they can provide a response. Now the employer will have some time to provide a response, I'm talking about employment discrimination, that initial process starts immediately; it doesn't mean we will get to the investigation right away because of the other cases that we may have ahead of that or have more issues with respect to timeliness so somebody is going to be on notice right away that a complaint's been filed and we will start gathering information from both parties at that time. We probably will have a lot of information from the employee, and then we will get to the investigation. I can't tell you exactly how long it gets for us to get to a case while we are investigating it. I will tell you from the time we open it until the time we close it is the numbers I was relating to you. He told Senator Mathern that he will get that information to him.

**Senator Wanzek:** What would be a more typical wage claim? What is more complex?

**Tony Weiler:** A typical Wage Claim, the most prevalent one is someone didn't get their last check; there is a dispute with employer, that is one of the bigger ones. We get quite a few on overtime. We are seeing a lot more claims related to misclassification of employees, that person is not my employee, it is an independent contractor. A lot of that is relating to western North Dakota. The complexity is we are getting claims that go back a year or two, having to investigate months or years of time cards and having to deal with those types of issues. Some of them the dollar amounts are a lot bigger than we have ever seen as the result of those types of issues. (21.58)

**Chairman Holmberg:** appointed the Subcommittee as follows: **Senator Gary Lee, Senator Holmberg and Senator Robinson** . The only issue in this bill is the salaries and what the House did.

The hearing was closed on HB 1007.

Written Testimony #2 submitted by Tony Weiler - per request by Senator Mathern submitted after the hearing was closed. This testimony provides a report showing averages for cases closed; information in regard to the increase in wage claims; and other information on housing and human rights claims.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

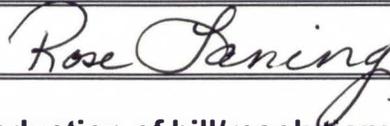
HB 1007 subcommittee

March 21, 2013

Job # 20310

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an appropriation for the Labor Commission.

### Minutes:

Testimony attached # 1

Legislative Council - Adam Mathiak  
OMB - Laney Herauf

**Senator Gary Lee** opened the subcommittee hearing on HB 1023. **Senator Holmberg** and **Senator Robinson** were also present.

**Senator Gary Lee handed out amendment 13.8136.02001 (see attached # 1) and explained the changes.**

**Senator Robinson seconded**

**Voice vote - amendment carried.**

**Senator Gary Lee** said the House made no changes from the executive budget. The budget does include one FTE. They are asking for a compliance investigator. Their justification was the volume of work, a 40% increase in wage claims over this biennium; the increase number of open claims wanting and needing to be processed and the critical nature of salaries issues that people are going through and that's held in limbo for them. Those are the changes noted from the previous biennium. The rest are salary changes primarily - no one-time funding.

**Chairman Holmberg moved to pass the bill as amended.**

**Senator Robinson seconded**

Discussion:

**Senator Robinson** asked if the Labor Commissioner's staff were all housed in the capital complex. The auditor's office has auditors in Fargo, for example.

**Tony Weiler, Commissioner of Labor** said all twelve of their employees are in the capital complex. One human rights director is in Fargo and has an office in the Human Service Center there. Then she comes in to Bismarck three days a week.

**Senator Robinson** asked if they had enough space in their office.

**Tony Weiler:** Yes, and they will be able to find a place for the new FTE requested. It's just not ideal. They would love to take some of the PSC space, but don't know if they'll want to give it up.

**Senator Gary Lee:** Why is that person in Fargo?

**Tony Weiler:** She is from that part of the state and she when she was hired, the decision was made that she could work there remotely and touch base with us a lot by computer and phone. We found space in the Human Service Center. They have a small office that they let us use for basically free. Her children are there, so it's a good situation. She comes in three days a week (At the end of the hearing, he corrected himself and said she drives in three days a month.) I think she'd come in more, but this works well.

**Senator Gary Lee:** What kind of skills do you look for in a compliance investigator - in terms of hiring?

**Tony Weiler:** We'd probably look for someone who has a bachelor's degree - someone with analytical skills. Our investigators apply a lot of facts. They're going to take a look at the claim made by the claimant or the wage claimant. They'll gather information from the employer, apply fact, and make a determination. People skills are good; someone who can communicate well in writing, communicate well to those who are on the phone. I look for someone who's had some analytical skills and that's sometimes hard to find. I'd love to have a lawyer, but don't know if they'd take it. They'll be trained in how to do the wage claims, but you may be talking to employers who may be upset, or employees who are upset, so you have to have a lot of good people skills.

**Senator Gary Lee:** We've had a motion and second. Take the roll on HB 1007.

**Senator Gary Lee Yes**  
**Senator Holmberg Yes**  
**Senator Robinson Yes**

**Motion carried. The subcommittee will present the bill to the full appropriations committee.**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1007  
03-22-2013  
Job # 20345

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for the Labor Commission (Do Pass as Amended )

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Friday, March 22, 2013. All committee members were present. Sheila M. Sandness, Legislative Council and Lori Laschkewitsch, OMB were also present.

**Senator Gary Lee:** HB 1007 is the budget for the Labor Commission and the amendments we offered in our subcommittee simply dealt with the pay package adjustments that the Senate has agreed to plus the accrued leave to put that back where it had originally had been in the executive budget.

**Senator Gary Lee moved Amendment #13.8136. 02001. Attachment #1. 2<sup>nd</sup> by Senator Robinson. All in favor say aye. The motion carried.**

**Senator Gary Lee moved a Do Pass as Amended on HB 1007. 2<sup>nd</sup> by Senator Robinson.**

**Senator Gary Lee:** The bill itself includes 1 additional FTE. That FTE is for a compliance investigator and we thought that was an appropriate addition based on the 40% increase in the wage claims that they're dealing with at least in this biennium they expect that to continue, the number of open claims they have waiting to be processed is significant and just the critical nature of salary to individuals is an important thing to be resolved quickly so we did support the addition of that one FTE, the remainder of the increases in the budget are basically the salary packages that are being offered and there is no one time funding requests in the budget.

**A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0. Senator Gary Lee will carry the bill**

The hearing was closed on HB 1007.

March 19, 2013

*JB*  
3/22/13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1007

Page 1, replace lines 11 through 16 with:

"Salaries and wages	\$1,648,342	\$358,838	\$2,007,180
Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
Total all funds	\$1,964,636	\$366,238	\$2,330,874
Less estimated income	<u>424,511</u>	<u>13,415</u>	<u>437,926</u>
Total general fund	\$1,540,125	\$352,823	\$1,892,948"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$2,001,449	\$1,879,598	\$127,582	\$2,007,180
Operating expenses	323,694	323,694		323,694
Accrued leave payments		39,609	(39,609)	
Total all funds	\$2,325,143	\$2,242,901	\$87,973	\$2,330,874
Less estimated income	<u>437,926</u>	<u>437,926</u>	0	<u>437,926</u>
General fund	\$1,887,217	\$1,804,975	\$87,973	\$1,892,948
FTE	13.00	13.00	0.00	13.00

**Department No. 406 - Labor Commissioner - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Salaries and wages	\$87,973	\$39,609	\$127,582
Operating expenses			
Accrued leave payments		(39,609)	(39,609)
Total all funds	\$87,973	\$0	\$87,973
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$87,973	\$0	\$87,973
FTE	0.00	0.00	0.00

<sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

Date: 3-22-13

Roll Call Vote # 1

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. 1007

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8136.02001

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Lee Seconded By Robinson

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*Voice vote passed*

Date: 3-22-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1007

Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Lee Seconded By Roben

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Lee

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

**REPORT OF STANDING COMMITTEE**

**HB 1007, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1007 was placed on the Sixth order on the calendar.

Page 1, replace lines 11 through 16 with:

"Salaries and wages	\$1,648,342	\$358,838	\$2,007,180
Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
Total all funds	\$1,964,636	\$366,238	\$2,330,874
Less estimated income	<u>424,511</u>	<u>13,415</u>	<u>437,926</u>
Total general fund	\$1,540,125	\$352,823	\$1,892,948"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$2,001,449	\$1,879,598	\$127,582	\$2,007,180
Operating expenses	323,694	323,694		323,694
Accrued leave payments		39,609	(39,609)	
Total all funds	\$2,325,143	\$2,242,901	\$87,973	\$2,330,874
Less estimated income	<u>437,926</u>	<u>437,926</u>	0	<u>437,926</u>
General fund	\$1,887,217	\$1,804,975	\$87,973	\$1,892,948
FTE	13.00	13.00	0.00	13.00

**Department No. 406 - Labor Commissioner - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Salaries and wages	\$87,973	\$39,609	\$127,582
Operating expenses			
Accrued leave payments		(39,609)	(39,609)
Total all funds	\$87,973	\$0	\$87,973
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$87,973	\$0	\$87,973
FTE	0.00	0.00	0.00

<sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

**2013 CONFERENCE COMMITTEE**

**HB 1007**

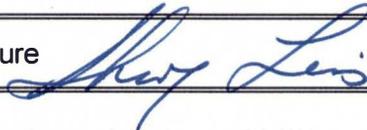
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1007  
April 23, 2013  
Recording Job# 21419

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the labor commissioner.

## Minutes:

**Chairman Kempenich:** Opened the conference committee on HB1007. All members were present except for Representative Hawken.

**Senator Holmberg:** Made a motion to recede from its amendments and to further amend the compensation package as will be done in all the bills.

**Senator Robinson:** Seconded the motion.

Roll call vote: 5 Yeas 0 Nays 1 Absent

Chairman Kempenich and Senator Lee carried the bill.

**Chairman Kempenich:** Closed the conference committee.

VR  
 4/24/13  
 1062

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1007

That the Senate recede from its amendments as printed on pages 1084 and 1085 of the House Journal and pages 846 and 847 of the Senate Journal and that House Bill No. 1007 be amended as follows:

Page 1, replace line 11 with:

"Salaries and wages \$1,648,342 \$273,706 \$1,922,048"

Page 1, replace line 14 with:

"Total all funds \$1,964,636 \$320,715 \$2,285,351"

Page 1, replace line 16 with:

"Total general fund \$1,540,125 \$307,300 \$1,847,425"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1007 - Labor Commissioner - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$2,001,449	\$1,879,598	\$42,450	\$1,922,048	\$2,007,180	(\$85,132)
Operating expenses	323,694	323,694		323,694	323,694	
Accrued leave payments		39,609		39,609		39,609
Total all funds	\$2,325,143	\$2,242,901	\$42,450	\$2,285,351	\$2,330,874	(\$45,523)
Less estimated income	437,926	437,926	0	437,926	437,926	0
General fund	\$1,887,217	\$1,804,975	\$42,450	\$1,847,425	\$1,892,948	(\$45,523)
FTE	13.00	13.00	0.00	13.00	13.00	0.00

Department No. 406 - Labor Commissioner - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$87,973	(\$45,523)	\$42,450
Operating expenses			
Accrued leave payments			
Total all funds	\$87,973	(\$45,523)	\$42,450
Less estimated income	0	0	0
General fund	\$87,973	(\$45,523)	\$42,450
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

## 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Appropriations

Bill/Resolution No. HB1007 as (re) engrossed

Date: April 23, 2013

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

Senate Amendments on HJ page(s) 1084 - 1085

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1007 was placed on the Seventh order of business on the calendar

Motion Made by: Senator Holmberg Seconded by: Senator Robinson

Representatives	4-23	Yes	No	Senators	4-23	Yes	No
Chairman Kempenich	x	x		Senator Lee	x	x	
Representative Hawken				Senator Holmberg	x	x	
Representative Glassheim	x	x		Senator Robinson	x		

Vote Count      Yes: 5      No: 0      Absent: 1

House Carrier Representative Kempenich Senate Carrier Senator Lee

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

To amend the compensation package as in all other budget bills.



biennium.

- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

Engrossed HB 1007 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

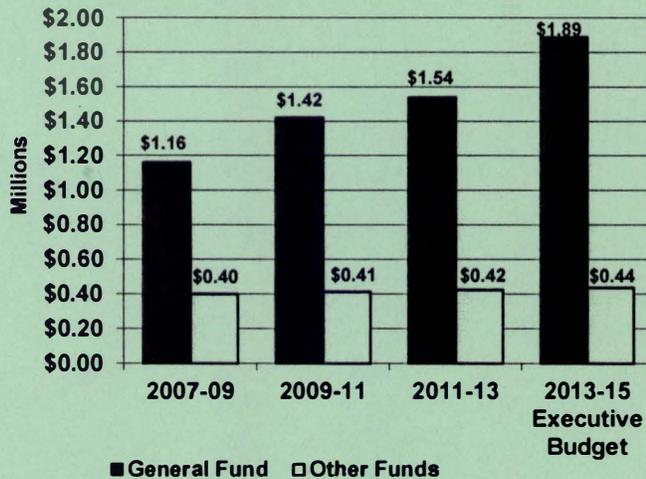
**HB 1007**

**Department 406 - Labor Commissioner  
 House Bill No. 1007**

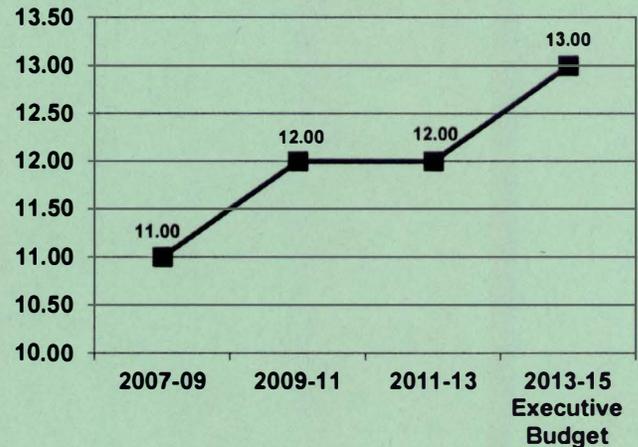
	FTE Positions	General Fund	Other Funds	Total
2013-15 Executive Budget	13.00	\$1,887,217	\$437,926	\$2,325,143
2011-13 Legislative Appropriations	12.00	1,540,125	424,511	1,964,636 <sup>1</sup>
Increase (Decrease)	1.00	\$347,092	\$13,415	\$360,507

<sup>1</sup>The 2011-13 appropriation amounts do not include \$10,000 of technology funding carryover from the 2009-11 biennium and \$165,400 of federal funding from a Fair Housing Grant approved by the Emergency Commission during the 2011-13 biennium.

**Agency Funding**



**FTE Positions**



**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2013-15 Executive Budget	\$1,887,217	\$0	\$1,887,217
2011-13 Legislative Appropriations	1,540,125	0	1,540,125
Increase (Decrease)	\$347,092	\$0	\$347,092

**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Provides funding for state employee salary increases of which \$88,869 relates to performance increases and \$66,568 is for market equity adjustments	\$155,437		\$155,437
2. Adds funding for one FTE Compliance Investigator position	\$91,150	\$19,813	\$110,963

**Continuing Appropriations**

There are no continuing appropriations for this agency.

**Significant Audit Findings**

There are no significant audit findings for this agency.

**Major Related Legislation**

At this time, no major legislation has been introduced affecting this agency.

Jack Dalrymple  
Governor

Tony J. Weiler  
Commissioner



*HB 1007*  
*January 11, 2013*  
*Attachment 1*  
State Capitol - 13th Floor  
600 E. Boulevard Ave. - Dept. 406  
Bismarck, ND 58505-0340

[www.nd.gov/labor](http://www.nd.gov/labor)  
[www.nd.gov/humanrights](http://www.nd.gov/humanrights)

**Testimony on HB 1007  
Prepared for the  
House Appropriations Committee (Government Operations Division)**

**January 11, 2013**

Good morning Chairman Thoreson and members of the Appropriations Committee, my name is Tony Weiler, and I am the Commissioner of Labor.

**Department Responsibilities**

I would like to provide some background on the Department of Labor for the new committee members, as well as a refresher for those of you who have handled our budget before. The Department of Labor has two primary areas of responsibility. The first is establishing and enforcing rules relating to the wages and working conditions of employees in North Dakota. This is our Wage and Hour division. Second, the department administers and enforces human rights laws under the North Dakota Human Rights Act and the North Dakota Housing Discrimination Act. Under these anti-discrimination laws, the department receives and investigates complaints alleging discrimination in employment, housing, public services, public accommodations, and credit transactions. As required by law, the department emphasizes conciliation to resolve complaints, provides administrative hearings on complaints where there is probable cause to believe a discriminatory practice has occurred, and fosters prevention of discrimination through education about the rights and responsibilities provided under North Dakota human rights laws.

In addition to receiving and investigating complaints directly from individuals who believe they have been victims of unlawful discrimination under state anti-discrimination laws, the department's Human Rights Division also investigates cases for the United States Department of Housing and Urban Development (HUD) and the Equal Employment Opportunity Commission (EEOC). The department obtains significant relief for claimants and aggrieved persons who file complaints with the department, both monetary and affirmative.

**Workload**

During the first eighteen months of the current biennium, the department's Wage and Hour Division resolved 749 claims for unpaid wages and collected \$692,154.70 for workers. For comparison, during the entire 2009-11 biennium,

we closed 680 and collected \$423,678. In addition, the department resolved 296 informal complaint inquiries alleging noncompliance with state labor laws and collected \$69,308.62 as a result, reviewed 1,764 Employment and Age Certificates (work permits) for 14 and 15 year old workers, and received an average of 881 telephone, email, and "walk-in" inquiries from citizens around the state each month.

The number of wage claims the department receives continues at an all time high. During the first 18 months of this biennium, the department received 878 wage claims. This is an average of 48.78 per month, and in one month alone (September 2012), we received 79 (highest number). This is a dramatic increase over the last two bienniums. In the 2007-09 biennium, 690 wage claims were opened, for an average of 28.75 per month. In the 2009-2011 biennium, we opened 685 wage claims for an average of 28.54 per month. As you can see, we are currently receiving almost two times the number of wage claims per month as we did in the previous two bienniums.

For an investigative staff of 7, this is a very significant increase. Further, it is going to take us longer to investigate these claims because we are so busy, and when you are dealing with a person's wages, that is a real concern. For example, the number pending claims has also risen significantly. On June 30, 2009 there were 60, on June 30, 2010, there were 54, and on June 30, 2011 the department had 65 open wage claims. On June 30, 2012 there were 135 pending claims, and at the end of 2012, that number increased to 194. North Dakota has never had more employees or employers, and we do not see that number decreasing any time soon. As a result, I believe we will continue to receive a high number of wage claims. Not only have the numbers increased, the complexity of the claims is growing, and it takes us longer on bigger, more complex claims.

Now, turning to human rights and discrimination claims, the department resolved 230 employment discrimination complaints, 50 housing discrimination complaints, 25 complaints alleging discrimination in public accommodations, public services, and credit transactions, and resolved 58 Complaints of Retaliation (CORs), which are also known as "whistleblower" laws, during the first eighteen months of the current biennium (2011-13).

During the 2009-11 biennium, the department resolved 363 employment discrimination complaints, 76 housing discrimination complaints, and 48 complaints alleging discrimination in public accommodations and public services. We also closed 72 CORs. These numbers have been fairly consistent the last few bienniums, but we do expect human rights complaints, particularly in the area of employment, to rise as the population of North Dakota continues to increase.

## **Public Education**

In addition to the department's enforcement duties, the Commissioner of Labor is required to "improve working conditions and living conditions of employees and advance their opportunities for profitable employment".... "foster, promote, and develop welfare of both wage earners and industries in N.D." . . . . and "promote friendly and cooperative relations between employers and employees." To do this, the department continues to broaden awareness of wage and hour issues and human rights protections through public education and outreach, working with groups representing human rights, business, labor, professional, and non-profit organizations. The department continues to provide speakers and trainers for conferences, workshops, schools, employers, labor organizations, businesses, landlord and tenant organizations, government agencies, and other community groups. The department provided 41 presentations during the first eighteen months of this biennium. This is just more than two times the amount of presentations we conducted during the first eighteen months of the last biennium. During the last legislative session, I told you this was an area I wanted to work on, and we have made strides in getting the word out. I am always looking at more and better ways to provide information to both employers and employees in North Dakota.

In addition to public education presentations, the department aired two new Housing public service announcements last year. We did this as part of a grant from HUD. We had information indicating that many North Dakotans did not understand what the state's housing discrimination laws are, who if anyone had jurisdiction over those laws, and where they could go if they had a problem. Both PSAs may be viewed on the department's website.

## **Budget Request**

I will now focus on the department's 2011-2013 appropriation, estimated 2011-13 spending and the status of one-time expenditures, 2013-15 budget needs, 2013-15 one time expenditures, and any variances. I will address these below.

In the current biennium, the department's total appropriation is \$1,964,636. Salaries and wages comprise \$1,648,342, with operating expenses accounting for the remaining \$316,294. The budget is a combination of general funds and \$424,511 in federal fund authority.

With respect to 2011-13 spending, the department expects to utilize nearly all the funding appropriated for salaries and benefits. With respect to operating costs, we will end the biennium under budget. This is due in large part because the department has not spent its entire appropriated amount on professional fees and services. Costs in this area include those related to hearings conducted by the Office of Administrative Hearings, professional fees such as architects (needed in housing discrimination cases involving accessibility and design/construction issues), foreign language interpreters, sign language interpreters, and any necessary Special Assistant Attorney's General which

would be required when there is a conflict of interest with the AG's Office in representing the department. These expenses are very unpredictable by nature, as there is little way to foresee litigation involving the department. We do intend, however, to purchase new computers this year, and that will reduce our operating budget.

The department's federal funding, which supplements the legislatively approved state general funding, is received through work-sharing/cooperative agreements with the EEOC and HUD. Projections for federal funds show that the department is expected to receive about the same amount of federal revenue as in the 2011-13 biennium. The department has some flexibility as to when the money is received. Federal revenue is always speculative and uncertain, and we will continue to keep a close eye on how many cases we handle in an effort to ensure federal revenue matches projections.

The Governor's Executive Recommendation contained in HB 1007 proposes a total appropriation of \$2,325,143. Of the total budget, \$2,001,449 is for salaries and wages, including salary for a new FTE. This amount also represents the suggested increase in the recommended compensation package.

