

2015 SENATE APPROPRIATIONS

SB 2007

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2007
1/9/2015
Job # 21788

- Subcommittee
 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 Department of Labor and Human Rights.

Minutes:

Testimony #1

Chairman Holmberg called the committee to order on Friday, January 09, 2015 at 9:00 am in regards to SB 2007. Roll Call was taken. All committee members were present. Becky Deichert, OMB and Sean Smith, Legislative Council were also present. After this hearing we will have Adam Mathiak, Legislative Council come in and go over the surge comparison matrix at 9:45 this morning. We now start with the Dept. of Labor and Human Rights.

Troy Seibel, Commissioner of Labor provided Testimony Attached # 1, Department of Labor and Human Rights. Gave overview of Department. 3 primary responsibilities, 1st wage and condition, wage and hour division. 2nd human rights and housing, investigate cases of discrimination, and look at whistle blower claims; 3rd public education, areas we regulate and enforce, we do presentations for employers, do brochures. He continued with his written testimony. The growth of employment in ND has increased the work load for our Department.

Senator Heckaman: On the compensatory time, is that only taken as leave, or is that a way they can take as dollars. She was informed this is Leave time. He continued with testimony - Department's Budget (14.57)

Senator Carlisle: (16.55) Asked if there is a way to speed up the process to increase the wages faster for these employee.

Chairman Holmberg: I don't know if we have done that regarding FTE's, only once in the last 6 sessions have we passed on employees benefits early, if we picked out one it would be a pretty steep thing to do.

Senator O'Connell: The governor has ok'd 5, you've asked for the 5. How do you work with employers that have moved out of state, went bankrupt or unable for you to reach?

Commissioner Seibel: They are very difficult to deal with. Usually those claims will go to the Attorney General office, there is not a whole lot we can do at this point from our office.

V. Chairman Krebsbach: You mentioned you had a lot of turn-over, are we up to par with the wages for these employees?

Commissioner Seibel: Our wages are comparatively low compared to other state agencies, I don't know if we throw more money at them unless they work 100 hours a week, but it will help now on turn over.

Senator Gary Lee: Are all of your 13 people now, are they FT or are there some part-time in that mix? He was told all 13 employees are full time. Senator Lee had questions regarding reconciling the work load with the hours and overtime pay and asked for the Commissioner to explain it.(21.24)

Commissioner Seibel: We are seeing an increased wait time, as our investigators spend time, and I think a lot of them are reaching a burn-out time, and maybe 50 - 55 hours a week is the max that they're going to do, we're seeing an increase in the cases that are pending, they're starting to pile up. Well, they have been piling up, I think we can only push people so far in terms in how much time they want to spend in the office and even if everybody got up to the point where they're working 60 hours a week, I don't know if that in itself would be enough to keep our heads above water. (23.37)

Senator Kilzer: When there is a penalty or fine, where does that money go? How about other claims or fines for bad behavior and the case of age discrimination?

Commissioner Seibel: The money for penalties or fines go to the wage claimant. There is a couple of different penalties we can enforce. We can enforce for each day you're late in paying wages, the employee can collect a day's worth of wages. There is also a double and triple ? provision, that is collectable by the employees. Within the housing statute there is a fine for other claims or fines for bad behavior, and these are turned over to the General Fund. On the case of age discrimination, that would go to the wage claimant. (24.19)

Senator Erbele: What kind of education or skill sets are you looking for in your investigators?

Commissioner Seibel: We look for somebody that has a background in law, and maybe even in enforcing regulations or statutes. We would love to get lawyers. At our current level of salary that's not typically very attractive to a lawyer.

Senator Wanzek: You say back in 2009-10, the average investigator had 18 cases, now it's 53 cases. Within the kind of work you do is there a standard threshold that is manageable compared to other states?

Commissioner Seibel: our investigators say that 20 to 25 cases at a time is an optimal number, and the reason being that you're investigating cases, interviewing witnesses, reviewing documents and it's a good amount in terms of getting the information in a timely matter and keeping track of all the investigations you are working on. At this point I don't

have any information on how that compares with other states but I could look into getting that for you.

Senator Wanzek: When you get a claim filed, do you have a ballpark percentage of how many result in corrective action?

Commissioner Seibel: I don't have that number for you but I can get it for you. What happens a lot of times is a claim comes in, we send to employer, saying we got this from your current or former employee, what have you got to say about it, they usually send in the check for the employee. I can find our cause finding under the human rights act verses or no cause human rights act or something for housing and get those numbers for you.

Senator Sorvaag: when you hire an investigator do they specialize in one area?

Commissioner Seibel: (28.32) All employees are cross trained in all areas. He continued with budget for 2015- 17 biennium. (33.35)

Chairman Holmberg: We found in Legislative Council when we added employees it was real cheap in Bismarck to modify the capitol building in order to provide offices for people. By the way, this budget will have a subcommittee - chaired by Senator Sorvaag, Senator Gary Lee and Senator Mathern will also be on this subcommittee.

Senator Carlisle: The Emergency Commission, is there still money there? Are you paying overtime or doing comp right now?

Becky Deichert, OMB: said there is money in contingency. We have money budgeted, not sure what is left.

Senator Carlisle: asked if this would be an option for this department and was told by Chairman Holmberg that the Emergency Commission can be anytime. But that those requests come from OMB.

Senator Robinson: Regarding your turnover, are they going to state agencies or private sector?

Commissioner Seibel: We had 5 in the current biennium; one went to become the Chief Judge in Standing Rock, otherwise, all private sectors except Shelly who went to the governor's office. She was not an investigator.

Chairman Holmberg: The legislature is going to be looking at, some agencies call it coal country money, to give employees more, a lot of the HD, DOT, and other agencies if it actually reduces their turn over or if it has no effect. Human services will provide that information. We as a legislature should have the evidence that it makes a difference.

Senator Gary Lee: Regarding the targeted market adjustment, talking about the comp rational, 84%, this is really functional in the market range and salary range and 45% turnover rate, is that really the issue in that you have a lot of new people started, which

drives down the overall comp rational in your department, so is more function of new people or is there something else at issue there?

Commissioner Seibel: I think there is something else in issue because right now the average years of service in our department, I believe it's around 11. We do have some people that have been here for a while, but for whatever reason, they are in the bottom half of their paygrade. We don't have anybody in the department that is over market midpoint. We have a significant amount of our employees that are in the first quartile despite the fact that they have been with the State for many years.

Chairman Holmberg: We have had discrepancies in the past. He commented regarding the Council of Arts.

Senator Robinson: Sometimes we find discrepancies between Special Fund agencies and General Fund agencies. We also have agencies for one reason or another that have dollars in the budget so when employee A leaves, maybe he's in the first quartile or 2nd quartile, they bring the new one in at that level, and other agencies because of tight budgets have to back and start all over. In that scenario, you never get to the point of having your people at the midpoint or above. So I think, system wide there are issues out there and I know the one that stands out in my mind is the differential between Special and General Fund agencies.

Chairman Holmberg: There's another huge differential, and that is when we were putting together budget for Legislative Council, trying to determine what are we competitive with our attorneys with other attorneys in the state, are we competitive with fiscal analysts with others. Anyone else wishes to testify. We will close the hearing on 2007

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2007
1/29/2015
Job # 22838

- Subcommittee
 Conference Committee

Committee Clerk Signature

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Explanation or reason for introduction of bill/resolution:

This is a sub-committee hearing on an appropriation for defraying the expenses of the Department of Labor and Human Rights.

Minutes:

Legislative Council - Sean Smith
OMB - Becky Deichert

Senator Sorvaag called the sub-committee to order on SB 2007.
Senator G. Lee and **Senator Mathern** were also present.

Senator Sorvaag: This is a simple budget except for the requested 5 additional FTEs. He asked to have the positions explained.

Troy Seibel, Commissioner, Dept. of Labor and Human Rights: The thought process at this point is that of those five one would become a wage and hour director (now handled by the Human Rights Director). It has been that way for several years and it's to the point where the department's workload has become too much for one person to do. We'd split it into two positions. The remaining 4 FTEs - we would like to see 4 additional compliance investigators. The department has seen an increase in work load. We've seen wage claims go from approximately 350 claims a year to now about 730 claims a year from 2009 to last year. Because of that we have seen an increase in the wait times double from approximately 60 days in what it took us to close a claim to around the 120 day mark to close a wage and hour claim. That has had a significant impact on the department's workload.

Up until the last year to year and a half we didn't see a significant increase on the employment discrimination side in the housing cases. However, in the last year and a half we are now seeing about a 40% increase in employment discrimination. We've see the average time to close a discrimination complaint go from around 110 days to 230 days. Because of these increased workloads our compliance investigators have seen their

average case load increase from about 18 -20 active cases to now about 55 active and open cases. It's creating an impact on staff.

Senator Sorvaag: Is the increase statewide or just out west?

Troy: On the wage and hour side, it's predominately out west in oil producing counties and employers that are located out of state. Those areas are typically trucking and construction. On the discrimination side, we've seen the claims generally across the state.

Senator Sorvaag: Obviously the workforce is going to shrink over the next 2-3 years. Is the need going to be as much?

Troy: One thing that concerns me is that if we'd see a significant downturn in economic activity, I think we'll actually see an increase in our workload. Our wage and hour claims come typically from small employers and if they close their doors overnight the employees will come to us for those unpaid wages.

Senator Mathern: If we approve all of these FTEs. Do you have people waiting or what would be the process of getting these people online?

Troy: We'd advertise for all of the positions right away. We had an opening in one of our compliance investigator positions in November and received approximately 40 applicants. I think there is interest out there. I think we could advertise them all and bring them onboard right away. With the compliance investigators, at the start, we'd have them focus on the claims coming out of the wage and hour division.

Senator Mathern: Do you have office space ready for these 5 people?

Troy: Yes, we do. We've moved to J-wing. There is space in the back of the first floor of the J-wing that's unfinished space at this point. We have a one-time request in our budget for \$25,000 to build that space out.

Senator G. Lee: Are there any industry standards that say you're beyond what normally would be or can be expected in a business like yours that open claims are typically that long. What metrics are you using to tell us other than "it's taking longer"?

Troy: We've looked at it from a historical perspective. We are receiving numerous complaints on a daily basis from both wage claimants and charging parties that have filed charges of discrimination wondering where things are at and why it's taking so long. The most vocal complaints we receive are from the individuals who filed a wage claim. We're looking at this from the point of trying to provide good public service.

Senator G. Lee: So there isn't an industry standard that you could compare yourself to?

Troy: Not that I know of. I could find out from other states. What's difficult is that here we have a Wage and Hour Division and a Human Rights Division. In some states those are completely separate departments and they don't interact with one another.

Senator G. Lee: Do you have any temporary employees?

Troy: No, partly because these are highly skilled positions.

Senator G. Lee: The wage and hour position you are looking for - would that do any investigative work in the sense of looking at these claims or would it be purely a management position.

Troy: I think it would come down to workload. I would envision the Wage and Hour Director probably conducting the more complex investigations and then assisting those compliance investigators with those wage and hour claims.

Senator G. Lee: In your testimony when you refer to the four investigators it says they would still be short of people or the number of cases would still be high. Did you factor in this Compliance Director to be doing any of that?

Troy: Those figures are based on going from 8 compliance investigators to 12.

Senator G. Lee: What is a flex schedule?

Troy: They are all over the map. Our most seasoned Compliance Investigator works 4-10s and takes Fridays off. Often times she now comes in on the weekends. Some work a standard work day. Some will work longer shifts during the week and a shorter shift on Friday. It depends on what works best for them. Those flex schedules must be approved.

Senator Sorvaag: Does everyone work here in the capital?

Troy: All except one. Our Human Rights Director is located in Fargo.

Senator Sorvaag: Pretty straight forward - basically the FTEs.

The meeting was adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2007
2/5/2015
Job # 23317

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing for the Department of Labor

Minutes:

Testimony # 1

Chairman Sorvaag called the subcommittee to order on Thursday, February 05, 2015, at 2:00 pm in the Harvest Room in regards to SB 2007. Subcommittee members were present: Senator Sorvaag and Senator Mathern. Senator Gary Lee was detained. Sean Smith, Legislative Council, and Sheila Peterson, OMB, were also present.

Troy Seibel, Commissioner of Labor with the Department of Labor & Human Rights: He went over his written testimony. Written Testimony Attached, Attachment (1). (:47-9:56)

Senator Mathern: Is it possible if we can get you these new FTE's, might it be time to separate your investigators so they specialize?

Troy Seibel: That is something we would consider. You hit the nail on the head. If we did get additional investigators we may be able to look into specialization.

Senator Gary Lee: What was the outcome of that lawsuit?

Troy Seibel: It was a negotiated settlement.

Senator Gary Lee: Do you have any vacancies now?

Troy Seibel: No we do not.

Senator Gary Lee: What is your turnover?

Troy Seibel: We have significant turnover in the investigative staff over the last couple of years. A lot of the turnover was attributed to the workload. (12:12-12:54)

Senator Gary Lee: Could part of the turnover be the result of the new people who are learning the process and that they need to get up to speed to be more proficient in their positions?

Troy Seibel: I don't think the people left because of the new people because the new people came after. One of the new people has been there 1 1/2 years and she is almost at 100%. The other two are pretty much doing everything but housing now. One person just came to us in December. I don't believe it will be a solution to our current case load.

Senator Gary Lee: What educational expectations do you have for these investigators when they come, in terms of what they bring to the job?

Troy Seibel: We prefer a bachelor's degree, or an associate degree. Ideally a degree and a background that is familiar with laws and regulations and enforcing them or possibly a paralegal or a lawyer.

Senator Sorvaag: If we can't give you all five people what would be more beneficial to your department?

Troy Seibel: It's a difficult decision. From the director side of things the Human Rights Director is handling both of those jobs and it is way too much. If it were up to me I would take the investigators and give them more supervisory responsibilities to one of our existing investigators. (15:41-16:29)

Senator Sorvaag: Didn't you state the director could do some of the investigative work?

Troy Seibel: Yes if her work load would allow it. (16:44-17:16)

Senator Sorvaag: Thanks you for coming down again. We will adjourn for today.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2007
2/11/2015
Job # 23641

Subcommittee
 Conference Committee

Committee Clerk Signature

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Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing for the Department of Labor.

Minutes:

Senator Sorvaag called the subcommittee together on Wednesday, February 11, 2015 at 9:30 am in the Senate Conference Room. All committee members were present: Senator Sorvaag, Senator Gary Lee and Senator Mathern. Sean Smith, Legislative Council, and Becky Deichert, OMB, were also present.

Senator Sorvaag: We're under a budget crunch. A lot of numbers are being changed. We are moving first of all to the 3 and 3% on the pay increases from 4 and 3. That would be 3 and 3 without any pension increases in the 2nd biennium. We will talk about the positions that you have requested. We are trying to move these budgets through. Right now we are working off substantially a lot less money than what the governor projected.

Senator Mathern: In the form of an amendment I don't agree we have to make that cut or that market equity change. It actually makes us further behind. Catch up at some point in the future really makes the disparities between agencies even greater. I believe there are other resources.

Senator Sorvaag: We don't have an amendment.

