

**2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1369**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HB 1369  
February 7, 2013  
18503

Conference Committee

Committee Clerk Signature

*Carmen Hart*

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

Relating to a name change from the department of labor to the department of labor and human rights

## Minutes:

You may make reference to "attached testimony."

**Chairman Jim Kasper** opened the hearing on HB 1369.

**Rep. Hawken** appeared in support of HB 1369. This bill changes the name of the department of labor to the department of labor and human rights. The majority party thought it might be better to put it in the department of labor as opposed to having a separate department. The job is being done. It is just the people don't know where to go to get it done.

**Rep. Gail Mooney** What is the website address?

**Rep. Hawken** It is the department of labor.

**Rep. Karen Rohr** There would be no additional job responsibilities and no FTE increases?

**Rep. Hawken** No.

There was no opposition.

## Neutral:

**Tony Weiler, Commissioner of Labor**, appeared neutral. **Attachment 1** (7:02-14:14) I did prepare a fiscal note. The fiscal note reflects some amounts for logos, signage and for mailing of posters, business cards, etc.

Hearing was closed.

**Vice Chair Randy Boehning** moved a Do Pass and refer to appropriations.

**Rep. Karen Rohr** seconded.

House Government and Veterans Affairs Committee

HB 1369

February 7, 2013

Page 2

A roll call vote was taken and resulted in **DO PASS AND REREFER TO APPROPRIATIONS, 12-0, 2 ABSENT. Rep. Vernon Laning** is the carrier of this bill.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/21/2013**

Bill/Resolution No.: HB 1369

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

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$5,929	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill would change the name of the Department of Labor to the Department of Labor and Human Rights. The name change overall, will have a fiscal impact.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Each section of the bill includes the new language changing the name to include "human rights." Please see the attachment for the specific, approximated costs. Primarily, the fiscal impact will include costs to update materials and change the name where it appears throughout the department.

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

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

No impact is anticipated.

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

Please see the attachment for details on the expenditure amounts.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The department's current appropriation in the Executive Budget Recommendation does not include funding for the costs associated with the name change. Therefore, additional funding as detailed above would be necessary.

**Name:** Tony J. Weiler  
**Agency:** Labor  
**Telephone:** 701-328-2660  
**Date Prepared:** 01/24/2013

## **HB 1369 Detailed Cost Notes – Jan 2013**

*Assumption – DOL staff time average of \$28/hour includes wage and benefits*

### **Development of new logo - \$444**

6 hours of graphic design by Central Duplicating @ \$60/hr + 3 hours of DOL staff time @ \$28/hour

### **Replacing office door signage - \$175**

Based upon application of current sign within past 2 years with a small amount for inflationary increase

### **Updating website with new name & logo and posting new forms - \$340**

3.5 hours ITD time @\$69/hour + 3.5 hours DOL staff time @ \$28/hour

### **Replacing name on display banners - \$500**

A ballpark estimate that considers the original cost of the banners and the fact that there may be new graphic design costs for the replacement

### **Replacing Housing Banner - \$183**

Based on cost of banner that was purchased May 2012

### **Updating, reprinting, and mailing of department posters - \$2,450**

Graphic design and update - \$450  
Mass mailing of new posters - \$2,000

### **Business cards - \$934**

13 sets of cards @\$68 each + estimated \$50 set-up cost for new name/logo

### **Staff nametags - \$320**

20 @ \$14 each + \$40 set-up

### **Updating state forms - \$222**

2 hours of ITD Forms Design @ \$69/hour + 3 hours of DOL staff time @ \$28/hour

### **Updating department merge/form letters - \$56**

2 hours of DOL staff time @ \$28/hour

### **Updating plates & negatives for new letterhead & envelopes - \$120**

Cost provided by Central Duplicating (based on two-color logo that we presently use)

### **Updating address stamp and date stamps - \$195**

1 address stamp and 12 date stamps @ \$15 each

**Total Estimated Cost - \$5,939**

Date: 2-7-13  
Roll Call Vote #: \_\_\_\_\_

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. B69

House Government and Veterans Affairs 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 Boehning Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden		
Rep. Karen Karls	X		Rep. Steven Zaiser	X	
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur					
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Laning

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

**REPORT OF STANDING COMMITTEE**

**HB 1369: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1369 was rereferred to the **Appropriations Committee**.

**2013 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1369**

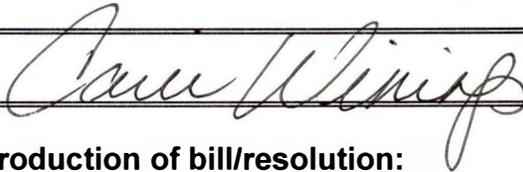
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1369  
03/08/2013  
Job Number 19636

Conference Committee

Committee Clerk Signature



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

A BILL for an Act relating to a name change from the department of labor to the department of labor and human rights.