The department's proposed operating budget in the Executive Recommendation is \$323,694. This is only \$7,400 more than the current biennium, and is mostly a reflection of the costs associated with a new FTE. I am hoping to continue to run a very cost conscious and effective department, and look for ways to cut costs where we can. The budget contains no one-time funding needs.

The department is asking for a new FTE, and I believe this is justified. We are looking to add a Compliance Investigator I to help with our ever growing number of wage claims. The starting salary for this position is around \$34,455 per year, and with added benefits the new employee's total general fund compensation amounts to \$91,150 for the biennium. This represents a large portion of the "Adjustments or Enhancements" found in HB 1007. The recommended compensation package will also help me deal with the compression issue my employees are feeling as a result of moving several employees up to the bottom of the new classifications.

My employees are hard working, dedicated public servants. They are, however, extremely busy and under a good deal of stress. We deal with people's wages, and when not receiving those wages means you can't put food on the table, keep a roof over your head, or simply meet the daily necessities of living, it becomes paramount that we address those claims in a timely manner. With more and more wage claims, we are taking longer to address them and make determinations for those North Dakota workers. I anticipate with the large number we now have pending, it will take us even longer to address those wage claims and those that will continue to be filed. Not all wage claims are with merit, but the ones that are need to be addressed in a timely manner.

All of our current Compliance Investigators are classified as Compliance Investigator II, and with the exception of one, they are cross trained in all areas over which we have regulatory responsibility. The remaining investigator will start training for housing cases soon. For now, this new FTE will focus solely on wage claims.

Despite the effects of such fluctuations, overall the department does not anticipate major variances between the current biennium and the next.

You may ask what the department is doing to hold down costs. The agency's long-term plan for improving the efficiency and effectiveness of achieving its statutory duties continues. This includes the cross training efforts mentioned above, as well as allowing staff to work flexible schedules which allows them to work hours they believe are their most productive and increases employee satisfaction in working at the department. Finally, we will continue to look for ways to train employees in the most efficient and effective handling of our caseload area. This budget will allow us to continue to provide high quality services for citizens of North Dakota.

Thank you and I'd be happy to answer any questions.

HB 1001  
January 21, 2013  
Attachment 1

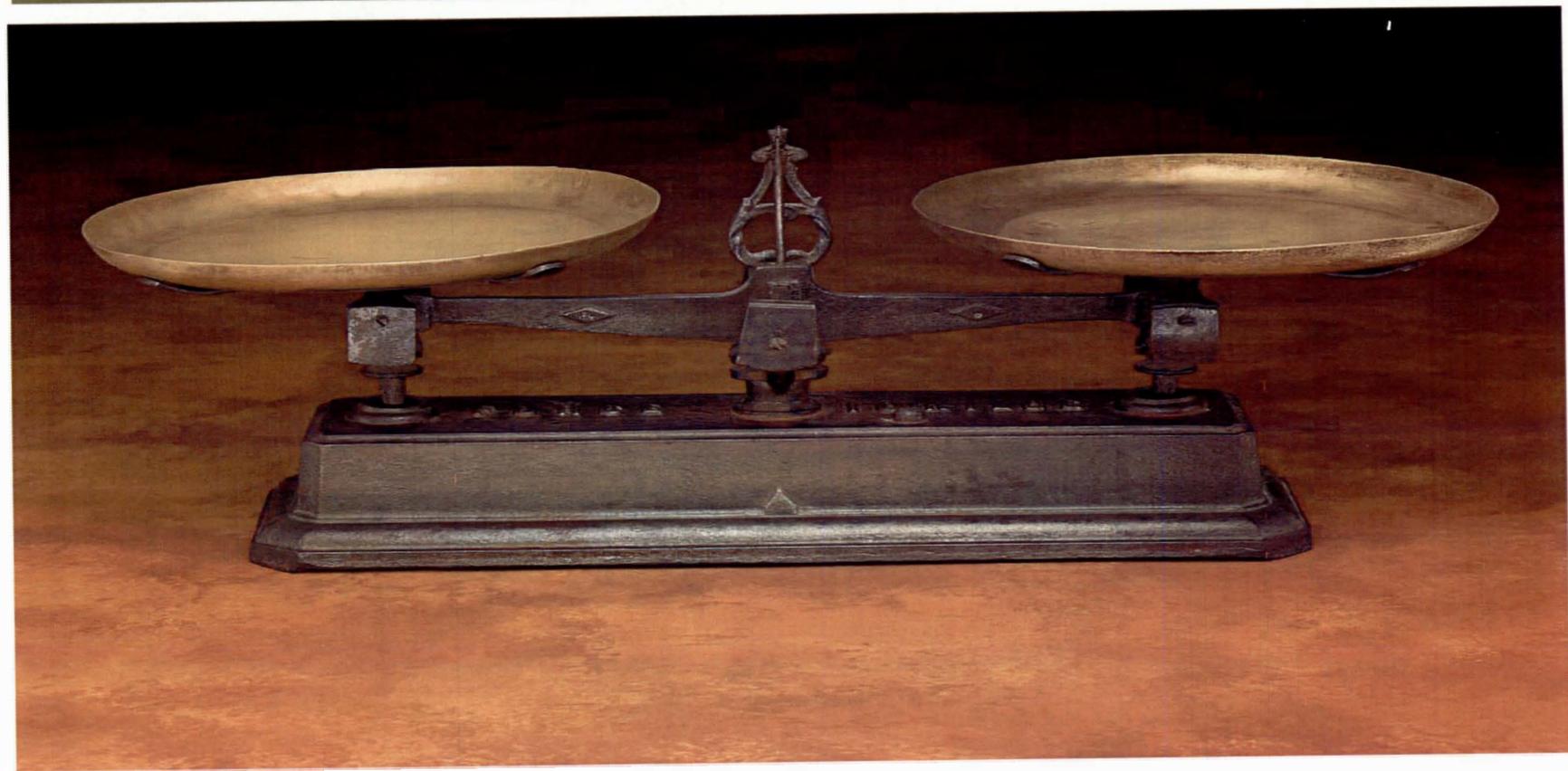
ALIX D

HayGroup®

# State of North Dakota

Evaluation of Classified Employee Compensation System  
Final Report

OCTOBER, 2010



# Component Analysis

## Fringe Benefits

### Market Comparison Summary

Benefit Area	Market Comparison	Key Findings
Total Benefits	At Market	Market position of health care, retirement and time-off weigh heavily in overall benefit program competitiveness.
Death	Below Market	The State's low flat dollar benefit of \$1,300 is well below both market comparator groups. Employee paid supplemental offering does provide employee with higher coverage, but does not enhance value significantly.
Disability	Below Market	Accrual of 12 days per year with no maximum is consistent with other Central US States; however LTD benefit through defined benefit plan is less competitive and less common than stand alone LTD plan.
Health Care	At Market	No employee contributions and low out of pocket maximums offset other plan design features to put the State's program at market.
Retirement	At Market	High benefit accrual in defined benefit plan offsets lack of employer match in the defined contribution plan.
Time-Off	At Market	The number of paid holidays and vacation schedule is at market for both Central US States and the general market.
Other	Below Market	Limited offering of flexible spending accounts and no employer paid benefits is below both Central US States and general market.

# BENEFITS REPORT

## Executive Summary

- Hay Group's review is based on benefits program information provided by the State in July of 2010 for its current FY benefit programs.
- Hay Group used two custom comparator groups consisting of 11 US States and 650 general market organizations contained in Hay Group's Benefits Database.

\* Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Wyoming

## Benefits Methodology

- Hay Group utilizes a proprietary actuarial valuation methodology to evaluate benefit plans in terms of the cash equivalence of the benefits
- In establishing a program's overall market competitiveness the Hay Benefit Valuation model uses "standard cost assumptions" instead of a company's specific costs, which eliminates the impact of such cost variables as demographics, geography, funding method, or purchasing power, etc.
  - The State's health care premiums may be less in actual dollars than other States; however, this is not a factor in determining program value under the Hay Group methodology.
- The valuation model places a relative value on each specific feature of a benefit program. The value for each plan is then compiled to produce an overall program value appropriate for market comparison. In general, the more generous a particular feature is the higher the relative value
- Benefit values are determined on an "Employer-paid" basis. Employer-paid benefit values are discounted to reflect the relationship of any required employee contributions to the program's total value

## Death Benefits

- The State provides a basic life insurance and AD&D plan that provides a flat dollar benefit of \$1,300. Only 8% of the general market provides a flat dollar benefit, while 60% of the States do so.
- Most of the general market provides a benefit based on a uniform earnings multiple, such as 1x or 2x pay, with 1x pay as the most prevalent benefit level in the general market (44%).
- Most States provide a flat dollar benefit in the range of \$14,000 to \$50,000.
- The State's low basic benefit is augmented by employee paid supplemental group life and AD&D plans that provide up to \$200,000 in additional coverage. This type of benefit is provided by 88% of the general market and 90% of Central US States. The high prevalence among public sector organizations is due to the typically lower basic life benefit that is provided.

## Death Benefits

- The State also provides employee-paid dependent group life with a maximum \$100,000 spouse and \$5,000 child benefit.
  - General market organizations typically provide \$50,000 or more (58%) to spouses and \$10,000 (57%) to each child.
  - Central US States provide between \$10,000 and \$50,000 (60%) for spouses and \$10,000 (67%) to each child.
- The State's death benefit program is not competitive when compared to either market. The \$1,300 basic benefit is nearly equivalent to offering no benefit at all. The State's supplemental coverage levels are competitive, but because they are at the employee's expense, the overall value of the State's death benefit is only marginally increased.

## Disability Benefits

- The State provides a salary continuation plan only which provides benefits at full pay based on accumulation of days (12 days per year) with no maximum accumulation. This type of plan is provided by all state governments; however, 50% of the states combine salary continuance with an insured short term disability program.
  - 51% of the general market provides a salary continuance plan only and another 44% provide both a salary continuance plan and STD plan.
  - 50% of Central US States provides salary continuance plan only and 50% provide both salary continuance and STD plans.
- General market organizations typically base the salary continuance on a uniform benefit (43%) and service schedule (27%), while 100% of Central US States base salary continuance on an accumulation of days, as the State does.
- 40% of Central US States accrue 12 days of sick leave annually just as the State does, while 50% accrue 13 to 15 days per year.
- The State places no limit on the number of sick days an employee can accumulate, which is in line with Central US States (90%), while only 27% of the general market has no maximum accumulation of days.

## Disability Benefits

- The State provides immediate eligibility as does 67% of Central US States, while only 50% of the general market group does.
- The State does not provide a stand along long term disability benefit (LTD), but rather, provides for disability benefits through the retirement plan. The benefit provides 25% of final average salary to disabled employees, subject to disability requirements. The benefit structure is not common in general market organizations, but is still seen in public sector organizations due to the continued high prevalence of defined benefit plans.
  - Most general market (77%) and Central US States (54%) provide employer paid LTD
  - The benefit provided is typically 60% of pay (70% of general market and 80% of Central US States).
- The State's overall disability program is below market due primarily to the low long term disability benefit provided through the pension plan. Considered on its own, the short term disability benefit is also below market. The long term disability benefit structure is not in line with current market practice for either the general market or Central US States.