Senator Gary Lee: In terms of Senator Mathern's comment, I think the Governor's bill is going to come out first with those market changes that are being recommended. If that goes well on the floor, then all of the budgets will be changed to match that. The only amendments we'd probably need would be on the FTE changes if we are going to make those.

Senator Sorvaag: You had 5 FTE requests - 4 investigators and the director. When you were asked about prioritizing, you indicated that Investigators could pick up the supervisory role and the director could go first.

Commissioner Seibel: If I have to prioritize, I think that is an accurate assessment.

Senator Gary Lee: Are there temps that you use?

Commissioner Seibel: No. It takes an investigator 2 to 3 months to get up to speed on wage claims and upward of a year to get up to speed on housing and human rights.

Senator Mathern: What is the difference in the salary in this bill for the supervisory position and the other positions?

Commissioner Seibel: For the biennium, the salaries are about \$5600 a month for the Wage and Hour Director and the Compliance Investigator II is about \$4500 - about an \$1100/month increase. For the biennium, that equates with fringe benefits and salary to \$185,000 for the Wage and Hour Director versus \$153,000 for a Compliance Investigator II.

Senator Mathern: Where would you get the money if only four were funded and you wanted to have a supervisor?

Commissioner Seibel: We probably would not have the money to give that person an additional \$1100/month. Hopefully we could give a small increase just to note that supervisory role.

Senator Gary Lee: Their statistics show that the open cases have gone up quite a bit. My suggestion would be to give them two of the investigators and not include the others in the budget package.

Senator Sorvaag: Two directors and no director?

Commissioner Seibel: If we only added two we would still be seeing some significant delays in processing cases. I think we would still see investigators that are overworked and facing burn out given our case load.

Senator Mathern: I would prefer that we fund the 4 positions and take out the supervisor and ask the director of the agency to do more supervision.

Senator Gary Lee: There are 18 employees total in the staff. Five additional employees is a significant increase in staff for an agency of that size. It is hard to know what 2 more employees would do in terms of bringing the workload per individual down. I don't think 2 is an unreasonable amount to add to a budget of this size as a place to keep them moving along.

Senator Sorvaag: It is quite a bit under your request but I think I would have to agree with Senator Gary Lee. Hopefully as we get to the end of March we can deal more with the equity issue.

Senator Gary Lee: I move that we fund two of the investigator positions in this budget. 2nd by **Senator Mathern** for the purpose of discussion.

Senator Mathern: I would like to vote no on the motion. Not only is the case load going up, the down turn is the time there will be more cases. (14:50)

Senator Sorvaag: I don't disagree on all the points but we also have the restrictions of a smaller pool of money out of the budget.

Senator Gary Lee: The targeted equity to me is problematic in terms of taking that out. (16:32)

Senator Sorvaag: Call for the vote on the amendment to be drafted by Legislative Council:

Two investigators.
Eliminate Director.
3 - 3 percent
Equity funding removed by amendment.

Roll Call was taken. Senator Lee - Yes; Senator Mathern- No; Senator Sorvaag - Yes.

Senator Sorvaag: Motion carried. We will have the amendments drawn up and we will present it to the full committee. Meeting is adjourned.

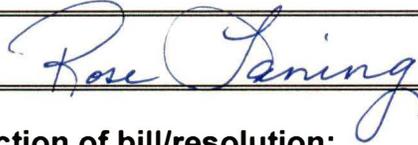
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2007
2/12/2015
Job # 23731

- Subcommittee
 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 Department of Labor and Human Rights.

Minutes:

Senator Sorvaag handed out amendment 15.8140.01001 and explained the amendment.

They left everything the same but their FTE requests. They had 5 new FTE requests - one was for a director and 4 were investigators. We're adding only 2 investigators, but we left everything with Information Technology the same - the one time funding to eliminate paper storage efficiency and all other supports were left in. The main changes were the wage and salaries that have been done.

Senator Sorvaag moved amendment 15.8140.01001.
Senator G. Lee seconded.

Senator Mathern added that he was a subcommittee member and said they made a good case with their caseload being very high and burning out staff. With so much economic activity in ND, there are so many cases to resolve. If you believe the economy will go negative, there will actually be more cases. I'm opposed to the amendments because they made a strong case for 5.

Voice vote carried.

Senator Sorvaag moved Do Pass as Amended on SB 2007.
Senator Mathern seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

Senator Sorvaag will carry the bill on the floor.

*2/12/15
 [Signature]
 1/2*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2007

Page 1, replace lines 12 through 18 with:

"Salaries and wages	\$1,922,048	\$581,783	\$2,503,831
Accrued leave payments	39,609	(39,609)	0
Operating expenses	<u>323,694</u>	<u>159,359</u>	<u>483,053</u>
Total all funds	\$2,285,351	\$701,533	\$2,986,884
Less estimated income	<u>437,926</u>	<u>(94)</u>	<u>437,832</u>
Total general fund	\$1,847,425	\$701,627	\$2,549,052
Full-time equivalent positions	13.00	2.00	15.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2007 - Labor Commissioner - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$1,922,048	\$581,783	\$2,503,831
Operating expenses	323,694	159,359	483,053
Accrued leave payments	39,609	(39,609)	
Total all funds	\$2,285,351	\$701,533	\$2,986,884
Less estimated income	437,926	(94)	437,832
General fund	\$1,847,425	\$701,627	\$2,549,052
FTE	13.00	2.00	15.00

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

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for 2 FTE Investigator Positions ³	Adds Funding for Desktop Support Services ⁴	Adds One-Time Funding for IT System ⁵	Adds One-Time Funding for Accrued Leave and Overtime ⁶
Salaries and wages	\$75,589	\$153,191	\$307,003			\$46,000
Operating expenses			57,106	46,118	56,135	
Accrued leave payments	(39,609)					
Total all funds	\$35,980	\$153,191	\$364,109	\$46,118	\$56,135	\$46,000
Less estimated income	(94)	0	0	0	0	0
General fund	\$36,074	\$153,191	\$364,109	\$46,118	\$56,135	\$46,000
FTE	0.00	0.00	2.00	0.00	0.00	0.00

	Total Senate Changes
Salaries and wages	\$581,783
Operating expenses	159,359
Accrued leave payments	(39,609)
Total all funds	\$701,533
Less estimated income	(94)
General fund	\$701,627
FTE	2.00

2/2

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase - Performance	\$88,426		\$88,426
Health insurance increase	64,765		64,765
Total	\$153,191		\$153,191

³ Funding is added from the general fund for two new full-time equivalent (FTE) investigator positions (\$307,003) and related operating expenses (\$57,106).

⁴ Funding is added for obtaining desktop support services from the Information Technology Department.

⁵ One-time funding is added for an information technology system to eliminate paper file storage and increase department efficiency.

⁶ One-time funding is added for accrued leave payouts (\$26,000) and overtime (\$20,000).

Date: 2-12-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2007

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 15-8140-01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sorvaag Seconded By Lee

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-12-13
 Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2007**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 15.8140.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sorvaag Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2007: 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). SB 2007 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 18 with:

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General fund	\$1,847,425	\$701,627	\$2,549,052
FTE	13.00	2.00	15.00

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

	Adds Funding for Base Payroll Changes¹	Adds Funding for Salary and Benefit Increases²	Adds Funding for 2 FTE Investigator Positions³	Adds Funding for Desktop Support Services⁴	Adds One-Time Funding for IT System⁵	Adds One-Time Funding for Accrued Leave and Overtime⁶
Salaries and wages	\$75,589	\$153,191	\$307,003			\$46,000
Operating expenses			57,106	46,118	56,135	
Accrued leave payments	<u>(39,609)</u>					
Total all funds	\$35,980	\$153,191	\$364,109	\$46,118	\$56,135	\$46,000
Less estimated income	<u>(94)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$36,074	\$153,191	\$364,109	\$46,118	\$56,135	\$46,000
FTE	0.00	0.00	2.00	0.00	0.00	0.00

	Total Senate Changes
Salaries and wages	\$581,783
Operating expenses	159,359
Accrued leave payments	<u>(39,609)</u>
Total all funds	\$701,533
Less estimated income	<u>(94)</u>
General fund	\$701,627
FTE	2.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2

to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$88,426		\$88,426
Health insurance increase	64,765		64,765
Total	\$153,191		\$153,191

³ Funding is added from the general fund for two new full-time equivalent (FTE) investigator positions (\$307,003) and related operating expenses (\$57,106).

⁴ Funding is added for obtaining desktop support services from the Information Technology Department.

⁵ One-time funding is added for an information technology system to eliminate paper file storage and increase department efficiency.

⁶ One-time funding is added for accrued leave payouts (\$26,000) and overtime (\$20,000).

2015 HOUSE APPROPRIATIONS

SB 2007

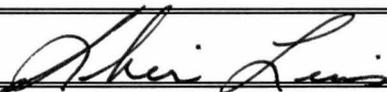
2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division
Medora Room, State Capitol

SB2007
3/5/2015
Recording Job# 24342

- Subcommittee
 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 department of labor and human rights.

Minutes:

See attachments A and B

Chairman Thoreson: Opened the hearing on SB2007. All members were present except for Representative Skarphol.

Lonnie Grothier, ND Department of Labor and Human Rights: See attachment A.

Vickay Gross, Disability Advocate, Protection Advocacy: See attachment B.

Chairman Thoreson: Have there been cases where people have gone directly to court rather than going to the department of labor?

Vickay Gross: We don't go that route. Even with the extended time, I still encourage them to go through the department of labor.

Representative Hogan: Are most of these claims wage and hour claims? What types of claims are you filing on behalf of people with disabilities?

Vickay Gross: I primarily work with people with disabilities who may have been unlawfully terminated or denied a reasonable accommodation, unfair treatment, failure to have access to the same benefits as other employees. I don't get very many wage and hour; I work with a social security program that looks at barriers to employment.

Representative Hogan: So primarily ADA type of claims?

Vickay Gross: Yes.

Representative Kempenich: I see the Senate added two compliance people.

Chairman Thoreson: When we get into the details we can get into that and see where the Senate made that decision.

Chairman Thoreson: Recessed the hearing.

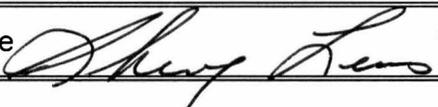
2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division
Medora Room, State Capitol

SB2007
3/10/2015
Recording Job# 24610

- Subcommittee
 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 department of labor and human rights.

Minutes:

"Click to enter attachment information."

Chairman Thoreson: Opened the hearing on SB2007.

Troy Seibel, Commissioner, ND Labor and Human Rights Department: See testimony from March 5, 2015.

Chairman Thoreson: On the youth employment certificates. Who's requesting those and what are the criteria for receiving a certificate like that?

Troy Seibel: Those are required to be obtained for somebody that's 14 or 15 years of age. The criteria is ensuring that it's not going to be detrimental to the well-being of the child to perform that work. There are specific types of work that children are excluded from performing. Another exclusion would be farm employment.

Chairman Thoreson: There had been some discussion about federal regulations that could have impacted farm labor. This is exclusive of that?

Troy Seibel: That's correct. To my knowledge the feds aren't looking at anything as far as changing those rules or regulations.

Representative Hogan: Several years ago I was aware that there were a lot of complaints about independent contract status; is that continuing to be an issue and how does your department deal with that?

Troy Seibel: Absolutely. We've seen an increase in the number of individuals that would like to have an independent contractor verification done by our office as well as individuals that raise that as a defense; to either a wage claim or to a discrimination claim. We've seen a dramatic increase in those and the reason for that is because of what's going on out west.

Representative Hogan: You're not seeing that level off at all?

Troy Seibel: We've seen it continue to increase.

Representative Boehning: Being in the construction field we are pretty independent as contractors.

Troy Seibel: What we typically see are individuals that come to us and want to get that verification ahead of time. We find numerous instances where there's a valid independent contractor relationship.

Troy Seibel continued with his presentation.

Chairman Thoreson: Is the complexity of them getting worse also or is it just the number that's causing the upturn?

Troy Seibel: Both.

Troy Seibel continued with his presentation.

Representative Boehning: Under the human rights division what are the complaints?

Troy Seibel: The areas are typically going to the areas of sexual harassment and disability. Following that would be race, color and national origin.

Representative Boehning: You don't see a lot of the gender things?

Chairman Thoreson: There's legislation dealing with that.

Troy Seibel: We have not seen that many. We don't track it because it's not a protected area right now.

Chairman Thoreson: But you would have authority to investigate it?

Troy Seibel: Correct. Under current sexual harassment law that is something we could investigate.

Representative Hogan: I would be interested to know if you have any age discrimination.

Troy Seibel: We receive age complaints from time to time. It's not a growing area with our department.

Troy Seibel continued with his presentation.

Representative Boehning: You have had 8,000 complaints and 1,000 closed. What happened to the 7,000?

Troy Seibel: We had 8,000 enquiries. That can be as simple as what form do I fill out to as complicated as filing a housing discrimination complaint. These are the cases that are closed because of a wage claim or a discrimination complaint.

Representative Boehning: What are the number of cases that you have closed?

Troy Seibel: Last fiscal year we closed 1,001 cases. We're receiving of about 1,300 cases.

Representative Vigesaa: With regard to the growth of your cases, other than the fact that they're more complex; is it the increase because of the amount of business that are operating in the state?

Troy Seibel: I think that the answer is we have more entrepreneurs that don't necessarily understand what the law is and how to comply with the law.

Vice Chairman Brandenburg: When you do investigations on some of these people, don't you find they might have been given some advances or they might have wrecked the truck and they took it out of the wages?

Troy Seibel: We make numerous no merit decisions when it comes to wage claims.

Troy Seibel continued with his presentation.

Representative Kempenich: Does the employee or employer have to be domiciled in North Dakota to file?

Troy Seibel: On a wage claim we take the position that the employee must perform work in the state of North Dakota. The business can be incorporated somewhere else.

Representative Boehning: You can have all these claims against them but how do you actually go out and get the money from them?

Troy Seibel: If we issue a determination that money is owed, and the amount is \$500.00 or more and the employer doesn't pay; those claims are referred to the attorney general for enforcement.

Representative Boehning: Can you go after personal property?

Troy Seibel: Our current wage collection statute doesn't give the department the authority to pierce the corporate veil. We would have to rely on case law; we would have to have factors present that would allow us to pierce through that corporate veil.

Representative Boehning: In order to do that we would have to pass law?

Troy Seibel: Correct.

Representative Vigesaa: How do you interface with job service to handle the case where over night the employer closes shop?

Troy Seibel: We're going to start sending to those agencies these individuals that file wage claims with us.

Representative Vigesaa: A person could be collecting unemployment through job service and still have a claim through you?

Troy Seibel: Yes that's possible.

Troy Seibel continued with his presentation.

Chairman Thoreson: Is that your only vacancy at this time?

Troy Seibel: Yes.

Troy Seibel continued with his presentation.

Representative Kempenich: What amounts did you get this current biennium?

Troy Seibel: I think the department just received the same that the entire state got. We didn't get anything specific for us.

Troy Seibel continued with his presentation.

Chairman Thoreson: Have they indicated to that any of them are looking at that?

Troy Seibel: No one has indicated that yet. It's something we want to be prepared for.

Troy Seibel continued with his presentation.

Representative Hogan: If we funded the full targeted equity, would everyone be at the appropriate place in the Hay Study that they needed to be?