## Minutes:

**Chairman Dever:** Opened to hearing on HB 1369.

**Representative Kathy Hawken, District 46:** Testified as sponsor and in support of the bill.

Explained the bill. The purpose of the bill is to add in the name of the Department of Human Rights into the Department of Labor. People now do not know currently where to go and we felt this would be the solution to the problem. In order to keep this out of appropriations you could go to \$5000. It is simply a matter of it being in the "phone book" that way.

**(3:00)Chairman Dever:** This would not need to go to appropriations because it is not an appropriation; it is a physical impact which has a threshold of \$50,000.

**Representative Hawken:** Then we are great. The director has assured me that they will use up everything that they have before ordering new.

**Chairman Dever:** I do not see a time frame on this.

**Representative Hawken:** There is not. We do not want to waste money.

**Chairman Dever:** This does not change the function at all?

**Representative Hawken:** It does not. It simply says what it is that we made it.

**Senator Marcellais:** I noticed on the back of the bill there is an excellent breakdown of the expenditures so we know what the money is for.

**Vice Chairman Berry:** It is not expanding and it is just changing the name and that they are already handled there - so the purpose of it is?

**Representative Hawken:** It is in the name so that people could find it - it is in the name; for a human rights concern.

**Vice Chairman Berry:** Such as?

**Representative Hawken:** I think others could answer this more directly. It is just to put it in the name to define where it is.

**Chairman Dever:** Labor issues are not just to address protective classes.

**Representative Hawken:** No, it honestly doesn't have anything to do with a protective kind of thing. This bill is simply to let the Citizens of North Dakota know who does what.

(No opposition to the bill)

**(7:30) Tony Weiler, Commissioner of Labor:** See Attachment #1 for testimony in a neutral position of the bill.

**(13:25)** Explains what a human rights complaint could be.

**(14:02) Chairman Dever:** Constitutional change that separated labor from agriculture did not include the name of the department but a reference to it?

**Tony Weiler:** It was the department of agriculture and labor and so the change just removed labor from agriculture and creates a separate constitutional office. Then it was just the department of human rights. Much of the human rights were added later.

**Chairman Dever:** It is not like it would require a constitutional change to change the name of the department.

**Tony Weiler:** No, I do not believe so.

**Chairman Dever:** I see you have two websites on your letterhead.

**Tony Weiler:** Those just take you to our website and to each page of the website. We will use all of what we have before we change everything.

**Chairman Dever:** You did not need an appropriation for that?

**Tony Weiler:** We are running pretty efficiently and we will have a turn back in our operating budget and I believe we can absorb that in our budget.

**Chairman Dever:** I was surprised to see 58 complaints of retaliation - do you deal with those in the private sector as well as the public sector.

**Tony Weiler:** In the private sector a person can file a whistle-blower complaint with us. We don't have much power in that area. The code allows me to ask the employer if they wish to enter into some sort of agreement. I have no power to enforce it in the public sector. Those employees have protections under the administrative practices act and there are specific due process rights that they are protected with. That was established in 2009. Judiciary has their own system and so does Higher Ed.

**Chairman Dever:** I figured that was not included in there seeing that number.

**Tony Weiler:** That is why I mentioned it. It isn't always whistle-blower, it could be that I complain that you are violating a labor law and if you fire me, then you could claim that it was retaliation.

**Senator Nelson:** We switched in the legislature to templates for documents and I was wondering if you really have letterhead printed?

**Tony Weiler:** We do a little bit of both. All of our letters are on a template but there are some that we still order. We are always looking for efficient ways to save money.

**Vice Chairman Berry:** What was the year it switch from being elected to being a cabinet position?

**Tony Weiler:** I believe in 1999.

**Senator Cook:** I had to use the department of Labor years ago and it was quite a long process - is the process still the same?

**Tony Weiler:** It is somewhat similar. We do not have hearings on the wage claims. It is on average 79 days. I am now asking for a new FTE to focus on wage claims. The process is efficient but it takes time because of the volume.

**Senator Cook:** The 9 month wait for the money is what got me.

**Tony Weiler:** Those get turned over to the Attorney General when the employer doesn't comply. It is still possible that it could happen.

**Senator Marcellais:** Do you have the authority to pull a business license?

**Tony Weiler:** I do not have that authority. We have the power to enforce the laws and then we have enforcement measures through the Attorney General.

**Senator Marcellais:** Do you have a list of these employers?

**Tony Weiler:** That would be the better business bureau. We do have repeat claims.

**Chairman Dever:** I would assume with the oil development that you are dealing with a lot of out of state employees with higher wages working for out of state employers in the state.

**Tony Weiler:** We track our claims by county of origin of business and our biggest number is from out of state and sometimes they are hard to find and track down.