## Health Care Benefits

- The State's most prevalent plan is a PPO plan. A PPO plan is the most common for both comparator groups (68% general market and 50% for Central US States).
- The State pays the full premium and requires no contributions for single or family coverage. This feature puts the State above both markets.
  - 7% of general market employers and 40% of Central US States provide employer paid coverage for single coverage. Only 3% of the general market and 0% of Central US States provide employer paid coverage for dependents.
  - The most prevalent cost sharing range for employee coverage is 15% to 29% for the general market (56%) and less than 15% for the Central US States (60%).
  - The most prevalent cost sharing range for dependent coverage is 15% to 29% for both markets (54% of the general market and 72% of Central US States).
- 65% of the general market and 50% of Central US States pay 90% or 100% for inpatient hospital, surgical, outpatient charges, while the State pays 80%.
- The State's individual deductible of \$400 is close to market when compared to both groups. 55% of the general market and 58% of Central US States have a deductible of \$400 or less. The State's \$1,200 family deductible is proportional to the individual deductible, but is less competitive, as 57% of the general market and 71% of Central US States have a family deductible of \$900 or less.

## Health Care Benefits

- The State's individual and family out of pocket maximums of \$750 and \$1,500, respectively, are above market.
  - 94% of the general market and 86% of Central US States have an individual maximum of \$1,000 or greater
  - 93% of the general market and 83% of Central US States have a family maximum of \$2,000 or greater.
- The State maintains a 3 tier prescription drug program, as do most general market and Central US States. However, the State also requires a prescription coinsurance – 15% generic, 25% brand formulary, 50% non-formulary – as well as a separate \$1,000 out of pocket maximum, which is not common market practice.
- 33% of the general market and 78% of Central US States provide coverage to early and normal retirees, as the State does. The State shares the cost with retirees while only 17% of Central US States do. 61% of the general market shares the cost.

## Health Care Benefits

- The State's dental coverage is competitive with two exceptions:
  - The State's annual benefit maximum of \$1,000 is low. 67% of the general market and 60% of Central US States have a maximum of \$1,500 or greater.
  - Dental coverage is 100% employee paid. Only 10% of the general market and 20% of Central US States are fully employee paid. Most share the cost – 71% of the general market and 60% of Central US States.
- The State provides a separate vision plan, as do most general market employers and Central US States.
- The State's health care program is at market due to the following:
  - No employee premium contributions (+)
  - Low annual out of pocket maximums (+)
  - 80% coinsurance (-)
  - Prescription coverage (-)
  - Employee paid dental (-)

# Retirement Benefits

## Defined Contribution Plan

- The State offers a 457 plan but does not make any employer contributions to the plan.

## Defined Benefit Plan

- The State offers a final average pay pension plan to employees. The plan requires employees to contribute 4%.
- The plan benefit is 2% of pay per year of service.

## Retirement Program Trend

- The trend towards defined benefit plan terminations continues, fueled more recently by the economic downturn. Many organizations across industries continue to restructure the overall design of their retirement programs and have begun to shift more attention to their defined contribution plans in an attempt to reduce costs. Efforts in this area often include reductions in the defined benefit formula (if applicable) in favor of higher employer contributions to the defined contribution plan

## Retirement Benefits

- General market organizations typically provide a defined contribution plan with employer contribution only (60%), with only 30% providing both a defined contribution plan with employer contribution and a defined benefit plan.
- All Central US States provide a defined benefit plan and defined contribution plan. Half the group provides an employer contribution to the DC plan while the other half does not.
- The 3 year vesting schedule is better than both general market defined contribution plan vesting schedules and Central US States defined benefit plan schedules (5 years).
- As mentioned in the disability benefit section, the retirement plans provide employees with a disability benefit of 25% of salary, subject to disability requirements.
- The State's retirement program is currently at market; however, there is increasing prevalence in the public sector of employer contributions to defined contribution plans, which will decrease the value of the State's program in the future.

# Holiday and Vacation Program & Other Benefits

## Holiday and Vacation Program

- The State provides 10.5 paid holidays per year. 59% of the general market and 90% of Central US States provide 10 or more holidays.
- The State's vacation schedule is competitive against both the general market and Central US States for employees at various stages of service. The 24 day maximum is at market.
- Accordingly, we have determined that the State provides a market competitive paid time off program.

## Other Benefits

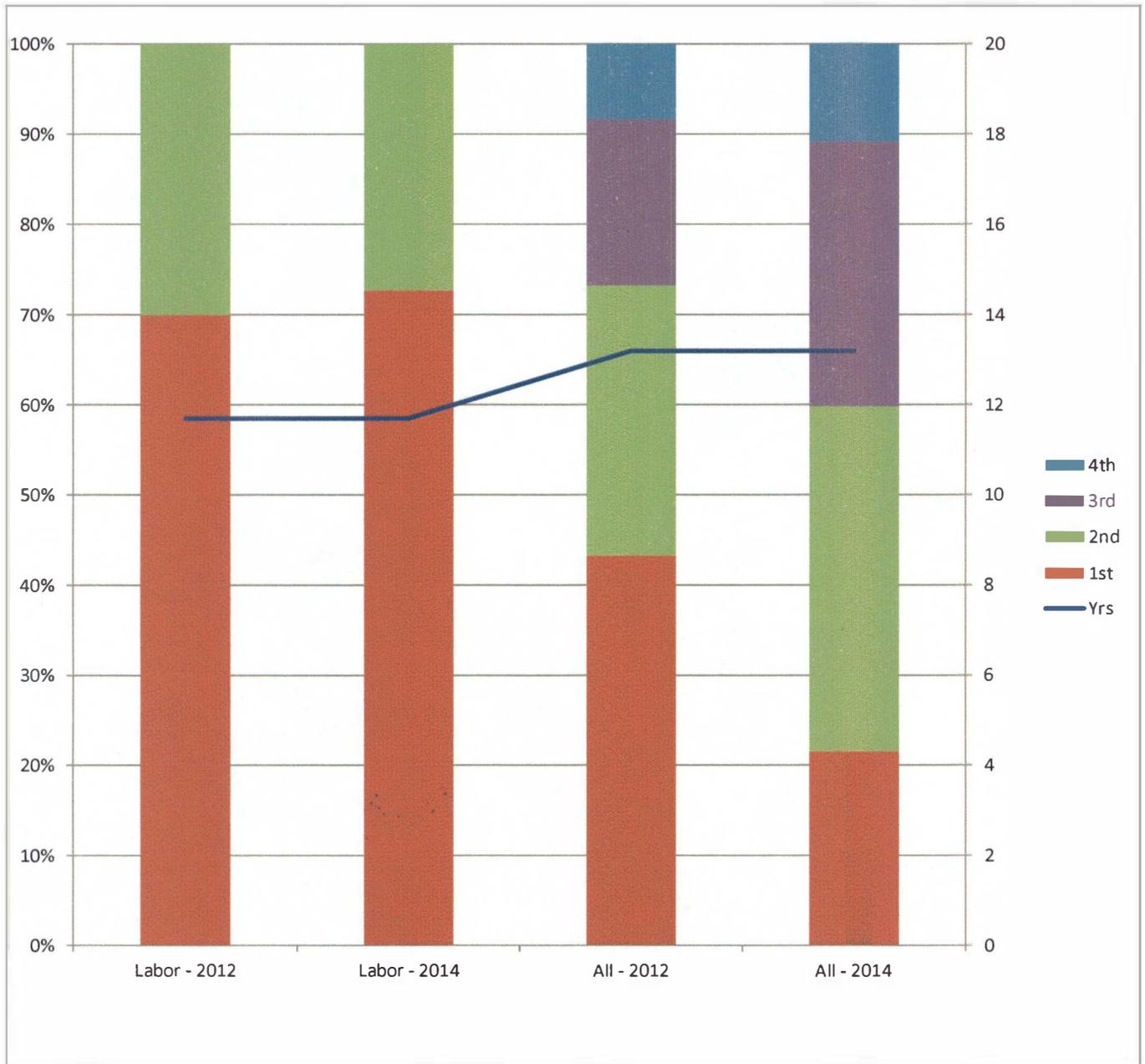
- The State provides health care and dependent care spending accounts to its employees. No tuition reimbursement or commuting assistance is provided to employees. Due to the low level of employer paid benefits in this category, the State is below market in comparison to the general market and Central US States.

EXAMPLE

		Relativity to Market Policy Position *				+ Meet Standards		+ Exceed Standards		Current C/R		Projected 2013 C/R		Projected 2014 C/R														
		0%				3.0%		5.0%		0.81		0.84		0.87														
		1 - 2.0%		+		3.0%		5.0%																				
		2 - 4.0%																										
* ALL increases contingent upon Performance Meeting Standards																												
		CURRENT							2013				2014															
									Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2013				Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2014			
Yrs Svc	Job Title	FTE Ann Sal	Grade	Market Policy Point	FTE	C/R (Current)	2012 Qtl	%%	\$\$	%%	\$\$	%%	\$\$	2013 New Salary	New MPP (3% range increment)	2013 New C/R	2013 Qtl	%%	\$\$	%%	\$\$	%%	\$\$	2014 New Salary	New MPP (3% range increment)	2014 New C/R	2014 Qtl	
0.2	ADMIN ASSISTANT I	25,920	F	34,505	1.00	0.75	1	4.0%	1,037	5.0%	1,296	9.0%	2,333	28,253	35,540	0.79	1	4.0%	1,130	3.0%	848	7.0%	1,978	30,231	36,606	0.83	1	
0.3	ADMIN ASSISTANT I	25,920	F	34,505	1.00	0.75	1	4.0%	1,037	5.0%	1,296	9.0%	2,333	28,253	35,540	0.79	1	4.0%	1,130	5.0%	1,413	9.0%	2,543	30,796	36,606	0.84	1	
2.0	ADMIN OFR II	42,696	K	55,414	1.00	0.77	1	4.0%	1,708	3.0%	1,281	7.0%	2,989	45,685	57,076	0.80	1	4.0%	1,827	3.0%	1,371	7.0%	3,198	48,883	58,788	0.83	1	
34.3	COMPLIANCE INVEST II	56,700	L	60,564	1.00	0.94	2	2.0%	1,134	5.0%	2,835	7.0%	3,969	60,669	62,381	0.97	2	2.0%	1,213	3.0%	1,820	5.0%	3,033	63,702	64,252	0.99	2	
11.2	COMPLIANCE INVEST II	47,376	L	60,564	1.00	0.78	1	4.0%	1,895	3.0%	1,421	7.0%	3,316	50,692	62,381	0.81	1	4.0%	2,028	5.0%	2,535	9.0%	4,563	55,255	64,252	0.86	1	
16.1	COMPLIANCE INVEST II	45,423	L	60,564	1.00	0.75	1	4.0%	1,817	5.0%	2,271	9.0%	4,088	49,511	62,381	0.79	1	4.0%	1,980	5.0%	2,476	9.0%	4,456	53,967	64,252	0.84	1	
22.4	COMPLIANCE INVEST II	54,840	L	60,564	1.00	0.91	2	2.0%	1,097	3.0%	1,645	5.0%	2,742	57,582	62,381	0.92	2	2.0%	1,152	3.0%	1,727	5.0%	2,879	60,461	64,252	0.94	2	
3.6	COMPLIANCE INVEST II	45,423	L	60,564	1.00	0.75	1	4.0%	1,817	5.0%	2,271	9.0%	4,088	49,511	62,381	0.79	1	4.0%	1,980	5.0%	2,476	9.0%	4,456	53,967	64,252	0.84	1	
9.0	COMPLIANCE INVEST II	46,272	L	60,564	1.00	0.76	1	4.0%	1,851	3.0%	1,388	7.0%	3,239	49,511	62,381	0.79	1	4.0%	1,980	3.0%	1,485	7.0%	3,465	52,976	64,252	0.82	1	
4.0	COMPLIANCE INVEST II	45,864	L	60,564	1.00	0.76	1	4.0%	1,835	5.0%	2,293	9.0%	4,128	49,992	62,381	0.80	1	4.0%	2,000	5.0%	2,500	9.0%	4,500	54,492	64,252	0.85	1	
10.3	HUMAN RIGHTS DIRECTOR - DOL	68,844	N	73,130	1.00	0.94	2	2.0%	1,377	3.0%	2,065	5.0%	3,442	72,286	75,324	0.96	2	2.0%	1,446	3.0%	2,169	5.0%	3,615	75,901	77,584	0.98	2	
10.3		505,278				0.81		3.5%	16,605	4.1%	20,062	7.5%	36,667			0.84		3.5%	17,866	3.9%	20,820	7.4%	38,686			0.87		