Troy Seibel: Yes. I believe with the \$139,744.00 that would get us to the target ratio.

Representative Hogan: With that significant turnover that you've had with the loss of four investigators; was that done before that loss or after?

Troy Seibel: I can find out.

Representative Boehning: Are you having a hard time filling positions?

Troy Seibel: No it's not hard to fill them. Unfortunately for us, it takes a year to get an investigator trained.

Representative Boehning: What are the qualifications?

Troy Seibel: If we can get someone with a law degree we'd take them. Given the salary we offer we don't see many of those. Generally, we're looking for people that have experience in interpreting and applying laws.

Representative Skarphol: What questions do you ask to substantiate that the individual is an independent contractor?

Troy Seibel: What we look for is who controls the situation. Who tells that employee where to go to work, when to go to work, how long to work and how to do the job.

Representative Boehning: When you're building something, you have to have control of the subcontractors which are independent contractors. Under that scenario it looks like they're all my employees. How do you differentiate them?

Troy Seibel: Just because you tell someone you have to have something done by Wednesday; that doesn't make them an employee. They're the ones who still decide how the job gets done.

Representative Boehning: I disagree with that. As a contractor I have people coming in and those are all different companies; but that scenario makes it seem like they should all be my employees then.

Troy Seibel: You're not necessarily dictating when they have to be there because when you want. You're dictating to them when they need to be there because of all the other independent contractors so things line up.

Representative Skarphol: I'm assuming that Representative Boehning has a bid for this work. Would that not make them an independent contractor; doesn't an employee have to be paid by the hour or a salary per month?

Troy Seibel: That would definitely be a factor in favor of independent contractor status.

Representative Skarphol: The work that I did I was paid so much per well to do what I did on a monthly basis; but there was no other control. I could do it anytime of the day or night I chose. When you bid something, you're no longer an employer of that person that's doing the work; they're doing the work because they have the bid to do it.

Troy Seibel: Correct.

Vice Chairman Brandenburg: My son is a real estate agent and gets involved when they're building houses. It's unbelievable how these people don't work together.

Chairman Thoreson: Closed the hearing.

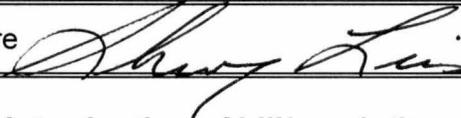
2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division
Medora Room, State Capitol

SB2007
3/20/2015
Recording Job# 25192

Subcommittee
 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 department of labor and human rights.

Minutes:

"Click to enter attachment information."

Chairman Vigesaa: Opened the discussion on SB2007.

Chairman Vigesaa: If you could explain the two FTE positions, the need and why they're being requested.

Troy Seibel, Commissioner, ND Department of Labor and Human Rights: Those individuals would be compliance investigator positions. The departments case load has increased and they are desperately needed to try and tackle the case load that the department has.

Chairman Vigesaa: You have about 20 cases per investigator and currently it's running about 64. Is that correct?

Troy Seibel: That's correct. We remained consistent with the 20 cases per investigator range and starting in 2009-2010 it picked up. When we closed our February caseload books, we're at 64 active open cases per investigator.

Representative Skarphol: What do you contribute that to?

Troy Seibel: It would be the fact that we have a much larger labor force than we had 6 or 7 years ago. It is also due to the activity out west.

Representative Skarphol: Do you think it's going to continue?

Troy Seibel: I think the caseload may increase for us.

Representative Skarphol: Are you going to be able to pursue them out of state?

Troy Seibel: Yes we can. If the work was performed in the state, we have jurisdiction over the case.

Chairman Vigesaa: How long does it take to close a case?

Troy Seibel: With wage claims we try to do them as soon as we can. In fiscal year 2009-2010 it took 63 days to close a claim day. At the end of this fiscal year it took 120 days. The average number of days for an employment discrimination case went from 110 days to 225 days.

Chairman Vigesaa: Do you have any current vacancies in your office?

Troy Seibel: We do have one. The employee terminated her employment at the end of February. We are actively interviewing for that position.

Chairman Vigesaa: How many applicants did you have for that opening?

Troy Seibel: We had 31 applicants for that opening.

Chairman Vigesaa: Are most of those applicants from within state government or from outside?

Troy Seibel: We've interviewed 9 so far and about 2 or 3 are from within state government.

Chairman Vigesaa: You're one of the departments that is going to move to the ITD desktop services.

Troy Seibel: That's correct. We're one of the 10 in the governor's budget and also are on the list of agencies that would be mandated.

Chairman Vigesaa: The \$46,000.00 is the number that you received from ITD?

Troy Seibel: That's correct. It's my understanding of that is that it's a per user monthly charge.

Chairman Vigesaa: You had some other IT things in the budget; but nothing with regard to your desktops or laptops equipment wise? You didn't add anything in your regular budget?

Troy Seibel: No. We replaced computers in the 2011-2013 biennium. We did not replace any computers in the current biennium.

Chairman Vigesaa: Are we still waiting to hear from IT if their numbers included new equipment for these departments?

Becky Deichert, Fiscal Analyst, ND Office of Management and Budget: I'm not sure. It would be a per agency basis of how it was put in the budget.

Chairman Vigesaa: You had a significant increase for contractual services and repairs for IT. Is that with regard to the new IT system?

Troy Seibel: That's correct the \$56,135.00 is the estimate we received from ITD to implement a paperless system for the department. I would help us become a much more efficient agency. That would be a one-time budget request.

Representative Glassheim: Is that hardware or recurring fees?

Troy Seibel: It's primarily costs associated with the software. The hardware consists of a scanning system that they would put in place for us and give us software.

Representative Glassheim: That's separate from the desktop?

Troy Seibel: That's correct.

Representative Skarphol: When I look at IBARS and then the green sheet, the numbers aren't corresponding for us.

Becky Deichert: What you're seeing in IBARS is going to be an accumulative amount of numbers; it's not going to be broken out. The detail report is just going to be a total.

Representative Skarphol: Just for example on the IT contractual services and repairs it shows \$83,658.00. I don't see any number like that on the green sheet.

Sean Smtih, Fiscal Analyst, ND Legislative Council: The green sheet you have is updated.

Representative Skarphol: Would the original green sheet show the numbers in IBARS?

Sean Smith: Yes.

Chairman Vigesaa: There's a large increase in the data processing line of \$54,000.00. I'm wondering if those items that we're talking about are divided into a couple of different lines.

Sean Smith: I'm not sure.

Becky Deichert: You're going to see IT data processing and IT contractual services and repairs. Depending on what type of service it is it's going to go into a different line.

Representative Skarphol: If we go back to the sheet that council gave us. The difference between the general fund and the total of the Senate version is about \$1.1 million. Based on that, can I make an assumption that the Senate removed about \$400,000.00? The Senate version total is \$2.986 million; the total on the green sheet is \$3.8 million.

Sean Smith: The reduction was roughly \$850,000.00; the difference between the two.

Representative Skarphol: That was for the three employees?

Sean Smith: The three employees and the salary decreases.

Chairman Vigesaa: When can that paperless system be implemented; easily within the next biennium?

Troy Seibel: I think that's correct.

Representative Skarphol: Currently, everything is in paper?

Troy Seibel: We do.

Chairman Vigesaa: Do you have staff that can do all that work or will you be hiring some temporaries to do that?

Troy Seibel: We would use existing staff. We don't have money to hire temporary employees; so our administrative staff would do that.

Representative Skarphol: I would envision that you would do the old stuff first.

Troy Seibel: That's a great idea. I would leave that up to Lonnie and her staff.

Chairman Vigesaa: How much office space will this free up?

Troy Seibel: We moved from the tower to the J-wing at the end of October. The file room took about an office. When we get everything scanned we would have that space available to us.

Representative Glassheim: You had asked for one FTE for a wage and hour director position which was denied by the Senate. Why should we restore it?

Troy Seibel: We have a human rights director and she acts as a deputy commissioner. She runs both; she supervises all the compliance investigators, she handles both the wage and hour division and the human rights division. She's basically working two full time jobs.

Representative Glassheim: Do you need an administrator or do you need more investigators?

Troy Seibel: I would envision that person also doing casework. When we were on the Senate side I was asked if I had to pick what would I rather have; investigators or this director position. I said I'd rather have the investigators. If we have to let a position go; it would be the director position.

Representative Vigesaa: Travel is going up considerably. There was \$25,000.00 for extraordinary repairs.

Troy Seibel: The \$25,000.00 request in the governor's budget was there to build out the office space for the five new FTE's. The Senate figured it was about \$5,000.00/FTE and they gave us \$10,000.00 and cut \$15,000.00. The increase in travel is coming from the new additional FTE's we have and we have to send them for training. HUD offers their training in Washington, DC; we're allowed to do the first two weeks online and the next three weeks they have to go to Washington, DC. They don't offer those online.

Becky Deichert: The bulk of the IT contractual services increase is due to the paperless system and a portion of the IT desktop support was put in there also. There was a little bit that was put in for the new FTE's.

Representative Glassheim: With going from five FTE's to two; would some of the IT decrease?

Becky Deichert: Those costs were removed in the Senate's version.

Chairman Vigesaa: Closed the discussion.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division
Medora Room, State Capitol

SB2007
3/31/2015
Recording Job# 25659

- Subcommittee
 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 department of labor and human rights.

Minutes:

"Click to enter attachment information."

Chairman Thoreson: Opened the discussion on SB2007.

Representative Glassheim: It did seem to me that the Senate cut quite a lot from the request. It seems to me that the budget that the Senate passed over to us is pretty well justified and I would be inclined to move that we pass it as the Senate sent it to us.

Representative Hogan: We do need to change the health insurance in this bill.

Representative Hogan: Made a motion to adjust the health insurance.

Representative Skarphol: Seconded the motion.

Voice vote made and carried.

Representative Skarphol: Did the Senate kill HB1053 on the floor?

Chairman Thoreson: Yes they did.

Representative Skarphol: Are we going to have to do every one of these budgets for the agencies that wanted to have the desktop support. Is that an issue in this agency that we need to put the money for that desktop support for this agency?

Becky Deichert, Fiscal Analyst, ND Office of Management and Budget: The department of labor was one of the 10 agencies and the money is in there and was not removed.

Representative Skarphol: It's in their budget now?

Becky Deichert: Yes.

Representative Skarphol: Those 10 aren't in HB1053?

Becky Deichert: Correct.

Representative Kempenich: I think they want the desktop support. My understanding is that there is going to be an amendment.

Chairman Thoreson: HB1053 added everyone. There is some discussion about looking at some others to do part of it this time. Representative Streyle had made a mention of that.

Representative Kempenich: The dollars are there but is the policy in there?

Representative Skarphol: When they put the dollars in, the agency had requested a service and a service will be provided because the dollars are in their budget for the service. There doesn't really need to be a policy.

Chairman Thoreson: Do we need to add language or is it implied because the dollars are there we're covered?

Brady Larson, Fiscal Analyst, ND Legislative Council: HB1053 required the agencies to use desktop services. Without HB1053 it would still be optional. By providing the money in the budgets, it would still allow those agencies to use those desktop support services.

Representative Skarphol: Would that mean that if they decided not to use desktop support from ITD they'd have that money as flexible dollars in their budget where they could use them as they saw fit?

Brady Larson: The money would be included in the operating expenses line item; so technically, if it wasn't used for desktop support services, it could be used for other operating expenses.

Representative Glassheim: There's a line item that says adds desktop support services \$46,000.00. Is that the law or can they use that for salary?

Representative Kempenich: It was the policy; I think we have to indicate that this was what that was for. Otherwise, I think they could pretty much go back to what they were doing and hire somebody to do whatever.

Chairman Thoreson: Unless we put some language, any agency could use that for any operating because that's where the money sits in their budget.

Brady Larson: That's technically correct. I think the documents your reviewing would provide legislative intent that the money is to be used for desktop support services. It is all lumped into an operating expenses line item and I guess they could use it for whatever operating expenses they wanted to.

Representative Skarphol: Where's the \$46,118.00 reflected on the green sheet?

Representative Kempenich: It's contractual services.

Brady Larson: The first two pages of the green sheet provide some high level items. If you go to the third page of the green sheet you'll see a landscape document.

Representative Skarphol: Since it's that way on the green sheet; I would assume that pretty well indicates legislative intent.

Brady Larson: I would agree that it certainly establishes it.

Representative Skarphol: With regard to the \$46,000.00 in one time funding accrued leave payouts; there's \$26,000.00 for accrued leave and \$20,000.00 for overtime. Are you anticipating somebody retiring?

Troy Seibel, Commissioner, Department of Labor and Human Rights: We have two compliance investigators who are eligible for retirement under the PERS system right now. If they would leave we would have to pay out their accrued leave.

Representative Skarphol: If you didn't have the money and they retired, can you give them the money and come in for a deficiency appropriation?

Troy Seibel: We'd either have to leave a position open for a while to build up some reserves or we would have to go to the emergency commission.

Representative Skarphol: Do you have accrued leave money in your current budget for this biennium?

Troy Seibel: We do.

Representative Skarphol: That will be turn back?

Troy Seibel: We're expecting a little under \$10,000.00 of turn back on our salary line. We had appropriated \$39,609.00 on our accrued leave line. We had four employees leave in the current biennium that we had to pay out their leave to; so current expenditures biennium to date are about \$15,258.00.

Representative Skarphol: I think you could take \$10,000.00 out of that accrued leave line. If you have someone leave you're going to get some rollup dollars as a result of that person leaving. I assume you can't hire somebody over night.

Troy Seibel: No we can't.

Representative Kempenich: You have \$20,000.00 in extraordinary repairs. What is that for?

Troy Seibel: That would be for building out our office space for the additional FTE. The Senate cut it from \$25,000.00 to \$10,000.00 in their version.

Becky Deichert: If it passes through we'd like to get an emergency clause put on the bill for the \$10,000.00; so they can start the changes.

Representative Skarphol: Made a motion to add an emergency clause.

Representative Glassheim: Seconded the motion.

Voice vote made and carried.

Representative Hogan: What's the split between overtime and accrued leave and how much overtime are you using?

Troy Seibel: The \$26,000.00 is the leave payout and the \$20,000.00 is the one-time request for overtime. Right now we've spent about \$30,000.00 in overtime. I don't know how much more we're going to be able to do in the current biennium because I think we'll be out of funds.

Representative Hogan: If we reduced the leave pay out to \$15,000.00 or \$16,000.00 and cut the whole line by \$10,000.00; you'd still have your overtime.

Troy Seibel: Correct.

Representative Vigesaa: I think to be consistent we need to remove the \$26,000.00 for accrued so that we're treating like agencies similarly.

Representative Vigesaa: Made a motion to remove the \$26,000.00 for accrued leave.

Representative Kempenich: Seconded the motion.

Representative Hogan: The department we did that to was Securities and they were a little anxious about this; because they have such a small staff and they have no turn over.

Representative Glassheim: Perhaps we made a mistake before and being consistent with an error is not a virtue.

Voice vote made and carried.

Representative Boehning: I was looking at that IT item; the \$56,000.00. Is that part of the desktop support?

Troy Seibel: It's a paperless system that the department would like to put into place. That's the quote we received from ITD for those services to put that system in place.

Representative Skarphol: I think they need to have that; because 20 years ago worker's compensation scanned everything in so they could share files electronically. In today's world every agency ought to have that.