**Chairman Dever:** Closed the hearing on HB 1369.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Government and Veterans Affairs Committee

Missouri River Room, State Capitol

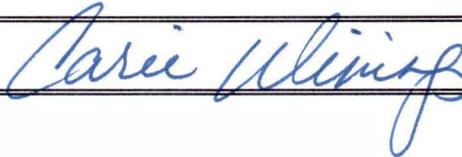
HB 1369

03/08/2013

Job Number 19641

Conference Committee

Committee Clerk Signature



### Minutes:

(1<sup>st</sup> part of recording is HB 1325 discussion)

**(2:51)Chairman Dever:** Opened committee discussion on HB 1369.

**Senator Cook: Moved a Do Pass.**

**Senator Nelson: Seconded.**

(A short discussion occurred regarding the problems that can happen with the confusion over the name etc. and where the history of the departments being combined. The committee agreed that the fiscal note was reasonable and it would reflect the departments that are represented.)

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Senator Cook: Carrier.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/21/2013**

Bill/Resolution No.: HB 1369

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**Name:** Tony J. Weiler  
**Agency:** Labor  
**Telephone:** 701-328-2660  
**Date Prepared:** 01/24/2013

## **HB 1369 Detailed Cost Notes – Jan 2013**

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**Total Estimated Cost - \$5,939**

Date: 3/8

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1369

Senate Government and Veterans Affairs 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 Senator Cook Seconded By Senator Nelson

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Cook

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

**REPORT OF STANDING COMMITTEE**

**HB 1369: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1369 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1369**

Jack Dalrymple  
Governor

Tony J. Weiler  
Commissioner



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)

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**Testimony on HB 1369  
Prepared for the  
House Government and Veterans Affairs Committee**

**February 7, 2013**

Good morning Chairman Kasper and members of the House GVA Committee, my name is Tony J. Weiler, and I am the Commissioner of Labor. I appear before you today neutral on HB1369. Notwithstanding the department name, we will continue to work diligently and thoroughly to investigate allegations of wage and hour violations, and human rights violations as required by North Dakota law.

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.

I would also like to provide a brief history of the department. In 1889, the North Dakota Constitution created the department of agriculture and labor. In 1960, voters approved a constitutional amendment authorizing the legislative assembly to establish a department of labor separate from the department of agriculture. Article V, § 2 of the Constitution of North Dakota states in pertinent part: "The legislative assembly may by law provide for a department of labor to be administered by a public official who may either be elected or appointed." The 1965 legislative assembly created the North Dakota department of labor under N.D.C.C. § 34-05-01.1.

Since 1965, the Department of Labor has been responsible for enforcing the laws relating to the wages and working conditions of employees in the state. In addition to these traditional duties, in 1983 the legislative assembly added the responsibility to investigate complaints alleging discriminatory employment practices under the Human Rights Act. So, the department has had authority to enforce employment discrimination for over 29 years.

In 1999, the legislative assembly added the responsibility to investigate complaints of discriminatory housing practices. In 2000, the Human Rights Division was established within the department, which reflected the growing number and importance of human rights cases. In 2001, additional authority was vested in the department to enforce remaining areas under the Human Rights Act, including public accommodations, public services and credit transactions.

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.

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.

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.

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.

All but one of our current Compliance Investigators are cross trained in all areas over which we have regulatory responsibility.

This is a brief, but not exhaustive, overview of what the department of labor does, 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

[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 1369  
Prepared for the  
Senate Government and Veterans Affairs Committee**

**March 8, 2013**

Good morning Chairman Dever and members of the Senate GVA Committee, my name is Tony J. Weiler, and I am the Commissioner of Labor. I appear before you today neutral on HB1369. Notwithstanding the department name, we will continue to work diligently and thoroughly to investigate allegations of wage and hour violations, and human rights violations as required by North Dakota law.

**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.

I would also like to provide a brief history of the department. In 1889, the North Dakota Constitution created the department of agriculture and labor. In 1960, voters approved a constitutional amendment authorizing the legislative assembly to establish a department of labor separate from the department of agriculture. Article V, § 2 of the Constitution of North Dakota states in pertinent part: "The legislative assembly may by law provide for a department of labor to be administered by a public official who may either be elected or appointed." The 1965 legislative assembly created the North Dakota department of labor under N.D.C.C. § 34-05-01.1.

Since 1965, the Department of Labor has been responsible for enforcing the laws relating to the wages and working conditions of employees in the state. In addition to these traditional duties, in 1983 the legislative assembly added the responsibility to investigate complaints alleging discriminatory employment practices under the Human Rights Act. So, the department has had authority to enforce employment discrimination for over 29 years.

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## **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.

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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.

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.

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.

All but one of our current Compliance Investigators is cross trained in all areas over which we have regulatory responsibility.

This is a brief, but not exhaustive, overview of what the department does. I’d be happy to answer any questions.