406 - Labor - 2012-14 Quartile Charts

HB1007  
January 21, 2013  
Attachment 3



Jack Dalrymple  
Governor

Tony J. Weiler  
Commissioner



HB1007  
January 21, 2013  
Attachment 4  
State Capitol - 13th Floor  
600 E. Boulevard Ave. - Dept. 406  
Bismarck, ND 58505-0340

[www.nd.gov/labor](http://www.nd.gov/labor)  
[www.nd.gov/humanrights](http://www.nd.gov/humanrights)

January 17, 2013

Representative Blair Thoreson  
House Appropriations-Government Operations Division

Dear Chair Thoreson and Members of the Committee:

During the Department of Labor's budget hearing on January 11, 2013, the committee asked that I follow up and answer several questions.

Attached to this letter you will find the following:

- North Dakota Department of Labor's organizational chart;
- Information with regard to the increase in the department's wage claims, as well as human rights complaints (supporting the request for a new FTE);
- The approximated cost to replace the department's computers; and
- Information responsive to the request by Representative Hawken as to how the department could better get out the word regarding our human rights division.

The information is attached at each tab. If you have any follow-up questions please don't hesitate to contact me.

Sincerely,

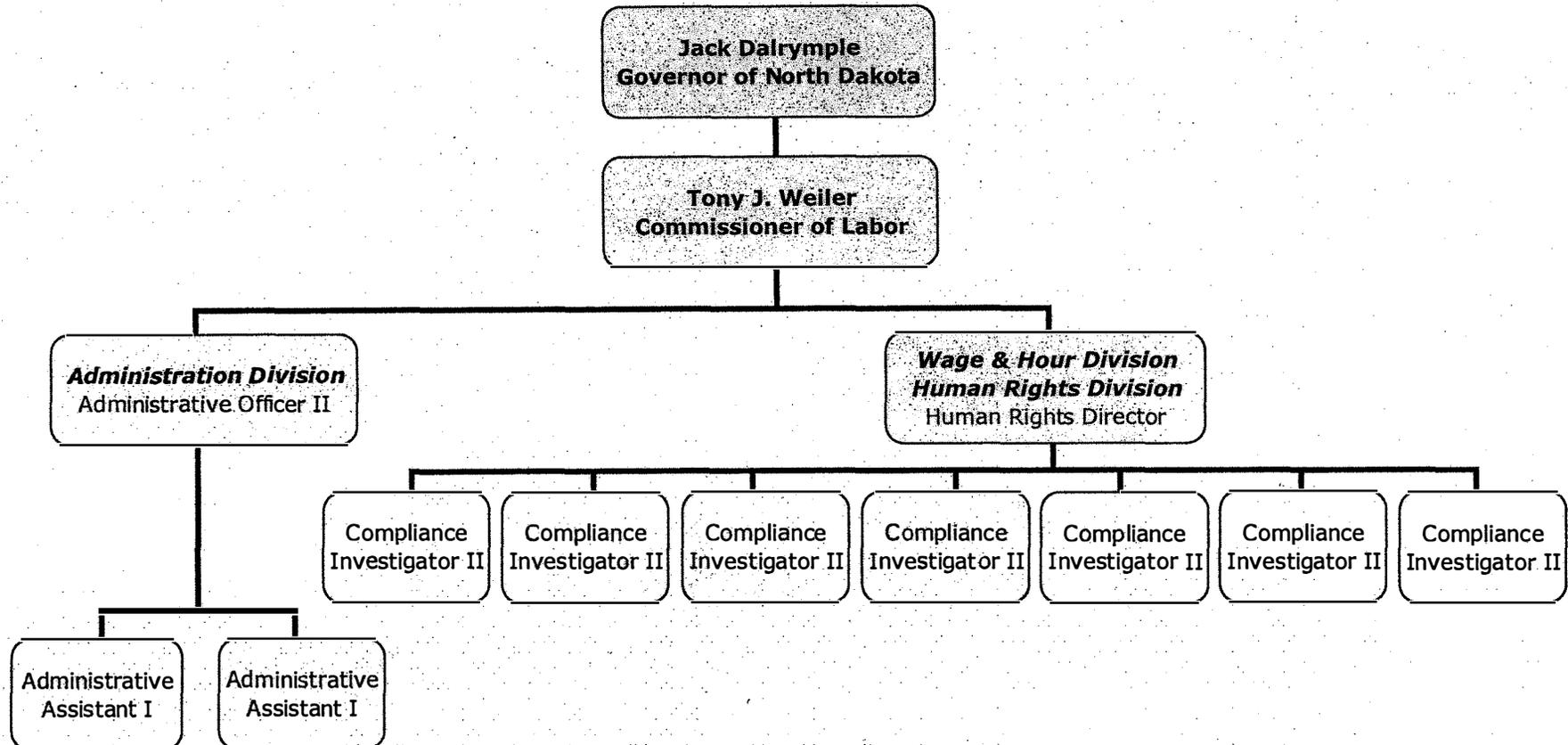
A handwritten signature in blue ink, appearing to read "Tony J. Weiler", is written over a white background.

Tony J. Weiler  
Commissioner of Labor

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Enc

# North Dakota Department of Labor

Organization Chart - March 2011



## Need for New FTE and increase in Wage Claims.

July 1, 2011 to December 31, 2012 (First 18 Months of Current Biennium):

- Resolved/Closed 749 claims for unpaid wages
- Collected \$692,154.70 for workers
- Received 878 wage claims (average of 48.78 per month)
- One month received 79 wage claims (most ever in a month)
- June 30, 2012, 135 pending claims; Dec. 31, 2012, number increased to 194
- Resolved 296 informal complaint inquiries, and collected \$69,308.62 as a result
- Reviewed 1,764 Employment and Age Certificates for 14 and 15 year olds
- Received an average of 881 telephone, email, and "walk-in" inquiries a month

Time to closure increased from 64 days between 7/1/2011 and 12/31/2011 to 75 days between 7/1/2012, and 12/31/2012. With 194 now pending it is likely to take significantly longer to close these claims.

July 1, 2009 to June 30, 2011:

- Resolved/Closed 680 wage claims
- Collected \$423,678 for workers
- Received 685 wage claims (average of 28.54 per month)
- June 30, 2010, 54 pending claims; June 30, 2011, 65 open wage claims
- Resolved 333 informal complaint inquiries, and collected \$76,335 as a result
- Reviewed 2,169 Employment and Age Certificates

July 1, 2007 to June 30, 2009:

- Resolved/Closed 692 wage claims
- Collected \$550,500 for workers
- Received 690 wage claims (an average of 28.75 per month)
- On June 30, 2009 there were 60 pending
- Resolved 352 complaint inquiries, and collected \$102,740 as a result
- Reviewed 2,563 Employment and Age Certificates

## New Housing and Human Rights claims:

July 1, 2011 to December 31, 2012 (First 18 Months of Current Biennium):

- Resolved 230 employment discrimination complaints
- 50 housing discrimination complaints
- 25 complaints alleging discrimination in public accommodations and public services

- 58 Complaints of Retaliation (CORs)

July 1, 2009 to June 30, 2011:

- Resolved 363 employment discrimination complaints
- 76 housing discrimination complaints
- 48 complaints alleging discrimination in public accommodations and public services
- 72 Complaints of Retaliation (CORs)

The department added a new Compliance Investigator II following the 2009 legislative session. This was due to an increase in the number of claims the department was receiving, and the large workload the department was experiencing. To support the need for a new FTE, then Labor Commissioner Lisa McEvers told the legislature about significant numbers of overtime hours being worked by department employees. During the first 18 months of the 2007-2009 biennium, the department spent more than twice the amount that was appropriated to pay for overtime (\$10,000), or nearly \$25,000. In addition to payment for overtime, compensatory time earned in lieu of overtime during the same period had a value of over \$12,000. This would also mean the investigators were working a significant number of extra hours.

The newly hired investigator helped the department reduce overtime, improved employee morale, and kept the caseload manageable. For example, the average days to closure in public service, public accommodation, and credit transaction cases stayed relatively steady (from 166 days in the 07-09 biennium to 172 days in the 09-11 biennium) with the addition of the new investigator. In employment discrimination cases, the time to closure went from 153 days (07-09) to 113 days (09-11). We are currently averaging 168 days in public service, public accommodation, and credit transaction cases, and 129 days to closure in employment cases.

**North Dakota Department of Labor  
Estimated Computer Costs**

<b>Item</b>	<b>Amount</b>
Computers, Monitors, Accessories	\$15,950.00
Software	\$4,290.00
Installation	\$2,600.00
<b>Total</b>	<b>\$22,840.00</b>

Representative Hawken asked what could be done to get the word out to North Dakotans that we have a Human Rights Division. First, we work very hard to let people know we not only handle wage and hour disputes in North Dakota, but that we also handle Human Rights complaints. We do this by distributing printed brochures and materials, speaking publicly around the state, through information provided to those who contact our office, and through our website. Second, we recently conducted a campaign to get the word out about housing discrimination in North Dakota. We partnered with Legal Services of ND to apply for a HUD grant and were awarded \$165,400 as a result.

This was a two-pronged outreach and education effort that included presentations in Williston, Watford City, Dickinson, Minot, and Bismarck, North Dakota. During the relevant period we also conducted housing training in Fargo and Grand Forks, North Dakota. The presentations were publicized in local newspapers in the respective communities and were open to all free of charge. These occurred between April and September of 2012. We also produced updated brochures, purchased a New Fair Housing specific banner, and promotional items to distribute during these events.

The second prong was the production of two new Fair Housing Public Service Announcements (PSAs) for statewide airing. These began airing in July and ran through September of 2012. The PSAs reached virtually every adult in the state several times during that three month period. We will also be putting these PSAs on the North Dakota Department of Labor's website.