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

Representative Skarphol: Seconded the motion.

Roll call vote: 8 Yeas 0 Nays 0 Absent

Representative Glassheim carried the bill.

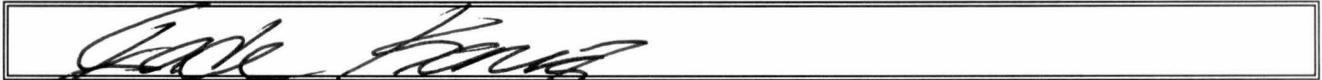
Chairman Thoreson: Closed the discussion.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2007
4/7/2015
25895

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Provide an appropriation for defraying the expenses of the department of labor and human rights.

Minutes:



Representative Glassheim: The wishes of the Department of Labor and Human Rights, they asked for five new positions based on labor increase. The Senate took out four of the five, they took out 26,000 dollars for a crew I believe and we took out health insurance money to reflect that changes in cost. Those are the only changes we made on this bill that came from the Senate. I move .02001 amendments on HB 2007.

Representative Thoreson: Second.

Chairmen Delzer: It looks to me like the Senate left two new FTE's and the House did the same is that true?

Representative Glassheim: That is correct.

Chairman Delzer: Questions, comments or discussions on the motion to amend?

Motion to adopt amendment .02001.
Motion made by Representative Glassheim.
Seconded by Representative Thoreson.
Voice vote.
Motion carries.

Representative Glassheim: In support of the two positions I should have said open pending wage claims increase from 54 in fiscal 10 to 237 in fiscal 14. Average number of days the division took to close the wage claim in 2010 was 63 and now it is 117. The problem has opened up their case load. It used to be 28 it is now up to 64. Even with the four they had requested they would have had 42 so there is quite a lot of pressure on them

from the claims because of increased employment and increased complexity of the cases and some increase in people moving around in the west. I move for a Do Pass as Amended on SB 2007.

Representative Skarphol: Second.

Chairman Delzer: Discussion by the committee?

Motion for a Do Pass As Amended on SB 2007

Motion made by Representative Glassheim.

Seconded by Representative Skarphol.

Total yes 17. No 4. Absent 2.

Motion carries.

Floor assignment Representative Glassheim.

SJR
9/7/19
1/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2007

Page 1, line 2, after "rights" insert "; and to declare an emergency"

Page 1, replace line 12 with:

"Salaries and wages \$1,922,048 \$544,492 \$2,466,540"

Page 1, replace line 15 with:

"Total all funds \$2,285,351 \$664,242 \$2,949,593"

Page 1, replace line 17 with:

"Total general fund \$1,847,425 \$664,336 \$2,511,761"

Page 1, replace line 24 with:

"Overtime \$0 \$20,000"

Page 2, replace line 2 with:

"Total general fund \$0 \$76,135"

Page 2, after line 6, insert:

"SECTION 3. EMERGENCY. Funding of \$10,000 for extraordinary repairs in the operating expenses line item in section 1 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2007 - Labor Commissioner - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$1,922,048	\$2,503,831	(\$37,291)	\$2,466,540
Operating expenses	323,694	483,053		483,053
Accrued leave payments	39,609			
Total all funds	\$2,285,351	\$2,986,884	(\$37,291)	\$2,949,593
Less estimated income	437,926	437,832	0	437,832
General fund	\$1,847,425	\$2,549,052	(\$37,291)	\$2,511,761
FTE	13.00	15.00	0.00	15.00

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

Adjusts Funding for Health Insurance Premium Increases ¹	Removes Accrued Leave Funding ²	Total House Changes

2/2

Salaries and wages	(\$11,291)	(\$26,000)	(\$37,291)
Operating expenses			
Accrued leave payments			
Total all funds	(\$11,291)	(\$26,000)	(\$37,291)
Less estimated income	0	0	0
General fund	(\$11,291)	(\$26,000)	(\$37,291)
FTE	0.00	0.00	0.00

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

² One-time funding is removed for accrued leave payments.

This amendment also provides:

- An emergency clause for \$10,000 of extraordinary repairs funding for the construction of additional office space.

Date: March 31, 2015
Roll Call Vote #: 7

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2007

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep Hogan Seconded By Rep Staysbol

Representatives	Yes	No	Representatives	Yes	No
<u>VOICE VOTE</u>					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

To adjust health insurance - motion carried

Date: March 31, 2015
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2007

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep Skayhol Seconded By Rep Harkins

Representatives	Yes	No	Representatives	Yes	No
VOICE VOTE					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To add emergency clause motion carried

Date: March 31, 2015
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2007

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep Vigiera Seconded By Rep Kempenich

Representatives	Yes	No	Representatives	Yes	No
<u>Y O I C E V O T E</u>					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To remove \$26,000.00 for accrued leave - motion carried

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2007**

House Appropriations - Government Operations Divison Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Representative Hogan Seconded By Representative Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	x		Representative Hogan	x	
Vice Chairman Brandenburg	x		Representative Glassheim	x	
Representative Kempenich	x				
Representative Vigesaa	x				
Representative Boehning	x				
Representative Skarphol	x				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Representative Glassheim

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

REPORT OF STANDING COMMITTEE

SB 2007, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2007 was placed on the Sixth order on the calendar.

Page 1, line 2, after "rights" insert "; and to declare an emergency"

Page 1, replace line 12 with:

"Salaries and wages	\$1,922,048	\$544,492	\$2,466,540"
---------------------	-------------	-----------	--------------

Page 1, replace line 15 with:

"Total all funds	\$2,285,351	\$664,242	\$2,949,593"
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Page 1, replace line 17 with:

"Total general fund	\$1,847,425	\$664,336	\$2,511,761"
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Page 1, replace line 24 with:

"Overtime		\$0	\$20,000"
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Page 2, replace line 2 with:

"Total general fund		\$0	\$76,135"
---------------------	--	-----	-----------

Page 2, after line 6, insert:

"SECTION 3. EMERGENCY. Funding of \$10,000 for extraordinary repairs in the operating expenses line item in section 1 of this Act is declared to be an emergency measure."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2007 - Labor Commissioner - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$1,922,048	\$2,503,831	(\$37,291)	\$2,466,540
Operating expenses	323,694	483,053		483,053
Accrued leave payments	39,609			
Total all funds	\$2,285,351	\$2,986,884	(\$37,291)	\$2,949,593
Less estimated income	437,926	437,832	0	437,832
General fund	\$1,847,425	\$2,549,052	(\$37,291)	\$2,511,761
FTE	13.00	15.00	0.00	15.00

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

	Adjusts Funding for Health Insurance Premium Increases ¹	Removes Accrued Leave Funding ²	Total House Changes
Salaries and wages	(\$11,291)	(\$26,000)	(\$37,291)
Operating expenses			
Accrued leave payments			
Total all funds	(\$11,291)	(\$26,000)	(\$37,291)

Less estimated income	0	0	0
General fund	(\$11,291)	(\$26,000)	(\$37,291)
FTE	0.00	0.00	0.00

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

² One-time funding is removed for accrued leave payments.

This amendment also provides:

- An emergency clause for \$10,000 of extraordinary repairs funding for the construction of additional office space.

2015 TESTIMONY

SB 2007

Department 406 - Department of Labor and Human Rights
 Senate Bill No. 2007

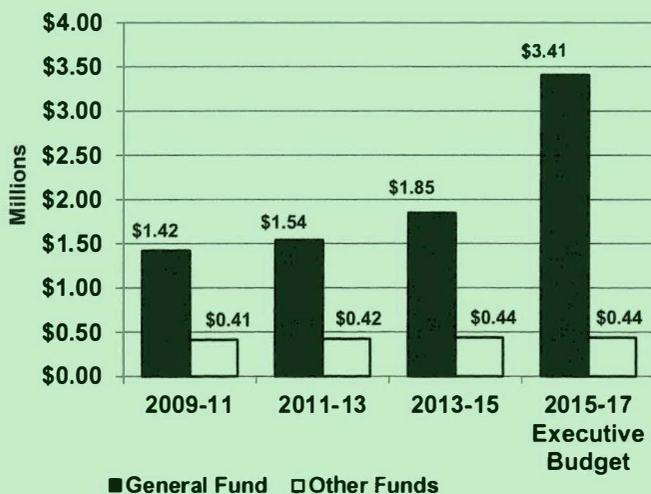
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	18.00	\$3,405,047	\$437,832	\$3,842,879
2013-15 Legislative Appropriations	13.00	1,847,425	437,926	2,285,351
Increase (Decrease)	5.00	\$1,557,622	(\$94)	\$1,557,528

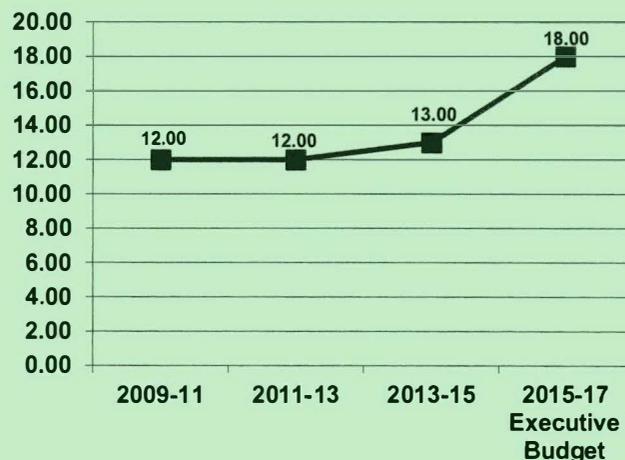
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$3,302,912	\$102,135	\$3,405,047
2013-15 Legislative Appropriations	1,847,425	0	1,847,425
Increase (Decrease)	\$1,455,487	\$102,135	\$1,557,622

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$3,405,047	\$437,832	\$3,842,879
2015-17 Base Level	1,847,425	437,926	2,285,351
Increase (Decrease)	\$1,557,622	(\$94)	\$1,557,528

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases of which \$143,839 relates to performance increases, \$55,271 is for market equity adjustments, \$77,719 is for health insurance increases, and \$14,794 is for retirement contribution increases	\$291,623	\$0	\$291,623
2. Provides special equity salary funding	\$139,744	\$0	\$139,744
3. Adds funding for 4 FTE compliance investigator positions and 1 FTE wage and hour director position (\$799,163), and related operating expense (\$117,765) and capital assets (\$25,000)	\$941,928	\$0	\$941,928
4. Provides one-time funding for an information technology system to eliminate paper file storage and increase department efficiency	\$56,135	\$0	\$56,135
5. Provides one-time funding for accrued leave payouts (\$26,000) and overtime (\$20,000)	\$46,000	\$0	\$46,000

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. 1053 - Centralized Desktop Support Services - Requires certain agencies to obtain centralized desktop support services from the Information Technology Department.

Department of Labor and Human Rights - Budget No. 406

Senate Bill No. 2007

Base Level Funding Changes

	Executive Budget Recommendation			Total
	FTE Positions	General Fund	Other Funds	
2015-17 Biennium Base Level	13.00	\$1,847,425	\$437,926	\$2,285,351
2015-17 Ongoing Funding Changes				
Base payroll changes		\$36,074	(\$94)	\$35,980
Salary increase - Performance		143,839		143,839
Salary increase - Market equity		55,271		55,271
Salary increase - Targeted equity		139,744		139,744
Retirement contribution increase		14,794		14,794
Health insurance increase		77,719		77,719
New FTE investigators	4.00	713,032		713,032
New FTE wage and hour director	1.00	228,896		228,896
Adds desktop support services		46,118		46,118
Total ongoing funding changes	5.00	\$1,455,487	(\$94)	\$1,455,393
One-time funding items				
Adds accrued leave and overtime		\$46,000		\$46,000
Adds IT system		56,135		56,135
Total one-time funding changes	0.00	\$102,135	\$0	\$102,135
Total Changes to Base Level Funding	5.00	\$1,557,622	(\$94)	\$1,557,528
2015-17 Total Funding	18.00	\$3,405,047	\$437,832	\$3,842,879

Department 406 - Department of Labor and Human Rights
 Senate Bill No. 2007

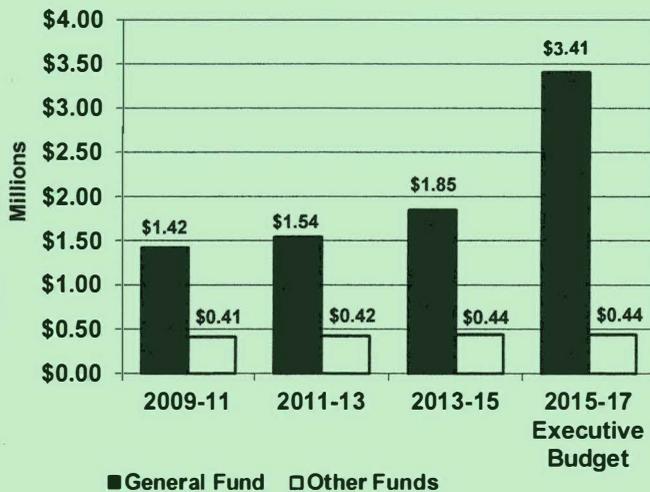
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	18.00	\$3,405,047	\$437,832	\$3,842,879
2013-15 Legislative Appropriations	13.00	1,847,425	437,926	2,285,351
Increase (Decrease)	5.00	\$1,557,622	(\$94)	\$1,557,528

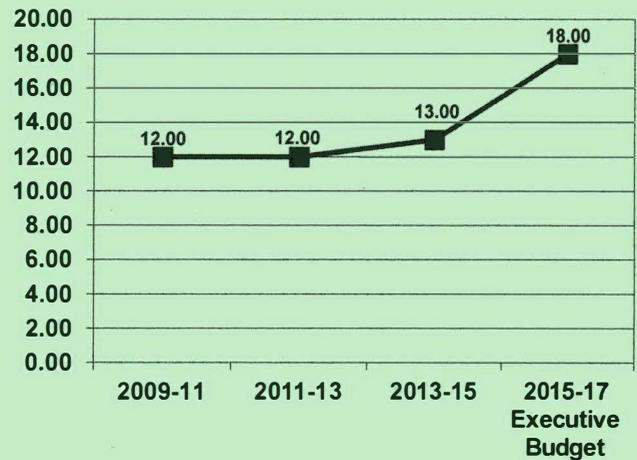
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$3,302,912	\$102,135	\$3,405,047
2013-15 Legislative Appropriations	1,847,425	0	1,847,425
Increase (Decrease)	\$1,455,487	\$102,135	\$1,557,622

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$3,405,047	\$437,832	\$3,842,879
2015-17 Base Level	1,847,425	437,926	2,285,351
Increase (Decrease)	\$1,557,622	(\$94)	\$1,557,528

First House Action

Attached as an appendix is a comparison worksheet detailing first house changes to base level funding and the executive budget.