The specific deliverables and cost were as follows:

- Purchased new Fair Housing and Human Rights Brochures. **COST \$1,205**
- Purchased new promotional items, including sticky notes in the shape of a house. All of these items promote Fair Housing in North Dakota and specifically include the language "Fostering Fair Housing." **COST \$4,255**
- Purchased a new Fair Housing banner which is specific to housing and more easily transferred and setup than previous banners. **COST \$183**
- Conducted housing presentations in the following cities **COST \$3,800**
  - Bismarck, North Dakota - April, 2012
  - Watford City, North Dakota - May 2012
  - Williston, North Dakota - May 2012
  - Fargo, North Dakota - June, 2012
  - Minot, North Dakota - September, 2012
  - Dickinson, North Dakota - September, 2012
  - Grand Forks, North Dakota - September, 2012
- In conjunction with the Housing Presentations we purchased advertising in the Williston Herald, the Plains Recorder (Watford City paper), The Bismarck Tribune, and the

Dickinson Press. In conjunction with the Minot Fair Housing event, there were also radio ads purchased for promotional purposes. **COST \$2,325**

- The North Dakota Department of Labor also produced two new housing PSAs which are linked on our website. The PSAs aired on the radio and television in July, August, and September of 2012. This extensive campaign was intended to reach every adult in North Dakota at least one time. **COST to Produce PSAs: \$30,000**

**COST for PSA Placement: \$124,000**

I believe this provides a fair estimate of what a PSA campaign would cost to get the word out on the department's Human Rights Division.

13.8136.01002  
Title.  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Representative Glassheim  
January 28, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1007

Page 1, replace lines 12 and 13 with:

"Operating expenses	<u>316,294</u>	<u>107,400</u>	<u>423,694</u>
Total all funds	\$1,964,636	\$460,507	\$2,425,143"

Page 1, replace line 15 with:

"Total general fund	\$1,540,125	\$447,092	\$1,987,217"
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Page 1, after line 16, insert:

**"SECTION 2. TRAINING FOR PERSONS WITH DISABILITIES.** The operating expenses line item in section 1 of this Act includes the sum of \$100,000 from the general fund for the labor commissioner to contract with an organization operated by persons with disabilities to provide statewide training to persons with disabilities and to those who interact with persons with disabilities, for the biennium beginning July 1, 2013, and ending June 30, 2015. The training for persons with disabilities must be done with significant involvement by persons with disabilities and must include methods of removing barriers to employment; education about rights and responsibilities, including voting, decisionmaking, and problem-solving; skills development; and self-advocacy."

Reorder accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$2,001,449		\$2,001,449
Operating expenses	<u>323,694</u>	100,000	<u>423,694</u>
Total all funds	\$2,325,143	\$100,000	\$2,425,143
Less estimated income	<u>437,926</u>	0	<u>437,926</u>
General fund	\$1,887,217	\$100,000	\$1,987,217
FTE	13.00	0.00	13.00

**Department No. 406 - Labor Commissioner - Detail of House Changes**

	Adds Funding for Training Persons With Disabilities <sup>1</sup>	Total House Changes
Salaries and wages		
Operating expenses	<u>100,000</u>	100,000
Total all funds	\$100,000	\$100,000
Less estimated income	<u>0</u>	0
General fund	\$100,000	\$100,000
FTE	0.00	0.00

1This amendment provides funding for the Labor Commissioner to contract with an organization to provide training to persons with disabilities and to those who interact with persons with disabilities.

13.8136.01002  
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 Fiscal No. 1

Prepared by the Legislative Council staff for  
 Representative Glassheim  
 January 28, 2013

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Renumber accordingly

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1This amendment provides funding for the Labor Commissioner to contract with an organization to provide training to persons with disabilities and to those who interact with persons with disabilities.

HB 1007  
February 13, 2013  
Attachment 2

**Glassheim, Eliot A.**

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**From:** Janelle Carlson <jcarlson@ableinc.net>  
**Sent:** Tuesday, February 05, 2013 11:42 AM  
**To:** Glassheim, Eliot A.  
**Subject:** amended House Bill 1007

Representative Glassheim,

This is Janelle Carlson from ABLE, Inc. in Dickinson, ND. I was thrilled to meet you at Southwest Night at the Legislature and even more glad to hear of your interest in self-advocacy for people with disabilities. I've been with ABLE, Inc. for 15 years; this agency is like family and this work is truly my passion. I currently do case management and help coordinate a program for adults who live in their own apartments with staff coming in to support them. I was fortunate enough in 2011 to be a part of the Partners in Policymaking group through the Arc of Bismarck, opening my eyes to the true nature of my work. Since then, I have come to know Carla Tice and have been inspired by the advocates at SAS. We were lucky enough to have the state self-advocacy conference in Dickinson, ND in 2011 and this was truly the first exposure to self-advocacy for many people that I help support here. It was a powerful experience for all and many people that normally would need my support, were instead, leaning on each other. I was an observer. At the end of the weekend, a microphone was passed around the room and I heard people speak up that had never spoken up before. When we left that day, new friends said tearful goodbyes and I knew that things had changed in the lives of many. I saw a shift in people's thinking and it carried over into their everyday lives. One of my friends, a 30 year old woman with Down's Syndrome, started making choices in her life that she'd never had the courage to do before. Three people from our community signed up that next year to attend Partners in Policymaking to learn more about advocating for themselves.

Self-advocacy is essential because people are not perfect. The system is not perfect. There is no guarantee for people with disabilities that they will have the kind of care or support that they want or need. They need to have a network of people in their lives whom they can consult or go to, who understand what they are experiencing and who can offer advice. This is not easy for people with disabilities considering most of them have people in their lives EVERY DAY trying to control them and most can't even drive themselves where they want to go. Many don't have the confidence to use their voices... unless they have a support network of other self-advocates backing them up. The people at organizations such as SAS are educating, sharing, and learning from each other. I'd like to believe that as a case manager, I have great ability to help people make change in their lives but the reality is... I'm sometimes just part of the system. I don't really know what it's like to have a disability. It's comparable to people who are struggling with a diet deciding to go to a Ms. America pageant for confidence in losing weight. Absolutely not! They go to Weight Watchers where there are others who can relate and help them find success. On this same note, self-advocates find their strength from seeing the success and encouragement of others who have walked a similar path. This is a key component of people with disabilities' success that has been long overlooked and underestimated in many places. I know that many people say that it is not the state's responsibility to dedicate funds to this. The reality is that the state contributes to the support of people with disabilities in their homes and workplaces to meet their needs. That is a need that will never end. I would love to see some funding allocated to help more people build confidence through each other and in turn, more independence. The more that they can lean on each other and build strength, the less support that "the system" has to provide. And even if the margins were minimal, it sure FEELS GOOD to be around people who just "get you".

SAS is the most visible and active self-advocacy group in our state. Although SAS is clear across the state from Dickinson, ND, this group DOES have an impact on our side of the state. They pushed our self-advocates to do awareness at our university to "shred" the R word. They stay connected on social networks and send newsletters to provide inspiration. We were pleased to hear that they would be coming to do a voter training this past fall and were delighted to see all of our friends (including Bobby Vogel for the last time). The information presented at this training was wonderful but unfortunately the timing was not great for attendance. These meetings should be held in the evening hours since many people are working during the day. This would require a larger budget for SAS since they'd have to stay over an additional night to accommodate all but the work that they do makes such an impact, it's worth it. I would love to see a self-advocacy group function independently in our area but unfortunately we have nothing at this time. For something to build, there must be leadership and connection. And the reality is, as an agency, we are having difficulty just finding staff to work with people in their homes (due to oil activity) and have none available to support self-advocacy efforts.

I am definitely in support of the state of North Dakota under the Labor Department, in supporting and funding an organization that is run for and by people with disabilities in advocacy of trainings in supporting disabilities in the workforce/employment, rights, personal responsibility, speaker's bureaus, transportation, accessibility and other important

issues facing Self-Advocates in our state. I encourage you to support amended House Bill 1007 on this matter. I hope that my perspective is helpful in some way and please feel free to pull excerpts of this letter to share with others. If there is anything else that I can do or say, please let me know. I'd be happy to help!



*Janelle Carlson*

QMRP  
ABLE, Inc.  
1951 1st ST W  
Dickinson, ND 58601  
(701) 456-3000 or (701) 456-3007

HB1007  
February 13, 2013  
Attachment 3

House Bill 1007

Good morning Representative Blair Thoreson and Committee members:

My name is Helen Bechold, I am a self advocate. I would like you to support an appropriation to (HB 1007) to fund self advocacy training.

I think you should support statewide self advocacy training by and for people with disabilities. I have been doing self advocacy work since May 14<sup>th</sup> 1987. I was founding member to the first self advocacy group in North Dakota.

I believe that self advocacy has changed not only my life but the life of many other people with disabilities.

I have taught college classes, over 5000 since 1991,

It helps people with people gain confidence and knows their communities, rights and how to speak up. It helps the general public to understand people with disabilities, with more understanding and knowledge there is less discrimination and Self-Advocacy has a dream that everyone is treated fairly.

Please support this appropriation for this self advocacy grant.

Thank you

Helen Bechold, 615 1<sup>st</sup> Ave S. Apt. 47, G.F. , N.D 58201

HB 1007  
February 13, 2013  
Attachment 4

Thus, Transportation and Housing are big issues I have worked on -and would like you to support HB 1007. This would help many other Self-Advocates that may be in the same boat, and that may need trainings with skills such as leadership, assertiveness, rights and responsibilities that are essential in our movement.

I would like to help share and train others across our great state with others with disabilities – and as being a leader in Self-Advocacy it is critical for funding for these of programs.

Please support this and thanks for your consideration.

Darcy Andhahl, 158 E Indiana, #104, Bismarck ND 58504

HB1007  
February 13, 2013  
Attachment 5

## House Bill 1007

Good morning Representative Blair Thoreson and Committee members:

My name is Allan Lee Marx, SR. I am a self advocate, from Western part of the state. I would like you to support an appropriation to (HB 1007) to fund self advocacy training.

I have a son, who was born with Cerebral Palsy. He was born in 1993. He is 19 now, and is a college student at University of Mary. The first semester he had one B, and the rest were all A's. He is going to school to become a motivational speaker and public speaking. I am so proud of him. He gave a speech at a Self-Advocacy Conference and he said, he was following his Dad's footsteps in this Self-Advocacy movement. He a mover and a shaker and he want everyone with disabilities to be able to be all they can be. Go to school, have a good job, have great friends, have a world that is accessible. Self-Advocacy made a difference in my life, and in my sons. I too speak and teach others about respectful language, how to run a meeting, I am organized, I work on the family farm and I run the operation for my brother. My life is good, because I know what I want and I know how to get support when I need it and Self-Advocacy helped with this. Please support the amendment to HB 1007.