Executive Budget Highlights
 (With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases of which \$143,839 relates to performance increases, \$55,271 is for market equity adjustments, \$77,719 is for health insurance increases, and \$14,794 is for retirement contribution increases. The Senate provided funding for performance salary increases of 2 to 4 percent per year and funding for health insurance increases, but did not include funding for market equity increases or funding for retirement contribution increases.	\$291,623	\$0	\$291,623
2. Provides special equity salary funding. The Senate did not provide the special equity salary funding.	\$139,744	\$0	\$139,744

3. Adds funding for 4 compliance investigator FTE positions and 1 wage and hour director FTE position (\$799,163), and related operating expense (\$117,765) and capital assets (\$25,000). The Senate provided funding for 2 new compliance investigator FTE positions.	\$941,928	\$0	\$941,928
4. Provides one-time funding for an information technology system to eliminate paper file storage and increase department efficiency	\$56,135	\$0	\$56,135
5. Provides one-time funding for accrued leave payouts (\$26,000) and overtime (\$20,000)	\$46,000	\$0	\$46,000

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. 1053 - Centralized Desktop Support Services - Requires certain agencies to obtain centralized desktop support services from the Information Technology Department.

Department of Labor and Human Rights - Budget No. 406
Senate Bill No. 2007
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	13.00	\$1,847,425	\$437,926	\$2,285,351	13.00	\$1,847,425	\$437,926	\$2,285,351
2015-17 Ongoing Funding Changes								
Base payroll changes		\$36,074	(\$94)	\$35,980		\$36,074	(\$94)	\$35,980
Salary increase - Performance		143,839		143,839		88,426		88,426
Salary increase - Market equity		55,271		55,271				0
Salary increase - Targeted equity		139,744		139,744				0
Retirement contribution increase		14,794		14,794				0
Health insurance increase		77,719		77,719		64,765		64,765
New FTE investigators	4.00	713,032		713,032	2.00	364,109		364,109
New FTE wage and hour director	1.00	228,896		228,896				0
Add desktop support services funding		46,118		46,118		46,118		46,118
Total ongoing funding changes	5.00	\$1,455,487	(\$94)	\$1,455,393	2.00	\$599,492	(\$94)	\$599,398
One-time funding items								
Add accrued leave and overtime		\$46,000		\$46,000		\$46,000		\$46,000
Add information technology system		56,135		56,135		56,135		56,135
Total one-time funding changes	0.00	\$102,135	\$0	\$102,135	0.00	\$102,135	\$0	\$102,135
Total Changes to Base Level Funding	5.00	\$1,557,622	(\$94)	\$1,557,528	2.00	\$701,627	(\$94)	\$701,533
2015-17 Total Funding	18.00	\$3,405,047	\$437,832	\$3,842,879	15.00	\$2,549,052	\$437,832	\$2,986,884

Other Sections in Senate Bill No. 2007

	Executive Budget Recommendation				Senate Version			
	None				None			

Department of Labor and Human Rights - Budget No. 406
Senate Bill No. 2007
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	13.00	\$1,847,425	\$437,926	\$2,285,351	13.00	\$1,847,425	\$437,926	\$2,285,351	0.00	\$0	\$0	\$0
2015-17 Ongoing Funding Changes												
Base payroll changes		\$36,074	(\$94)	\$35,980		\$36,074	(\$94)	\$35,980				\$0
Salary increase - Performance		143,839		143,839		88,426		88,426		(55,413)		(55,413)
Salary increase - Market equity		55,271		55,271				0		(55,271)		(55,271)
Salary increase - Targeted equity		139,744		139,744				0		(139,744)		(139,744)
Retirement contribution increase		14,794		14,794				0		(14,794)		(14,794)
Health insurance increase		77,719		77,719		64,765		64,765		(12,954)		(12,954)
New FTE investigators	4.00	713,032		713,032	2.00	364,109		364,109	(2.00)	(348,923)		(348,923)
New FTE wage and hour director	1.00	228,896		228,896				0	(1.00)	(228,896)		(228,896)
Adds desktop support services		46,118		46,118		46,118		46,118				0
Other change				0				0				0
Other change				0				0				0
Total ongoing funding changes	5.00	\$1,455,487	(\$94)	\$1,455,393	2.00	\$599,492	(\$94)	\$599,398	(3.00)	(\$855,995)	\$0	(\$855,995)
One-time funding items												
Adds accrued leave and overtime		\$46,000		\$46,000		\$46,000		\$46,000		\$0		\$0
Adds IT system		56,135		56,135		56,135		56,135		0		0
Other one-time funding item				0				0				0
Total one-time funding changes	0.00	\$102,135	\$0	\$102,135	0.00	\$102,135	\$0	\$102,135	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	5.00	\$1,557,622	(\$94)	\$1,557,528	2.00	\$701,627	(\$94)	\$701,533	(3.00)	(\$855,995)	\$0	(\$855,995)
2015-17 Total Funding	18.00	\$3,405,047	\$437,832	\$3,842,879	15.00	\$2,549,052	\$437,832	\$2,986,884	(3.00)	(\$855,995)	\$0	(\$855,995)
Other Sections in Senate Bill No. 2007												
		Executive Budget Recommendation				Senate Version						

Jack Dalrymple
Governor

Troy T. Seibel
Commissioner



1 1-9-15
State Capitol
600 E. Boulevard Ave. - Dept. 406
Bismarck, ND 58505-0340

www.nd.gov/labor SB 2007
www.nd.gov/humanrights

**Testimony on SB 2007
Prepared for the
Senate Appropriations Committee**

January 9, 2015

Good morning Chairman Holmberg and members of the Appropriations Committee, my name is Troy Seibel, and I am the Commissioner of Labor.

Department Responsibilities

I would like to provide some background on the North Dakota Department of Labor and Human Rights for the new committee members, as well as a refresher for those of you who have handled our budget before. The Department has three primary areas of responsibility. The first is establishing and enforcing laws and regulations 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 North Dakota's human rights and housing laws. This is our Human Rights Division. Finally, the Department is tasked with educating the public about all areas of the law for which it is responsible.

Wage and Hour Division

The Wage and Hour Division enforces minimum wage and overtime laws and regulations (N.D.C.C. ch. 34-06). In addition, the Division enforces North Dakota's laws and regulations dealing with equal pay for men and women, child labor, labor unions, employment agencies, and wage collection (N.D.C.C. chs. 34-06.1, 34-07, 34-12, 34-13, and 34-14). The Wage and Hour Division receives and investigates claims of unpaid wages or overtime, failure to pay minimum wage, misclassification of employees, and other general complaints that North Dakota's labor laws are not being followed. The Division also reviews requests to issue youth employment certificates for 14 and 15-year old workers.

Here are some of the Division's accomplishments so far in the current biennium:

July 1, 2013- December 31, 2014	Wage Claims Closed	Amount Collected for Claimants	Youth Employment Certificates
	1,009	\$1,020,498.03	1,794

#1.1

Human Rights Division

The Human Rights Division administers and enforces the North Dakota Human Rights Act (N.D.C.C. ch. 14-02.4) and the North Dakota Housing Discrimination Act (N.D.C.C. ch. 14-02.5). 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's human rights and housing laws. Finally, the Human Rights Division handles complaints of retaliation under North Dakota's "whistleblower" law (N.D.C.C. § 34-01-20) and Public Employee Relations Act (N.D.C.C. § 34-11.1-04.1).

In addition to receiving and investigating complaints directly from individuals who believe they have been victims of unlawful discrimination under state anti-discrimination and whistleblower 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).

Here are some of the Division's accomplishments so far in the current biennium:

July 1, 2013- December 31, 2014	Employment	Retaliation	Housing	Public Service/Public Accommodation/Credit Transactions
Closed	239	65	59	20
Amount Collected	\$584,322.38	\$49,270.80	\$13,973.00	\$0

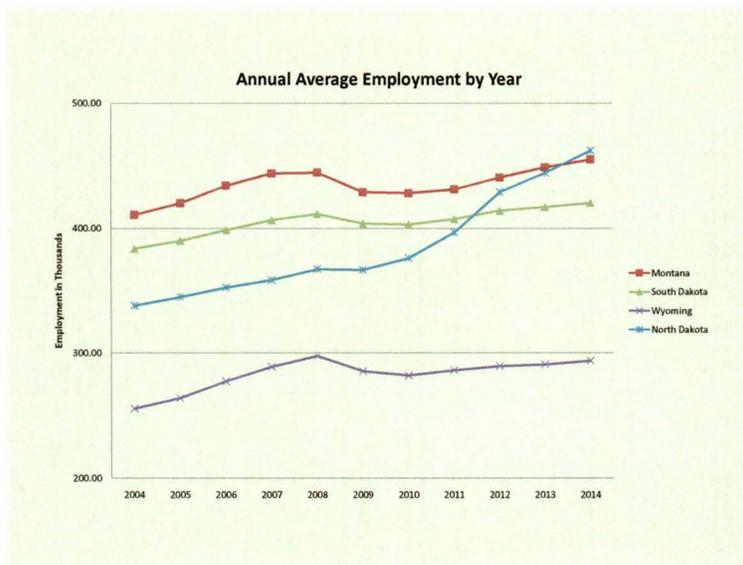
Public Education

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 has conducted 29 presentations during the first eighteen months of this biennium. The Department has made strides in educating the public and I am always looking for additional ways to provide information to both employers and employees in North Dakota.

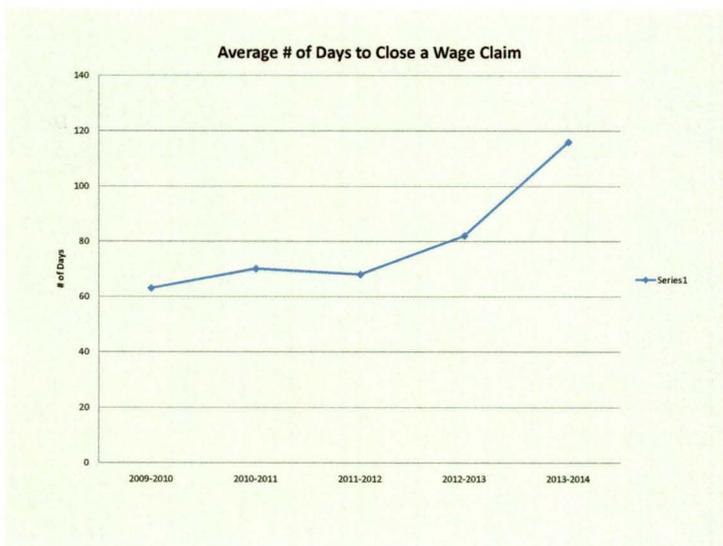
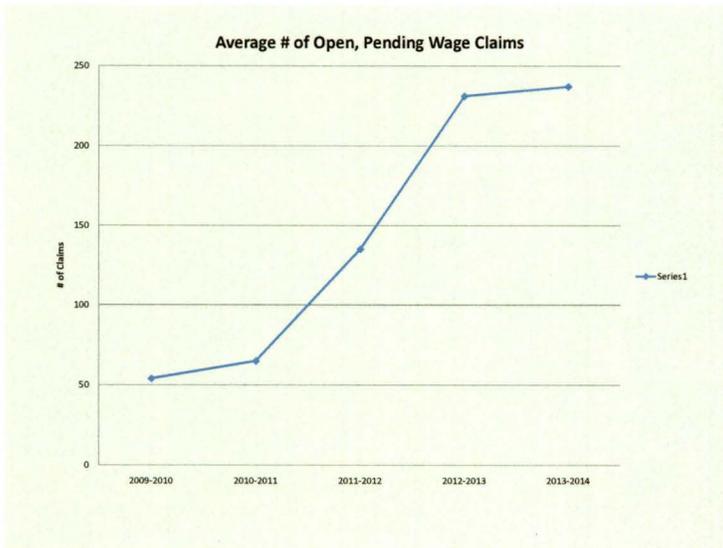
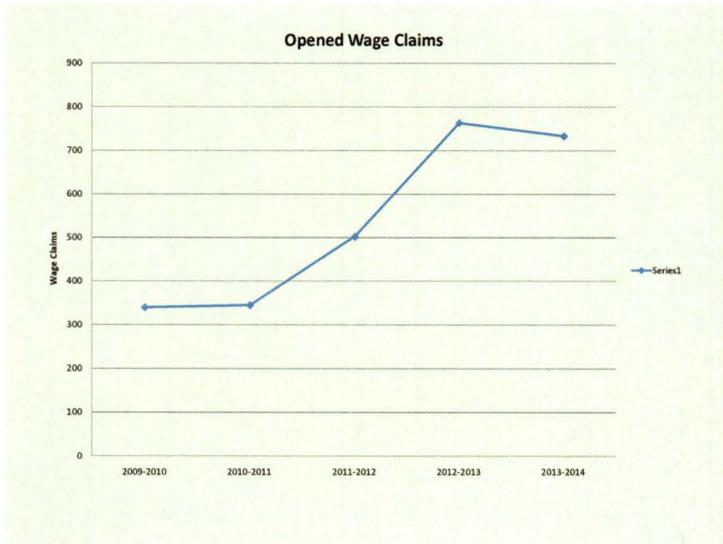
Increasing Workload

North Dakota's expanding economy also means a quickly growing labor force. In five short years, North Dakota's total non-farm employment population has expanded from 367,800 in October of 2009 to 470,400 in September of 2014, an increase of 102,600, or 27.9%. In fact, North Dakota now employs more people than either Montana or South Dakota, despite the larger populations of those two states. While these numbers show outstanding growth for North Dakota, they also represent challenges for the Department.



Wage and Hour Division

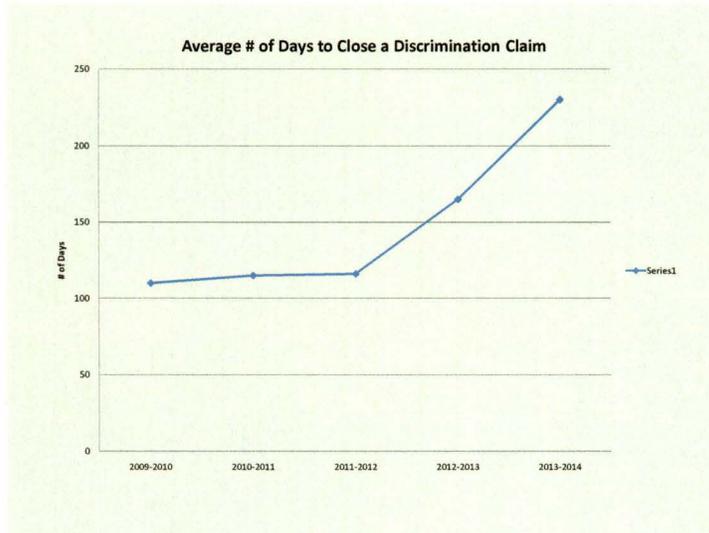
In FY 2009-10, the Wage and Hour Division opened 340 claims for unpaid wages. In the fiscal year ended June 30, 2014, the Division opened 734 such claims, an increase of 115.88%. The number of open, pending wage claims increased from 54 at the end of FY 2009-10 to 237 at the end of FY 2013-14. Unfortunately, this has resulted in increased delays between the filing of a wage claim and its closure. The average number of days the Division took to close a wage claim in FY 2009-10 was 63 days. By FY 2013-14, that number had increased to an average of 117 days. When dealing with a person's wages, this is a serious concern. Wage claims continue to be filed with the Division at historically high levels.