Allan Marx, PO Box 703 Belfield, N.D. 58622

B1007

Amendment 15 attached

13.8136.01003  
Title.

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations Division Committee  
February 15, 2013

Fiscal No. 3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1007

Page 1, remove lines 11 through 13

Page 1, after line 13 insert:

"Salaries and wages	\$1,648,342	\$231,256	\$1,879,598
Accrued leave payments	0	39,609	39,609
Operating expenses	<u>316,294</u>	<u>107,400</u>	<u>423,694</u>
Total all funds	\$1,964,636	\$378,265	\$2,342,901"

Page 1, remove line 15

Page 1, replace line 11 with:

"Total general fund	\$1,540,125	\$364,850	\$1,904,975"
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Page 1, after line 16, insert:

**"SECTION 2. TRAINING FOR PERSONS WITH DISABILITIES.** The operating expenses line item in section 1 of this Act includes the sum of \$100,000 from the general fund for the labor commissioner to contract with an organization operated by persons with disabilities to provide statewide training to persons with disabilities and to those who interact with persons with disabilities, for the biennium beginning July 1, 2013, and ending June 30, 2015. The training for persons with disabilities must be done with significant involvement by persons with disabilities and must include methods of removing barriers to employment; education about rights and responsibilities, including voting, decisionmaking, and problem-solving; skills development; and self-advocacy."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

House Bill No. 1007 - Labor Commissioner - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$2,001,449	(\$121,851)	\$1,879,598
Operating expenses	323,694	100,000	423,694
Accrued leave payments		39,609	39,609
Total all funds	\$2,325,143	\$17,758	\$2,342,901
Less estimated income	437,926	0	437,926
General fund	\$1,887,217	\$17,758	\$1,904,975
FTE	13.00	0.00	13.00

Department No. 406 - Labor Commissioner - Detail of House Changes

	Adds Funding for Training Persons with Disabilities <sup>1</sup>	Corrects Executive Compensation Package <sup>2</sup>	Adjusts State Employee Compensation and Benefits Package <sup>3</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>4</sup>	Total House Changes
Salaries and wages		\$5,731	(\$87,973)	(\$39,609)	(\$121,851)
Operating expenses	100,000				100,000
Accrued leave payments				39,609	39,609
Total all funds	\$100,000	\$5,731	(\$87,973)	\$0	\$17,758
Less estimated income	0	0	0	0	0
General fund	\$100,000	\$5,731	(\$87,973)	\$0	\$17,758
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup>This amendment provides funding for the Labor Commissioner to contract with an organization to provide training to persons with disabilities and to those who interact with persons with disabilities. A section is added providing direction on the use of the funding.

<sup>2</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>3</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

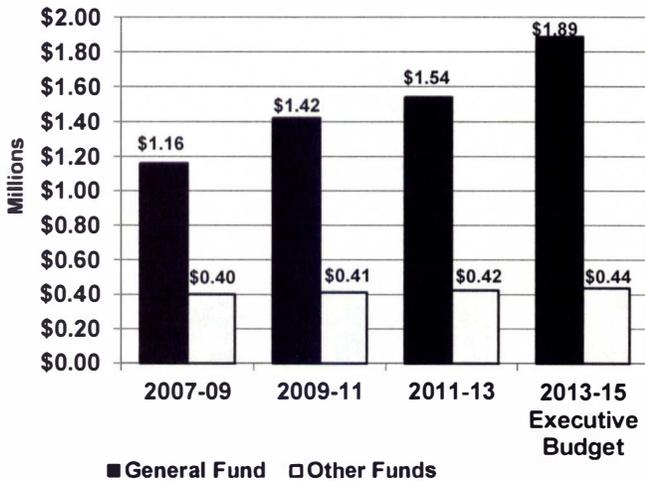
<sup>4</sup>A portion of salaries and wages funding from the general fund (\$32,790) and from other funds (\$6,819) for permanent employees compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

**Department 406 - Labor Commissioner  
 House Bill No. 1007**

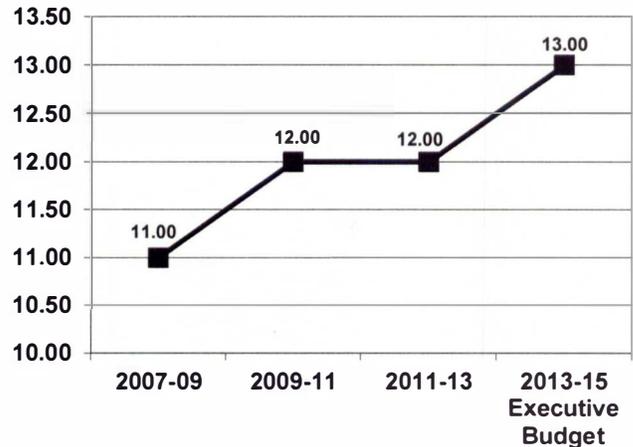
	FTE Positions	General Fund	Other Funds	Total
2013-15 Executive Budget	13.00	\$1,887,217	\$437,926	\$2,325,143
2011-13 Legislative Appropriations	12.00	1,540,125	424,511	1,964,636 <sup>1</sup>
Increase (Decrease)	1.00	\$347,092	\$13,415	\$360,507

<sup>1</sup>The 2011-13 appropriation amounts do not include \$10,000 of technology funding carryover from the 2009-11 biennium and \$165,400 of federal funding from a Fair Housing Grant approved by the Emergency Commission during the 2011-13 biennium.

**Agency Funding**



**FTE Positions**



**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2013-15 Executive Budget	\$1,887,217	\$0	\$1,887,217
2011-13 Legislative Appropriations	1,540,125	0	1,540,125
Increase (Decrease)	\$347,092	\$0	\$347,092

**First House Action**

Attached is a summary of first house changes.

**Executive Budget Highlights  
 (With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Provides funding for state employee salary increases of which \$88,869 relates to performance increases and \$66,568 is for market equity adjustments. <b>The House added \$5,731 to correct the executive compensation package and reduced funding by \$74,841 relating to performance and market equity adjustments.</b>	\$155,437		\$155,437
2. Adds funding for one FTE Compliance Investigator position	\$91,150	\$19,813	\$110,963

**Continuing Appropriations**

There are no continuing appropriations for this agency.

**Significant Audit Findings**

There are no significant audit findings for this agency.

**Major Related Legislation**

**House Bill No. 1369** - Changes the name of the Labor Department to Department of Labor and Human Rights.

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Funding Summary**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Labor Commissioner			
Salaries and wages	\$2,001,449	(\$121,851)	\$1,879,598
Operating expenses	323,694		323,694
Accrued leave payments		39,609	39,609
<b>Total all funds</b>	<b>\$2,325,143</b>	<b>(\$82,242)</b>	<b>\$2,242,901</b>
Less estimated income	437,926	0	437,926
<b>General fund</b>	<b>\$1,887,217</b>	<b>(\$82,242)</b>	<b>\$1,804,975</b>
FTE	13.00	0.00	13.00
<b>Bill Total</b>			
Total all funds	\$2,325,143	(\$82,242)	\$2,242,901
Less estimated income	437,926	0	437,926
<b>General fund</b>	<b>\$1,887,217</b>	<b>(\$82,242)</b>	<b>\$1,804,975</b>
FTE	13.00	0.00	13.00

**House Bill No. 1007 - Labor Commissioner - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$2,001,449	(\$121,851)	\$1,879,598
Operating expenses	323,694		323,694
Accrued leave payments		39,609	39,609
<b>Total all funds</b>	<b>\$2,325,143</b>	<b>(\$82,242)</b>	<b>\$2,242,901</b>
Less estimated income	437,926	0	437,926
<b>General fund</b>	<b>\$1,887,217</b>	<b>(\$82,242)</b>	<b>\$1,804,975</b>
FTE	13.00	0.00	13.00

**Department 406 - Labor Commissioner - Detail of House Changes**

	<b>Corrects Executive Compensation Package<sup>1</sup></b>	<b>Adjusts State Employee Compensation and Benefits Package<sup>2</sup></b>	<b>Provides Separate Line Item for Accrued Leave Payments<sup>3</sup></b>	<b>Total House Changes</b>
Salaries and wages	5,731	(87,973)	(39,609)	(121,851)
Operating expenses				
Accrued leave payments			39,609	39,609
<b>Total all funds</b>	<b>\$5,731</b>	<b>(\$87,973)</b>	<b>\$0</b>	<b>(\$82,242)</b>
Less estimated income	0	0	0	0
<b>General fund</b>	<b>\$5,731</b>	<b>(\$87,973)</b>	<b>\$0</b>	<b>(\$82,242)</b>
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup> A portion of salaries and wages funding from the general fund (\$32,626) and from other funds (\$6,983) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

Jack Dalrymple  
Governor

Tony J. Weiler  
Commissioner



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

[www.nd.gov/labor](http://www.nd.gov/labor)  
[www.nd.gov/humanrights](http://www.nd.gov/humanrights)

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**Testimony on HB 1007  
Prepared for the  
Senate Appropriations Committee**

**March 6, 2013**

Good morning Chairman Holmberg and members of the Senate Appropriations Committee, my name is Tony Weiler, and I am the Commissioner of Labor.

**Department Responsibilities and Background**

The Department of Labor has two primary areas of responsibility. The first is establishing and enforcing rules relating to the wages and working conditions of employees in North Dakota. This is our Wage and Hour division. Second, the department administers and enforces human rights laws under the North Dakota Human Rights Act and the North Dakota Housing Discrimination Act. Under these anti-discrimination laws, the department receives and investigates complaints alleging discrimination in employment, housing, public services, public accommodations, and credit transactions. As required by law, the department emphasizes conciliation to resolve complaints, provides administrative hearings on complaints where there is probable cause to believe a discriminatory practice has occurred, and fosters prevention of discrimination through education about the rights and responsibilities provided under North Dakota human rights laws.

In addition to receiving and investigating complaints directly from individuals who believe they have been victims of unlawful discrimination under state anti-discrimination laws, the department's Human Rights Division also investigates cases for the United States Department of Housing and Urban Development (HUD) and the Equal Employment Opportunity Commission (EEOC). The department obtains significant relief for claimants and aggrieved persons who file complaints with the department, both monetary and affirmative.

**Workload**

During the first eighteen months of the current biennium, the department's Wage and Hour Division resolved 749 claims for unpaid wages and collected \$692,154.70 for workers. For comparison, during the entire 2009-11 biennium, we closed 680 and collected \$423,678. In addition, the department resolved 296 informal complaint inquiries alleging noncompliance with state labor laws and

collected \$69,308.62 as a result, reviewed 1,764 Employment and Age Certificates (work permits) for 14 and 15 year old workers, and received an average of 881 telephone, email, and "walk-in" inquiries from citizens around the state each month.

The number of wage claims the department receives continues at an all time high. During the first 18 months of this biennia, the department received 878 wage claims. This is an average of 48.78 per month, and in one month alone (September 2012), we received 79 (highest number). In January 2013 we opened 76 and in February 53 wage claims. This is a dramatic increase over the last two bienniums. In the 2007-09 biennium, 690 wage claims were opened, for an average of 28.75 per month. In the 2009-2011 biennium, we opened 685 wage claims for an average of 28.54 per month. As you can see, we are currently receiving almost two times the number of wage claims per month as we did in the previous two bienniums, and in some months almost three times as much.

For an investigative staff of 7, this is a very significant increase. Further, it is going to take us longer to investigate these claims because we are so busy, and when you are dealing with a person's wages, that is a real concern. For example, the number of pending claims has also risen significantly. On June 30, 2009 there were 60, on June 30, 2010, there were 54, and on June 30, 2011 the department had 65 open wage claims. On June 30, 2012 that number increased to 135 pending claims, and at the end of 2012, that number increased to 194. We currently have 210 pending claims. North Dakota has never had more employees or employers, and we do not see that number decreasing any time soon. As a result, I believe we will continue to receive a high number of wage claims. Not only have the numbers increased, the complexity of the claims is growing, and it takes us longer on bigger, more complex claims.

Now, turning to human rights and discrimination claims, the department resolved 230 employment discrimination complaints, 50 housing discrimination complaints, 25 complaints alleging discrimination in public accommodations, public services, and credit transactions, and resolved 58 Complaints of Retaliation (CORs), which are also known as "whistleblower" laws, during the first eighteen months of the current biennium (2011-13).

During the 2009-11 biennium, the department resolved 363 employment discrimination complaints, 76 housing discrimination complaints, and 48 complaints alleging discrimination in public accommodations and public services. We also closed 72 CORs. These numbers have been fairly consistent the last few bienniums, but we do expect human rights complaints, particularly in the area of employment, to rise as the population of North Dakota continues to increase.

## **Public Education**

In addition to the department's enforcement duties, the Commissioner of Labor is required to "improve working conditions and living conditions of employees and advance their opportunities for profitable employment".... "foster, promote, and develop welfare of both wage earners and industries in N.D." . . . . and "promote friendly and cooperative relations between employers and employees." To do this, the department continues to broaden awareness of wage and hour issues and human rights protections through public education and outreach, working with groups representing human rights, business, labor, professional, and non-profit organizations. The department continues to provide speakers and trainers for conferences, workshops, schools, employers, labor organizations, businesses, landlord and tenant organizations, government agencies, and other community groups. The department provided 41 presentations during the first eighteen months of this biennium. This is just more than two times the amount of presentations we conducted during the first eighteen months of the last biennium. During the last legislative session, I told you this was an area I wanted to work on, and we have made strides in getting the word out. I am always looking at more and better ways to provide information to both employers and employees in North Dakota.

In addition to public education presentations, the department aired two new Housing public service announcements last year. We did this as part of a grant from HUD. We had information indicating that many North Dakotans did not understand what the state's housing discrimination laws are, who if anyone had jurisdiction over those laws, and where they could go if they had a problem. Both PSAs may be viewed on the department's website.

## **Budget Request**

I will now focus on the department's 2011-2013 appropriation, estimated 2011-13 spending and the status of one-time expenditures, 2013-15 budget needs, 2013-15 one time expenditures, and any variances. I will address these below.

In the current biennium, the department's total appropriation is \$1,964,636. Salaries and wages comprise \$1,648,342, with operating expenses accounting for the remaining \$316,294. The budget is a combination of general funds and \$424,511 in federal fund authority.

With respect to 2011-13 spending, the department expects to utilize nearly all the funding appropriated for salaries and benefits. With respect to operating costs, we will end the biennium under budget. This is due in large part because the department has not spent its entire appropriated amount on professional fees and services. Costs in this area include those related to hearings conducted by the Office of Administrative Hearings, fees for such professionals as architects (needed in housing discrimination cases involving accessibility and design/construction issues), foreign language interpreters, sign language interpreters, and any necessary Special Assistant Attorney's General which

would be required when there is a conflict of interest with the AG's Office in representing the department. These expenses are very unpredictable by nature, as there is little way to foresee litigation involving the department. We do intend, however, to purchase new computers this year at a cost of approximately \$23,000, and that will reduce our operating budget.

The department's federal funding, which supplements the legislatively approved state general funding, is received through work-sharing/cooperative agreements with the EEOC and HUD. Projections for federal funds show that the department is expected to receive about the same amount of federal revenue as in the 2011-13 biennium. The department has some flexibility as to when the money is received. Federal revenue is always speculative and uncertain, and we will continue to keep a close eye on how many cases we handle in an effort to ensure federal revenue matches projections. The sequestration issue is of great concern, and we have received word from HUD that our funding may be affected by these cuts.

The House amended our budget with respect to the compensation package. I support the Governor's Executive Recommendation, which proposed a total appropriation of \$2,325,143, and ask that it be reinstated. Of the total original recommended budget, \$2,001,449 was for salaries and wages, including salary for a new FTE.

The department's proposed operating budget in the Executive Recommendation is \$323,694. This is only \$7,400 more than the current biennium, and is mostly a reflection of the costs associated with a new FTE. I am hoping to continue to run a very cost conscious and effective department, and look for ways to cut costs where we can. The budget contains no one-time funding needs.

The department is asking for a new FTE, and I believe this is justified. We are looking to add a Compliance Investigator I to help with our ever growing number of wage claims. The starting salary for this position is around \$34,455 per year, and with added benefits the new employee's total general fund compensation amounts to \$91,150 for the biennium. This represents a large portion of the "Adjustments or Enhancements" found in HB 1007. The recommended compensation package will also help me deal with the compression issue my employees are feeling as a result of moving several employees up to the bottom of the new classifications.

My employees are hard working, dedicated public servants. They are, however, extremely busy and under a good deal of stress. We deal with people's wages, and when not receiving those wages means you can't put food on the table, keep a roof over your head, or simply meet the daily necessities of living, it becomes paramount that we address those claims in a timely manner. With more and more wage claims, we are taking longer to address them and make determinations for those North Dakota workers. I anticipate with the large number we now have pending, it will take us even longer to address those wage

claims and those that will continue to be filed. Not all wage claims are with merit, but the ones that are need to be addressed in a timely manner.

All of our current Compliance Investigators are classified as Compliance Investigator II, and with the exception of one, they are cross trained in all areas over which we have regulatory responsibility. The remaining investigator will start training for housing cases soon. For now, this new FTE will focus solely on wage claims.

Despite the effects of such fluctuations, overall the department does not anticipate major variances between the current biennium and the next.

You may ask what the department is doing to hold down costs. The agency's long-term plan for improving the efficiency and effectiveness of achieving its statutory duties continues. This includes the cross training efforts mentioned above, as well as allowing staff to work flexible schedules which allows them to work hours they believe are their most productive and increases employee satisfaction in working at the department. Finally, we will continue to look for ways to train employees in the most efficient and effective handling of our caseload area. This budget will allow us to continue to provide high quality services for citizens of North Dakota.

Thank you and I'd be happy to answer any questions.

Jack Dalrymple  
Governor

Tony J. Weiler  
Commissioner



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

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[www.nd.gov/humanrights](http://www.nd.gov/humanrights)

*R*

*HB 1007*

To: Senator Ray Holmberg and Members of the Senate Appropriations Committee

From: Tony J. Weiler *TJW*

Date: March 7, 2013

Senator Mathern requested that I provide information on the amount of time it takes us from opening a case to closing it. I am providing a report showing our averages for cases closed from July 1, 2012 through February 28, 2013. The "claim type" refers to the type of case, for example COR means Complaint of Retaliation, employment would be employment discrimination, and so on. The "average days open" is the total number of days from when a claim is filed with our office until closure. Finally, the "number of cases" indicates the number of cases that were closed during the relevant time period.

I am also attaching some information with respect to the increase in wage claims that our office has received, as well as some other information on housing and human rights claims. Please let me know if the committee has any other questions and I would be happy to provide answers and/or information.

*W*

**Averages For Cases Closed between 7/1/2012 and 2/28/2013**

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<b>Claim Type</b>	<b>Average Days Open</b>	<b>Number of Cases</b>
COR	57	35
Employment	157	102
Housing	192	32
Other Human Rights	264	15
Wage	79	430

## Increase in Wage Claims

July 1, 2011 to December 31, 2012 (First 18 Months of Current Biennium):

- Resolved/Closed 749 claims for unpaid wages
- Collected \$692,154.70 for workers
- Received 878 wage claims (average of 48.78 per month)
- One month received 79 wage claims (most ever in a month)
- June 30, 2012, 135 pending claims; Dec. 31, 2012, number increased to 194
- Resolved 296 informal complaint inquiries, and collected \$69,308.62 as a result
- Reviewed 1,764 Employment and Age Certificates for 14 and 15 year olds
- Received an average of 881 telephone, email, and "walk-in" inquiries a month

Time to closure increased from 64 days between 7/1/2011 and 12/31/2011 to 75 days between 7/1/2012, and 12/31/2012. With 194 now pending it is likely to take significantly longer to close these claims.

July 1, 2009 to June 30, 2011:

- Resolved/Closed 680 wage claims
- Collected \$423,678 for workers
- Received 685 wage claims (average of 28.54 per month)
- June 30, 2010, 54 pending claims; June 30, 2011, 65 open wage claims
- Resolved 333 informal complaint inquiries, and collected \$76,335 as a result
- Reviewed 2,169 Employment and Age Certificates

July 1, 2007 to June 30, 2009:

- Resolved/Closed 692 wage claims
- Collected \$550,500 for workers
- Received 690 wage claims (an average of 28.75 per month)
- On June 30, 2009 there were 60 pending
- Resolved 352 complaint inquiries, and collected \$102,740 as a result
- Reviewed 2,563 Employment and Age Certificates

## New Housing and Human Rights claims

July 1, 2011 to December 31, 2012 (First 18 Months of Current Biennium):

- Resolved 230 employment discrimination complaints
- 50 housing discrimination complaints
- 25 complaints alleging discrimination in public accommodations and public services

- 58 Complaints of Retaliation (CORs)

July 1, 2009 to June 30, 2011:

- Resolved 363 employment discrimination complaints
- 76 housing discrimination complaints
- 48 complaints alleging discrimination in public accommodations and public services
- 72 Complaints of Retaliation (CORs)

#1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1007

Page 1, replace lines 11 through 16 with:

"Salaries and wages	\$1,648,342	\$358,838	\$2,007,180
Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
Total all funds	\$1,964,636	\$366,238	\$2,330,874
Less estimated income	<u>424,511</u>	<u>13,415</u>	<u>437,926</u>
Total general fund	\$1,540,125	\$352,823	\$1,892,948"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$2,001,449	\$1,879,598	\$127,582	\$2,007,180
Operating expenses	323,694	323,694		323,694
Accrued leave payments		<u>39,609</u>	<u>(39,609)</u>	
Total all funds	\$2,325,143	\$2,242,901	\$87,973	\$2,330,874
Less estimated income	<u>437,926</u>	<u>437,926</u>	0	<u>437,926</u>
General fund	\$1,887,217	\$1,804,975	\$87,973	\$1,892,948
FTE	13.00	13.00	0.00	13.00

**Department No. 406 - Labor Commissioner - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Salaries and wages	\$87,973	\$39,609	\$127,582
Operating expenses			
Accrued leave payments		<u>(39,609)</u>	<u>(39,609)</u>
Total all funds	\$87,973	\$0	\$87,973
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$87,973	\$0	\$87,973
FTE	0.00	0.00	0.00

<sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1007

Page 1, replace lines 11 through 16 with:

"Salaries and wages	\$1,648,342	\$358,838	\$2,007,180
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Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1007 - Labor Commissioner - Senate Action**

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Operating expenses			
Accrued leave payments		(39,609)	(39,609)
	<u>\$87,973</u>	<u>\$0</u>	<u>\$87,973</u>
Total all funds			
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
	<u>\$87,973</u>	<u>\$0</u>	<u>\$87,973</u>
General fund			
FTE	0.00	0.00	0.00

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