Human Rights Division

In FY 2009-10, the Human Rights Division opened 199 employment discrimination and whistleblower cases. By FY 2013-14, that number had grown to 232 cases. In the current fiscal year, the Division is on pace to open 280 cases. The Department is starting to see a significant increase in the number of employment discrimination cases being filed as a result of the state's growing economy. While these cases lagged behind wage claims, they are now catching up. In addition, these types of cases are typically more complex and time consuming for the Department's investigators.

Unfortunately, these factors have caused increased delays in the processing of employment discrimination cases as well. In FY 2009-10, the average number of days an employment discrimination case was open was 110 days. By FY 2013-14, that number had increased to an average of 225 days.



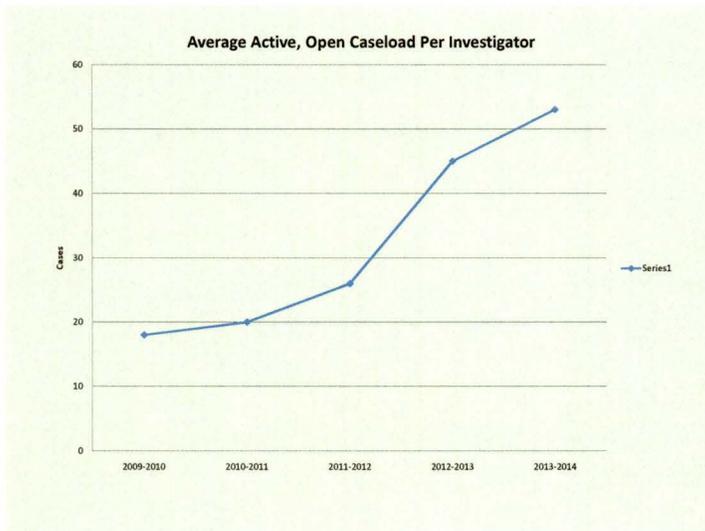
Housing, public service, public accommodation, and other areas handled by the Human Rights Division have remained steady over the past few years. However, certain statutory requirements in the housing area often require these cases be given priority, as charges of housing discrimination must be resolved and closed within 100 days of being filed. Therefore, while the number of these claims remains steady, they represent an additional workload for the Division's investigators.

Other Areas

The Department has seen the number of telephone, email, and "walk-in" inquiries from citizens around the state increase from 8,185 in FY 2009-10 to 10,602 in FY 2013-14, an increase of 29.5%. In addition, requests for youth employment certificates from 14 and 15-year old workers has increased from 985 in FY 2009-10 to 1,200 in FY 2013-14, an increase of 21.8%.

Impact on Department Staff

The numbers set forth above have had a significant impact on the Department's staff. For an investigative staff of eight, the significant increases the Department has seen in incoming cases have a major impact. In FY 2009-10, an investigator with the Department averaged an active, open caseload of 18 cases at any given time. By FY 2013-14, this number had increased to 53 cases, a 194.44% increase. As of December 2014, the active, open caseload per investigator remains at historically high levels. In addition, the Department has seen its cases become more complex, thus requiring more time. These large caseloads mean investigators do not have as much time to devote to each case and cases take longer to investigate. In addition, the Department has spent \$18,041.11 on overtime in the last 11 months alone, along with 778.25 hours of compensatory time being earned in the current biennium.



Budget Request

I will now focus on the Department's 2013-2015 appropriation, estimated 2013-15 spending and the status of one-time expenditures, 2015-17 budget needs, 2015-17 one time expenditures, and any variances.

2013-15 Biennium

In the current biennium, the Department's total appropriation is \$2,285,351. Salaries, wages, and accrued leave payments total \$1,961,657, with operating expenses accounting for the remaining \$323,694. The budget is a combination of general funds and \$437,926 in federal fund authority. The Department does not have any one-time spending items in its current budget.

With respect to 2013-15 spending, the Department expects to utilize nearly all of the funding appropriated for salaries and benefits. Any remaining portion not utilized is primarily a result of turn-over and open positions during the biennium.

With respect to operating costs, we also expect to utilize nearly all of the funds appropriated. This is due in large part to the Department's relocation from the 13th floor of the tower to the 1st floor of the judicial wing and the associated construction and moving expenses. In addition, the Department paid for EEOC training for all of its investigators and Human Rights Director. Finally, the Department undertook a comprehensive mailing campaign to distribute new informational posters to employers throughout the state.

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 2013-15 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.

2015-17 Biennium and SB 2007

The Governor's Executive Recommendation contained in SB 2007 proposes a total appropriation for the Department of \$3,842,879. Of the total budget, \$3,274,167 is for salaries and wages, including salaries for five additional FTEs. This amount also includes a targeted market equity adjustment, accrued leave payouts, overtime, and the suggested increase in the recommended compensation package. The remaining \$568,712 is for operating expenses and certain one-time budget requests.

Additional FTEs

The Department is asking for five additional FTEs, which I believe is justified. Specifically, the Department is seeking to add a Wage and Hour Director and four Compliance Investigators. Given the dramatic increase in the Department's caseload, specifically in the area of wage claims, these additional staff are necessary for the Department to continue to provide high quality and timely services to the citizens of North Dakota.

The Department's Human Rights Director has essentially acted as the de-facto Wage and Hour Director for years. However, given the significant increase in workload in the Wage and Hour Division, this is no longer possible. The volume of work across both the Wage and Hour and Human Rights Divisions now requires that these responsibilities be split amongst two employees. This is the reason for the request for a new Wage and Hour Director.

In addition, the four additional Compliance Investigators are necessary, given the Department's caseload. As mentioned above, historically, an investigator with the Department has had an open, active caseload of approximately 20. Those numbers are now around 55 cases. Even with four additional investigators, the average open, active caseload for 12 investigators would currently be 38, still

high by historical standards. The Department's request for five additional FTEs is both justified and necessary to provide quality and timely services to the public. The wages and salaries associated with the five additional FTEs totals \$799,163.

Targeted Market Equity Adjustment

In addition, the Department's proposed budget includes a targeted market equity adjustment. It has come to my attention that the Department currently has the second lowest Compa-Ratio among all state agencies at 0.84. The Governor's Executive Recommendation and SB 2007 contains \$139,744 for this market equity adjustment. This was based upon several factors used by the Office of Management and Budget, specifically the Department's current Compa-Ratio of 0.84, the fact the Department has had a 45% turnover rate among staff in the current biennium, and the amount necessary to reach the targeted Compa-Ratio of 0.98. These funds will ensure the Department is able to pay its employees a comparable salary and keep turnover as low as possible.

Overtime

The Department is asking for \$20,000 in overtime funds. As mentioned above, the Department has spent \$18,041.11 in just 11 months so far in this biennium. The Department anticipates that until the new staff are hired and trained, the current staff will continue to have the need to work overtime.

Accrued Leave Payouts

Finally, the Department's proposed budget includes \$26,000 in retirement leave payouts. The Department now has two, seasoned investigators that are nearing retirement eligibility. The Department anticipates retirement among its staff, which would require significant accrued leave payouts. The \$26,000 is a one-time request.

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. Finally, discrimination claims are very emotional and difficult for the parties involved and deserve to be resolved as quickly as possible. The additional FTEs, targeted market equity adjustment, and increases to the recommended compensation package contained within SB 2007 will go a long way in assisting the Department with its statutorily mandated duties and providing excellent service to the citizens of North Dakota.

Operating Expenses

The Department's proposed operating budget in the Executive Recommendation is \$568,712. This is \$245,018 more than the current biennium, and is primarily a reflection of the costs associated with five additional FTEs. In addition, the Department is looking to have ITD handle its desktop support, as opposed to outside vendors. In the past, the Department would pay outside vendors as needed. The costs associated with ITD desktop support total \$46,118 for the biennium. I am hoping to continue to run a very cost conscious and effective Department, and look for ways to cut costs where we can.

One-Time Requests

The Department's proposed budget for operating expenses also includes a few one-time requests. In addition to the retirement leave payout and overtime requests set forth above, the Department is requesting \$56,135 to pay for a paperless system to be developed and deployed by ITD. This system will allow the Department to become more efficient and reduce operating costs in the long term. Finally, the Department is seeking \$25,000 to defray the construction costs associated with building out office space for the additional FTEs being requested.

Conclusion

The Department is always seeking ways 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, 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 manner. The Governor's Executive Recommendation for the Department's budget, contained within SB 2007, 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 you may have.

Jack Dalrymple
Governor

Troy T. Seibel
Commissioner



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

www.nd.gov/labor
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**Testimony on SB 2007
Prepared for the
Senate Appropriations Subcommittee on SB 2007**

February 5, 2015

Good afternoon Chairman Sorvaag and members of the Senate Appropriations Subcommittee on SB 2007. I am Troy Seibel and I am the Commissioner of Labor with the Department of Labor and Human Rights. At the request of the Subcommittee, I have gathered additional information regarding caseload information from other states and present that information here.

Updated Caseload Information for the Department

First, I would like to provide some updated information regarding the Department. As of February 4, 2014, the Department has 488 open cases. With 8 compliance investigators, this equates to a current, active caseload per investigator of approximately 61 cases. I would like to point out that this number does not include several additional duties carried out by our compliance investigators. They also provide coverage for phone and walk-in inquiries, handle all intakes of new complaints of discrimination, conduct mediations, and negotiate settlements. These duties consume a significant portion of their time. They must balance these tasks while still maintaining their caseloads.

Neighboring States

I ran into difficulty in gathering comprehensive, comparative information from other states for the subcommittee. The primary reason for this is due to the fact each state organizes its agencies differently. Some states have completely separate agencies which enforce wage and hour and discrimination laws. Other states have much larger agencies which also handle workers compensation and unemployment claims. Therefore, an "apples-to-apples" comparison was difficult to obtain. However, I will report here what I have found.

Minnesota

Minnesota enforces its wage and hour and discrimination laws through two separate agencies. Its wage and hour laws are enforced through its Department of Labor and Industry's Labor Standards Unit. According to the most recent information I was able to obtain, this Unit has 5 full time equivalent employees,

which work on wage claim investigations. This Unit also has a full time attorney at its disposal, as well as support staff. This information also revealed the Unit received 470 wage claims. In comparison, the Department received 734 wage claims in the fiscal year ending June 30, 2014.

Minnesota's discrimination laws are enforced through its Department of Human Rights. According to the Department, its investigators currently have an active, open caseload in the high 40s and it takes them, on average, 311 days to close a discrimination case. The Department of Human Rights enforces its state human rights and housing acts, as well as Title VII of the Civil Rights Act. However, unlike our Department, Minnesota's Department of Human Rights is not a certified Fair Housing Assistance Program enforcing federal housing laws in conjunction with HUD.

Finally, I obtained information from Minnesota regarding a study completed for its Department of Human Rights. The study surveyed 27 states regarding caseload and production information for investigators of discrimination laws. What the study found is that, on average, it was reasonable to expect an investigator to close 75 cases per year. Again, I would stress these numbers were for investigators that only investigated discrimination laws, not wage and hour or housing laws. For reference, the Department is on pace to open 910 cases of all types this fiscal year. With 8 investigators closing 75 cases per year, we would only be able to close 600 cases, far short of the 910 cases received. An additional 4 investigators would allow us to close approximately 900 cases per year.

South Dakota

South Dakota enforces its wage and hour and discrimination laws through its Department of Labor and Regulation. Interestingly, the Department does not conduct investigations into claims for unpaid wages but merely forwards an employee's claim to the employer. If the employer does not respond or pay, the employee is left to pursue his or her claim in a court proceeding.

With regards to discrimination laws, the Department of Labor and Regulation's Human Rights Division received 88 charges of discrimination between October 1, 2013 and September 30, 2014. For comparison, we are on pace to receive 322 complaints of discrimination in the current fiscal year. I would note that, like Minnesota, the Human Rights Division is not a certified Fair Housing Assistance Program enforcing federal housing laws in conjunction with HUD.

Montana

Montana enforces its wage and hour and discrimination laws through its Department of Labor and Industry's Employment Relations Division. This Division enforces Montana's wage and hour laws through its Wage and Hour Unit. The most recent data I was able to obtain shows this Unit had 9 FTEs and handled 469 wage and hour investigations. It is the Unit's goal to close its cases

within 55 days. By comparison, we received 734 wage claims last fiscal year, with an average days to close of 117.

The Division enforces Montana's discrimination laws through its Human Rights Bureau. Between July 1, 2013 and June 30, 2014, the Bureau received 655 complaints of discrimination and closed 684. It was able to close more cases than it received. By comparison, we are on pace to receive 322 complaints of discrimination and close 260. Unfortunately, I have not yet been able to obtain the number of investigators used by Montana as of today. Finally, I would note that, like Minnesota and South Dakota, the Human Rights Bureau is not a certified Fair Housing Assistance Program enforcing federal housing laws in conjunction with HUD.

Caseloads and Average Days to Close

I would stress that increasing caseloads mean a longer wait time for the public. As I have testified to before, the average number of days it takes the Department to close a case has increased significantly. This is a serious concern when you are dealing with a complaint from someone who did not receive their last paycheck or feel as though he or she has been discriminated against. The Department has prided itself on its prompt and efficient customer service in the past. As one can see from Minnesota's data, a caseload per investigator in the high 40's results in the average number of days to close a case of 311.

Five short years ago, on average, the Department closed a wage claim investigation in 63 days and an employment discrimination investigation in 110 days. Now these numbers have increased to 117 and 225, respectively, and are increasing month-by-month. I should point out the Department was sued by the North Dakota Human Rights Coalition in 2004. The Coalition alleged the Department was failing to close its cases in a timely manner. For comparison, at the time the lawsuit was filed, the Department, on average, closed a wage claim investigation in 78 days and an employment discrimination case in 223 days. We are now in similar territory today. This litigation dragged on for 2 years, with significant impacts on the Department and the Attorney General's office.

Conclusion

The Department is required by law to investigate allegations that our wage and hour and discrimination laws were violated. It also investigates violations of federal law. Unlike Minnesota, South Dakota, and Montana, the Department is a certified Fair Housing Assistance Program enforcing federal housing laws in conjunction with HUD. The Department is unable to control its caseload, as this is governed by law. I believe the Department's request for additional FTEs is justified.

I would be happy to answer any questions the committee may have.

#1
 2-12-15
 SB2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2007

Page 1, replace lines 12 through 18 with:

"Salaries and wages	\$1,922,048	\$581,783	\$2,503,831
Accrued leave payments	39,609	(39,609)	0
Operating expenses	<u>323,694</u>	<u>159,359</u>	<u>483,053</u>
Total all funds	\$2,285,351	\$701,533	\$2,986,884
Less estimated income	<u>437,926</u>	<u>(94)</u>	<u>437,832</u>
Total general fund	\$1,847,425	\$701,627	\$2,549,052
Full-time equivalent positions	13.00	2.00	15.00"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2007 - Labor Commissioner - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$1,922,048	\$581,783	\$2,503,831
Operating expenses	323,694	159,359	483,053
Accrued leave payments	39,609	(39,609)	
	<u>\$2,285,351</u>	<u>\$701,533</u>	<u>\$2,986,884</u>
Total all funds			
Less estimated income	437,926	(94)	437,832
	<u>\$1,847,425</u>	<u>\$701,627</u>	<u>\$2,549,052</u>
General fund			
FTE	13.00	2.00	15.00

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

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for 2 FTE Investigator Positions ³	Adds Funding for Desktop Support Services ⁴	Adds One-Time Funding for IT System ⁵	Adds One-Time Funding for Accrued Leave and Overtime ⁶
Salaries and wages	\$75,589	\$153,191	\$307,003			\$46,000
Operating expenses			57,106	46,118	56,135	
Accrued leave payments	(39,609)					
	<u>\$35,980</u>	<u>\$153,191</u>	<u>\$364,109</u>	<u>\$46,118</u>	<u>\$56,135</u>	<u>\$46,000</u>
Total all funds						
Less estimated income	(94)	0	0	0	0	0
	<u>\$36,074</u>	<u>\$153,191</u>	<u>\$364,109</u>	<u>\$46,118</u>	<u>\$56,135</u>	<u>\$46,000</u>
General fund						
FTE	0.00	0.00	2.00	0.00	0.00	0.00

	Total Senate Changes
Salaries and wages	\$581,783
Operating expenses	159,359
Accrued leave payments	(39,609)
	<u>\$701,533</u>
Total all funds	
Less estimated income	(94)
	<u>\$701,627</u>
General fund	
FTE	2.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase - Performance	\$88,426		\$88,426
Health insurance increase	64,765		64,765
Total	\$153,191		\$153,191

³ Funding is added from the general fund for two new full-time equivalent (FTE) investigator positions (\$307,003) and related operating expenses (\$57,106).

⁴ Funding is added for obtaining desktop support services from the Information Technology Department.

⁵ One-time funding is added for an information technology system to eliminate paper file storage and increase department efficiency.

⁶ One-time funding is added for accrued leave payouts (\$26,000) and overtime (\$20,000).

Jack Dalrymple
Governor

Troy T. Seibel
Commissioner



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

www.nd.gov/labor
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**Testimony on SB 2007
Prepared for the
House Appropriations Committee - Government Operations Division**

March 5, 2015

Good morning Chairman Thoreson and members of the House Appropriations Committee - Government Operations Division, my name is Troy Seibel, and I am the Commissioner of Labor.

Department Responsibilities

I would like to provide some background on the North Dakota Department of Labor and Human Rights for the new committee members, as well as a refresher for those of you who have handled our budget before. The Department has three primary areas of responsibility. The first is establishing and enforcing laws and regulations 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 North Dakota's human rights and housing laws. This is our Human Rights Division. Finally, the Department is tasked with educating the public about all areas of the law for which it is responsible.

Wage and Hour Division

The Wage and Hour Division enforces minimum wage and overtime laws and regulations (N.D.C.C. ch. 34-06). In addition, the Division enforces North Dakota's laws and regulations dealing with equal pay for men and women, child labor, labor unions, employment agencies, and wage collection (N.D.C.C. chs. 34-06.1, 34-07, 34-12, 34-13, and 34-14). The Wage and Hour Division receives and investigates claims of unpaid wages or overtime, failure to pay minimum wage, misclassification of employees, and other general complaints that North Dakota's labor laws are not being followed. The Division also reviews requests to issue youth employment certificates for 14 and 15-year old workers.

Here are some of the Division's accomplishments so far in the current biennium:

July 1, 2013- December 31, 2014	Wage Claims Closed	Amount Collected for Claimants	Youth Employment Certificates
	1,009	\$1,020,498.03	1,794

Human Rights Division

The Human Rights Division administers and enforces the North Dakota Human Rights Act (N.D.C.C. ch. 14-02.4) and the North Dakota Housing Discrimination Act (N.D.C.C. ch. 14-02.5). 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's human rights and housing laws. Finally, the Human Rights Division handles complaints of retaliation under North Dakota's "whistleblower" law (N.D.C.C. § 34-01-20) and Public Employee Relations Act (N.D.C.C. § 34-11.1-04.1).

In addition to receiving and investigating complaints directly from individuals who believe they have been victims of unlawful discrimination under state anti-discrimination and whistleblower 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).

Here are some of the Division's accomplishments so far in the current biennium:

July 1, 2013-December 31, 2014	Employment	Retaliation	Housing	Public Service/Public Accommodation/Credit Transactions
Closed	239	65	59	20
Amount Collected	\$584,322.38	\$49,270.80	\$13,973.00	\$0

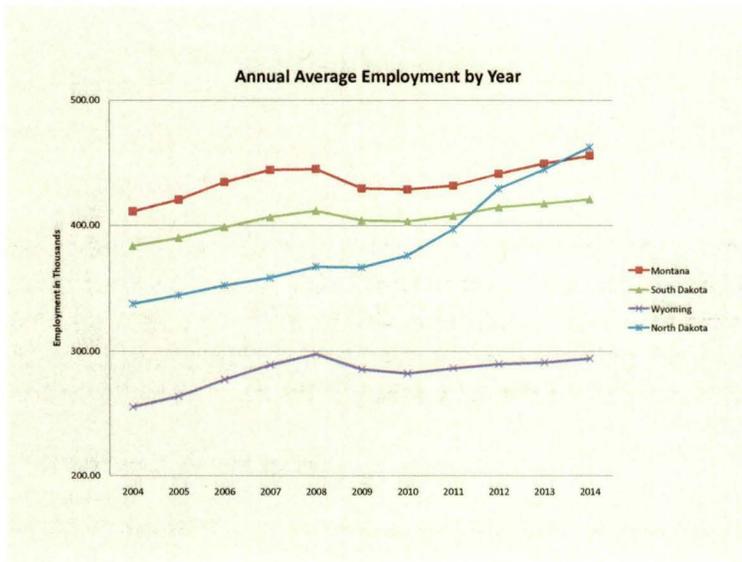
Public Education

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 has conducted 29 presentations during the first eighteen months of this biennium. The Department has made strides in educating the public and I am always looking for additional ways to provide information to both employers and employees in North Dakota.

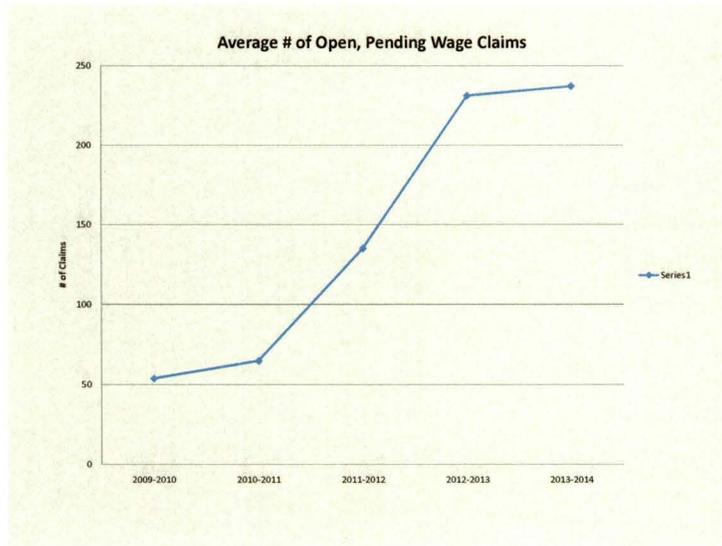
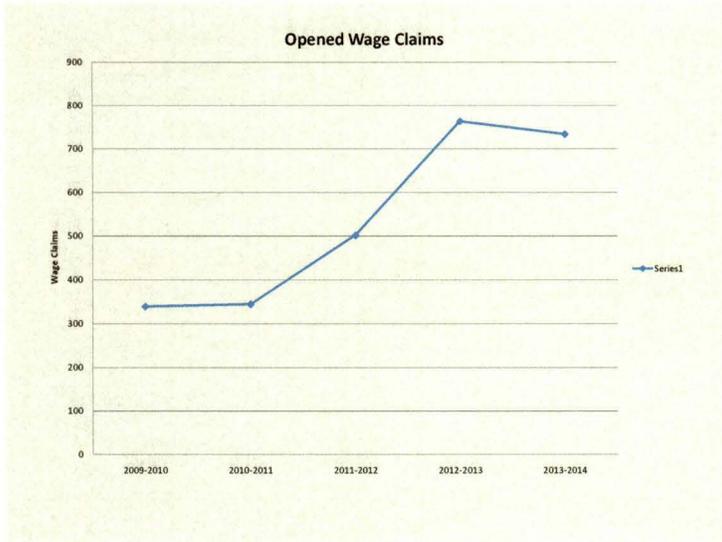
Increasing Workload

North Dakota's expanding economy also means a quickly growing labor force. In five short years, North Dakota's total non-farm employment population has expanded from 367,800 in October of 2009 to 470,400 in September of 2014, an increase of 102,600, or 27.9%. In fact, North Dakota now employs more people than either Montana or South Dakota, despite the larger populations of those two states. While these numbers show outstanding growth for North Dakota, they also represent challenges for the Department.



Wage and Hour Division

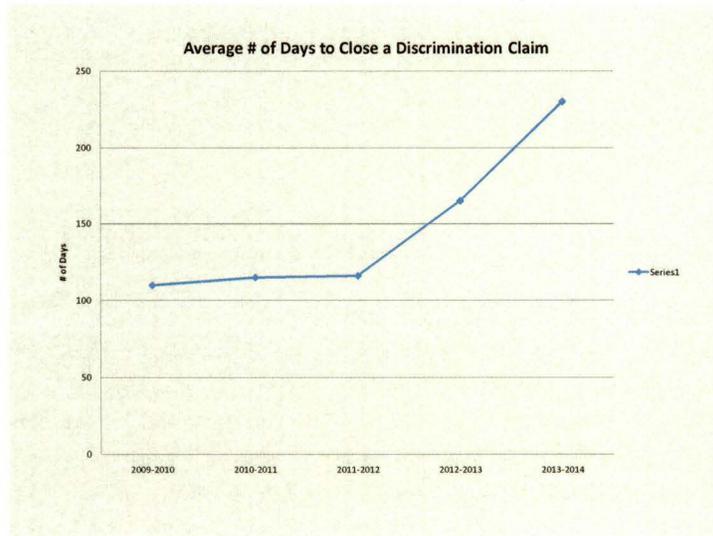
In FY 2009-10, the Wage and Hour Division opened 340 claims for unpaid wages. In the fiscal year ended June 30, 2014, the Division opened 734 such claims, an increase of 115.88%. The number of open, pending wage claims increased from 54 at the end of FY 2009-10 to 237 at the end of FY 2013-14. Unfortunately, this has resulted in increased delays between the filing of a wage claim and its closure. The average number of days the Division took to close a wage claim in FY 2009-10 was 63 days. By FY 2013-14, that number had increased to an average of 117 days. When dealing with a person's wages, this is a serious concern. Wage claims continue to be filed with the Division at historically high levels. In fact, the Division received 61 new wage claims last month. This is an annual pace of 732 claims per year. The Division is not seeing a slowdown in filed claims.



Human Rights Division

In FY 2009-10, the Human Rights Division opened 199 employment discrimination and whistleblower cases. By FY 2013-14, that number had grown to 232 cases. In the current fiscal year, the Division is on pace to open 280 cases. The Department is starting to see a significant increase in the number of employment discrimination cases being filed as a result of the state's growing economy. While these cases lagged behind wage claims, they are now catching up. In addition, these types of cases are typically more complex and time consuming for the Department's investigators.

Unfortunately, these factors have caused increased delays in the processing of employment discrimination cases as well. In FY 2009-10, the average number of days an employment discrimination case was open was 110 days. By FY 2013-14, that number had increased to an average of 225 days.



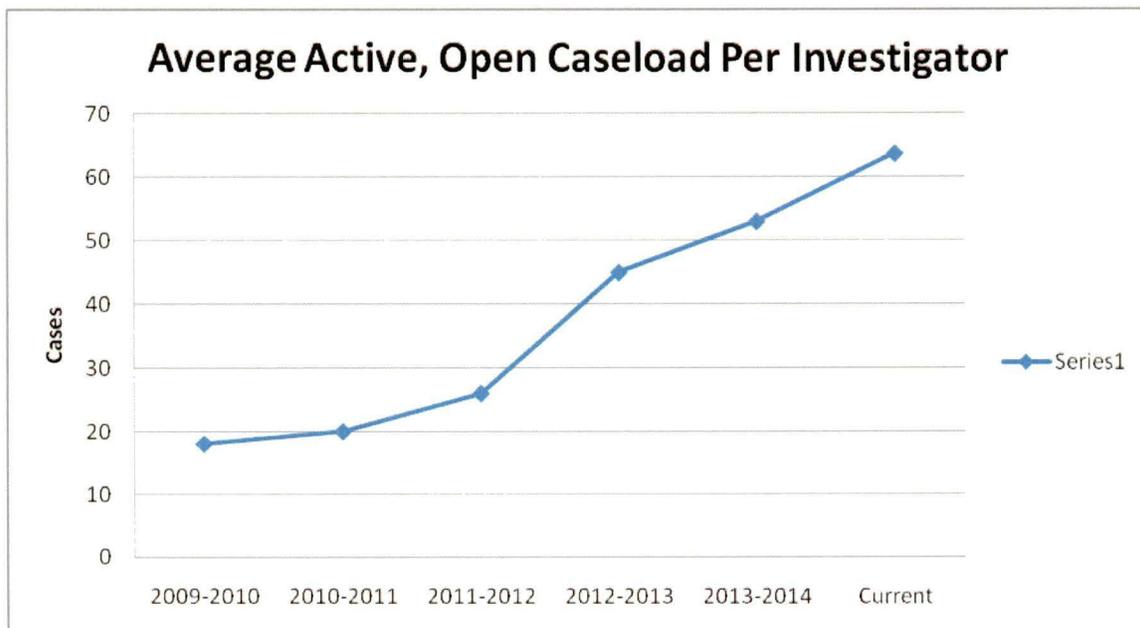
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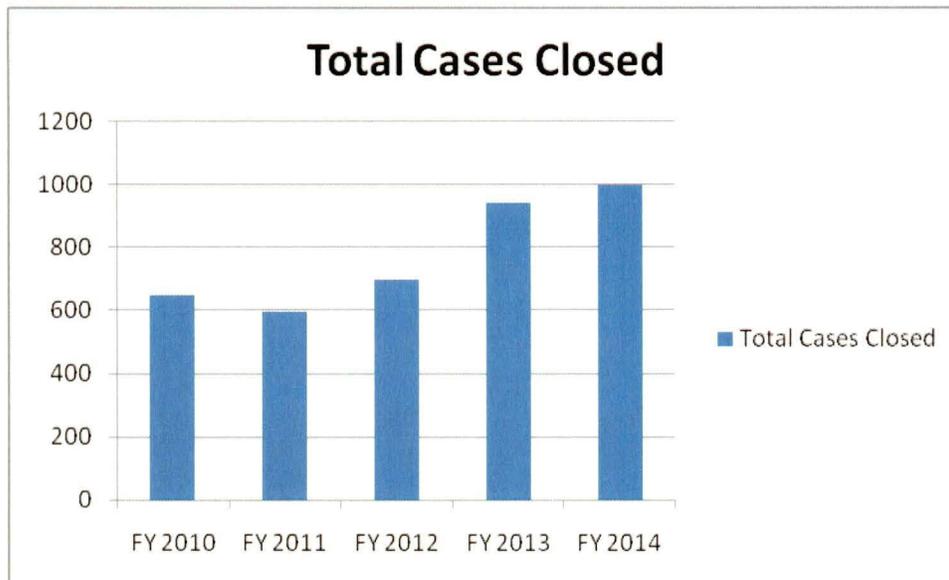
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Impact on Department Staff

The numbers set forth above have had a significant impact on the Department's staff. For an investigative staff of eight, the significant increases the Department has seen in incoming cases have a major impact. In FY 2009-10, an investigator with the Department averaged an active, open caseload of 18 cases at any given time. By FY 2013-14, this number had increased to 53 cases, a 194.44% increase. As of February 2014, the active, open caseload per investigator hit nearly 64. In addition, the Department has seen its cases become more complex, thus requiring more time. Wage and hour issues in the trucking and construction industries often involve complex calculations on hours worked and overtime. These organizations and individuals are often difficult to track down to conduct an investigation. These large caseloads mean investigators do not have as much time to devote to each case and cases take longer to investigate. In addition, the Department has spent \$18,041.11 on overtime in the last 11 months alone.



You may wonder what actions the Department is taking to become more efficient. Numerous measures have been implemented in the current biennium in an effort to streamline the Department's processes and become more efficient. In fact, the Department closed 54% more cases in FY 2013-14 than in FY 2009-10. However, despite all of these efforts, the Department continues to fall further behind.



You may also wonder how the Department's caseload compares with other states. This is a difficult comparison because not all states place the same duties the Department has in one agency. In Minnesota, for example, there is a separate Department of Labor and Industry to handle wage and hour issues and a Department of Human Rights to handle discrimination complaints. I was able to find information that Minnesota's Department of Human Rights has a current, active caseload per investigator of 34. Again, the Department's current caseload is nearly 64 per investigator.

Effects of a Slowing Economy

You may also be thinking of the impacts North Dakota's slowing economy will have on the Department's caseload. Unfortunately, I expect an increase in the Department's caseload. When businesses close their doors without paying their employees, people file wage claims. When an employee loses his or her job unexpectedly, he or she also feels wronged. These employees consistently file discrimination cases in higher numbers. Therefore, unfortunately, whether North Dakota's economy is strong or weak, I expect caseloads to continue to increase for the Department, given the dynamics the state has gone through in the past few years.

All of these pressures have had an enormous impact on Department staff. The Department has been required to replace 4 of its 8 investigators since June of 2013. Long-term, experienced investigators have decided to leave the Department as a result of the stresses and burnout that come with such a heavy caseload. In fact, one of our most experienced investigators left the Department just last month as a result of the large caseloads. We will now be required to fill this position as well.

I have serious concerns that without additional staff, the Department will continue to lose its experienced investigators as a result of stress and burnout. This

causes the Department to fall further behind, as extensive training of new investigators must be undertaken.

Budget Request

I will now focus on the Department's 2013-2015 appropriation, estimated 2013-15 spending and the status of one-time expenditures, 2015-17 budget needs, 2015-17 one time expenditures, and any variances.

2013-15 Biennium

In the current biennium, the Department's total appropriation is \$2,285,351. Salaries, wages, and accrued leave payments total \$1,961,657, with operating expenses accounting for the remaining \$323,694. The budget is a combination of general funds and \$437,926 in federal fund authority. The Department does not have any one-time spending items in its current budget.

With respect to 2013-15 spending, the Department expects to utilize nearly all of the funding appropriated for salaries and benefits. Any remaining portion not utilized is primarily a result of turn-over and open positions during the biennium. With respect to operating costs, we also expect to utilize nearly all of the funds appropriated. This is due in large part to the Department's relocation from the 13th floor of the tower to the 1st floor of the judicial wing and the associated construction and moving expenses. In addition, the Department paid for EEOC training for all of its investigators and Human Rights Director. Finally, the Department undertook a comprehensive mailing campaign to distribute new informational posters to employers throughout the state.

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 2013-15 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. Generally speaking, the Department receives a certain dollar amount from the EEOC and HUD for each case it closes.

Governor's Executive Recommendation

The Governor's Executive Recommendation proposes a total appropriation for the Department of \$3,842,879. Of the total budget, \$3,274,167 is for salaries and wages, including salaries for five additional FTEs. This amount also includes a targeted market equity adjustment, accrued leave payouts, overtime, and the suggested increase in the recommended compensation package. The remaining \$568,712 is for operating expenses and certain one-time budget requests. A detailed breakdown of the Governor's Executive Recommendation is attached,

which shows the Department's current base budget and the additions recommended by the Governor.

Additional FTEs

The Department is asking for five additional FTEs, which I believe is justified. Specifically, the Department is seeking to add a Wage and Hour Director and four Compliance Investigators. Given the dramatic increase in the Department's caseload, specifically in the area of wage claims, these additional staff are necessary for the Department to continue to provide high quality and timely services to the citizens of North Dakota.

The Department's Human Rights Director has essentially acted as the de-facto Wage and Hour Director for years. However, given the significant increase in workload in the Wage and Hour Division, this is no longer possible. The volume of work across both the Wage and Hour and Human Rights Divisions now requires that these responsibilities be split amongst two employees. This is the reason for the request for a new Wage and Hour Director.

In addition, the four additional Compliance Investigators are necessary, given the Department's caseload. As mentioned above, historically, an investigator with the Department has had an open, active caseload of approximately 20. Those numbers are now around 64 cases. Even with four additional investigators, the average open, active caseload for 12 investigators would currently be 42, still high by historical standards. The Department's request for five additional FTEs is both justified and necessary to provide quality and timely services to the public. The Department is receiving numerous complaints regarding the timeliness of services, which are serious, given we are dealing with individual's wages and jobs.

The Department is required by law to investigate allegations that our wage and hour and discrimination laws were violated. It also investigates violations of federal law. The Department is unable to control its caseload, as this is governed by law. I believe the Department's request for additional FTEs is justified. The wages and salaries associated with the five additional FTEs totals \$799,163. The additional operating expenses associated with these new FTEs totals \$177,765.

Targeted Market Equity Adjustment

In addition, the Department's proposed budget includes a targeted market equity adjustment. It has come to my attention that the Department currently has the second lowest Compa-Ratio among all state agencies at 0.84. The Governor's Executive Recommendation contains \$139,744 for this market equity adjustment. This was based upon several factors used by the Office of Management and Budget, specifically the Department's current Compa-Ratio of 0.84, the fact the Department has had a 45% turnover rate among staff in the current biennium, and the amount necessary to reach the targeted Compa-Ratio of 0.98. These

funds will ensure the Department is able to pay its employees a comparable salary and keep turnover as low as possible.

Overtime

The Department is asking for \$20,000 in overtime funds. As mentioned above, the Department has spent \$18,041.11 in just 11 months so far in this biennium. The Department anticipates that until the new staff are hired and trained, the current staff will continue to have the need to work overtime.

Accrued Leave Payouts

Finally, the Department's proposed budget includes \$26,000 in retirement leave payouts. The Department anticipates retirement among its staff, which would require significant accrued leave payouts. The \$26,000 is a one-time request.

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. Finally, discrimination claims are very emotional and difficult for the parties involved and deserve to be resolved as quickly as possible.

The additional FTEs, targeted market equity adjustment, and increases to the recommended compensation package contained within the Executive Recommendation will go a long way in assisting the Department with its statutorily mandated duties and providing excellent service to the citizens of North Dakota.

Operating Expenses

The Department's proposed operating budget in the Executive Recommendation is \$568,712. This is \$245,018 more than the current biennium, and is primarily a reflection of the costs associated with five additional FTEs. In addition, the Department is looking to have ITD handle its desktop support, as opposed to outside vendors. In the past, the Department would pay outside vendors as needed. The costs associated with ITD desktop support total \$46,118 for the biennium. I am hoping to continue to run a very cost conscious and effective Department, and look for ways to cut costs where we can.

One-Time Requests

The Department's proposed budget for operating expenses also includes a few one-time requests. In addition to the retirement leave payout and overtime requests set forth above, the Department is requesting \$56,135 to pay for a paperless system to be developed and deployed by ITD. This system will allow the Department to become more efficient and reduce operating costs in the long term. Finally, the Department is seeking \$25,000 to defray the construction costs associated with building out office space for the additional FTEs being requested.

Changes to the Governor's Executive Recommendation

The Senate has amended SB 2007 and made changes to the Governor's Executive Recommendation. A detailed breakdown of these changes is attached. Specifically, the Senate has removed the Wage and Hour Director and 2 Compliance Investigator positions from the Executive Recommendation. SB 2007 as amended now proposes adding 2 Compliance Investigator positions to the Department. SB 2007 as amended reduces the salaries and wages, as well as the operating expenses, associated with the 3 FTEs it has removed from the Governor's recommendation. In addition, the Senate has removed the targeted equity funding and reduced the Governor's recommended compensation package, as it has done for all agencies. The Senate has left the remaining portions of the Governor's recommendation intact.

Conclusion

The Department is always seeking ways 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, 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 manner. The Governor's Executive Recommendation for the Department's budget will allow us to continue to provide high quality services for citizens of North Dakota. I urge you to amend SB 2007 to restore the recommendations made by the Governor.

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

Agency Recommendation

Office of the Labor Commissioner Agency # 406	Appn. 2013-15	Base Request 2015-17	Increase (Decrease) from 2013-15	2015-17 Recommendation	Increase (Decrease) from 2013-15	Optional Requests				Targeted Market Equity Adjustment	Market	Executive Comp Adjustment	Total		
						Additional FTE's & Assoc. costs	ITD Desktop Support	Retirement Leave Payout	Paperless system						
						1	2	3	4						
MAJOR PROGRAMS															
Office of Labor Commissioner	2,285,351	2,321,331	35,980	1.6%	3,842,879	1,557,528	68.2%	941,928	46,118	46,000	56,135	139,744	55,271	236,352	1,521,548
TOTAL	2,285,351	2,321,331	35,980	1.6%	3,842,879	1,557,528	68.2%	941,928	46,118	46,000	56,135	139,744		236,352	1,521,548
LINE ITEMS															
Salaries and Wages	1,922,048	1,997,637	75,589	3.9%	3,274,167	1,352,119	70.3%	799,163		46,000		139,744	55,271	236,352	1,276,530
Accrued Leave	39,609	-	(39,609)	-100.0%	-	(39,609)		-							-
Operating Expenses	323,694	323,694	-	0.0%	487,577	163,883	50.6%	117,765	46,118						163,883
Capital Assets	-	-	-		81,135	81,135		25,000			56,135				81,135
TOTAL	2,285,351	2,321,331	35,980	1.6%	3,842,879	1,557,528	68.2%	941,928	46,118	46,000	56,135	139,744		236,352	1,521,548
General	1,847,425	1,883,499	36,074	2.0%	3,405,047	1,557,622	84.3%	941,928	46,118	46,000	56,135	139,744	55,271	236,352	1,521,548
Federal	437,926	437,832	(94)	0.0%	437,832	(94)	0.0%								-
Special	-	-	-		-	-									-
TOTAL	2,285,351	2,321,331	35,980	1.6%	3,842,879	1,557,528	68.2%	941,928	46,118	46,000	56,135	139,744		236,352	1,521,548
Full Time Equivalents	13.00	13.00	0.00	0.0%	18.00	5.00	38%	5.00							5.00
								AC1	AC2	AD1					

**406 Dept. of Labor & Human Rights
SB 2007**

	Executive Recommendation	Senate Version	Change
Salaries and wages	\$3,274,167	\$2,503,831	(\$770,336)
Accrued Leave Payments	0	0	0
Operating Expenses	568,712	483,053	(85,659)
Total all funds	\$3,842,879	\$2,986,884	(\$855,995)
Less estimated income	437,832	437,832	0
Total general fund	\$3,405,047	\$2,549,052	(\$855,995)
Full-time equivalent positions	18.00	15.00	(3.00)

	Executive Recommendation				Senate Version				Change			
	FTE	General Fund	Other Funds	Total Funds	FTE	General Fund	Other Funds	Total Funds	FTE	General Fund	Other Funds	Total Funds
Ongoing												
New investigators	4.00	713,032	0	713,032	2.00	364,109	0	364,109	(2.00)	(348,923)	0	(348,923)
New wage and hour director	1.00	228,896	0	228,896	0.00	0	0	0	(1.00)	(228,896)	0	(228,896)
Compensation Package		236,352	0	236,352		153,191	0	153,191	0.00	(83,161)	0	(83,161)
Market Increase		55,271	0	55,271		0	0	0	0.00	(55,271)	0	(55,271)
Targeted market equity		139,744	0	139,744		0	0	0	0.00	(139,744)	0	(139,744)
Total Ongoing	5.00	1,373,295	0	1,373,295	2.00	517,300	0	517,300	(3.00)	(855,995)	0	(855,995)
One-Time												
Total One-Time		0	0	0		0	0	0		0	0	0
Total Budget Changes		1,373,295	0	1,373,295		517,300	0	517,300		(855,995)	0	(855,995)

Testimony

**Senate Bill 2007 – Department of Human Services
House Appropriations – Government Operations Division
Representative Thoreson, Chairman
March 5, 2015**

Good morning Chairman Thoreson and members of the House Appropriations-Government Operations Division. My name is Vickay Gross. I'm a Disabilities Advocate for the Protection & Advocacy Project. My primary role is that of providing employment advocacy. I am here today to support the appropriations requested by the North Dakota Department of Labor in Senate Bill 2007.

The Protection & Advocacy Project has a role of providing advocacy services to people with disabilities. It is within the priorities of our agency to assist individuals with disabilities who have been discriminated against on the basis of disability in employment. Therefore, we often assist individuals with disabilities to submit the appropriate documentation to pursue an employment discrimination complaint through the ND Department of Labor's Human Rights Division.

Over the past several years the length of time it takes to receive a decision through the Department of Labor has lengthened considerably. For example, a case filed in August 2014 has not yet been assigned to an investigator after seven months. Another individual filed a complaint on May 14, 2013 and received a decision from ND Department of Labor on September 14, 2014 (17 months). Another person filed a complaint on November 14, 2012 and did not received a decision until March 10 2014 (16 months).

The process through the NDDOL for filing employment discrimination complaints offers individuals with disabilities the opportunity to try to settle

disputes with employers at the lowest level possible. In addition, the Department offers both parties the option of mediation prior to moving forward with an investigation. In theory, if both parties agree to mediation, an opportunity exists to expedite resolution of a dispute between an individual and the employer. However, if it takes over six months to even assign a case to an investigator there is a risk that mediation is no longer a valuable process nor will it result in a positive outcome for either party. In addition, with the passage of time, details of the situation become unclear and eventually the charging party gives up. There also is the risk that individuals may be discouraged from filing with ND Department of Labor and may choose a more time consuming and costly route for both parties, that of going straight to court.

There is also the concern of overworked staff in the Department of Labor which could result in staff turnover or rushed work product. With turn over the NDDOL will lose expertise. Commissioner Troy Seibel testified in the Senate Appropriations that his staff have been working overtime to try to address the back log of work that is coming into his department. Even with these efforts the back log becomes worse and eventually will damage the credibility of this agency.

I ask that the House Appropriations – Government Operations Division pass an appropriations bill for the ND Department of Labor that will support the growing work demands placed on them and that protects the employment rights of the citizens of North Dakota.

Thank you for giving me this opportunity to testify on SB 2007. I will try to answer questions you may have regarding my testimony.