

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

January 8, 2021

Good morning Chairman Vigesaa and members of the House Appropriations Committee - Government Operations Division, my name is Erica Thunder, and I am the Commissioner for the North Dakota Department of Labor and Human Rights.

Department Responsibilities

I would like to provide some background on the North Dakota Department of Labor and Human Rights (hereinafter "Department"). 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. chapters 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, 2019- December 31, 2020	Wage Claims Closed	Amount Collected for Claimants	Youth Employment Certificates
	568	\$609,951.08	1,433

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:

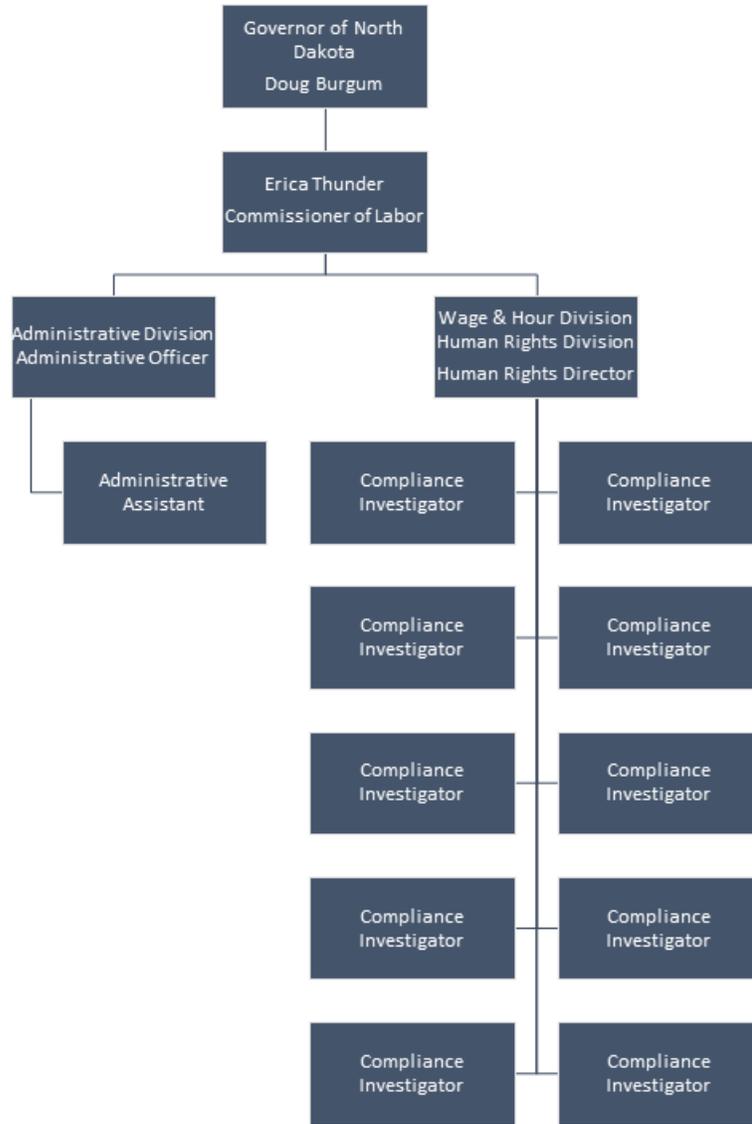
July 1, 2019- December 31, 2020	Employment	Retaliation	Housing	Public Service/Public Accommodation/Credit Transactions
Closed	278	53	51	17
Amount Collected	\$492,3381.17	\$118,240.00	\$31,673.50	\$500.00

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 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. This last year particularly, has proved the Department's ability to still educate even in remote settings, which became a common practice.

Organizational Chart:



Financial Audit Findings

The Department's most recent financial audit, conducted and concluded in October 2019, resulted in a clean audit, with no outstanding financial findings.

FTEs

The Department has no change in its request for FTEs. The Department has 14 total FTEs. Four positions are currently vacant. Two of these positions recently became vacant due to unexpected retirements, and the Department will be posting these positions to fill in 2021. The third vacant position is partially funded, while the fourth vacant position has remained unfunded. Due to uncertainty in workload, particularly due to COVID-19, the Department requests all FTE positions to remain the same.

Budget Request

I will now focus on the Department's base budget, estimated 2021-2023 spending, one time expenditures, and the Department's Federal funds.

Outline of Budget

In the 2019-2021 biennium, the Department's total appropriation was \$2,875,850. Salary and wages total \$2,475,765, with operating expenses at \$400,085. The budget is a combination of general funds and \$480,681 in federal fund authority, through the partnerships with HUD and EEOC. The Department has one one-time spending item in its current budget.

The 2021-2023 recommendation includes \$2,440,237 for salaries and wages, and \$611,604 for operating expenses.

The 2021-2023 base budget changes total \$281,178. Included in the base budget changes are \$95,529 for the rent model change. Under the current model, general fund agencies do not pay rent. A standard rental rate is calculated based on actual costs, but agencies are only billed based on the percentage of payroll funded from non-general fund sources. Under the proposed model, all agencies receive rent funding based on their currently occupied square footage, at the standard rental rate. General fund agencies received additional funding in their budgets to cover this rental charge for 2021-23. In future budget periods, agencies will be able to reduce their footprint and redirect that funding for other purposes if they choose to do so. The outcome of this recommendation is for better decisions to be made regarding use of existing space, the amount of space occupied will be reduced, and we will better utilize limited state resources.

Also included in the 2021-2023 base budget changes is \$7,932 for the allocation of a Key Customer Manager (KCM) from North Dakota Information Technology (NDIT). This position is crucial to the agency, as our KCM play many roles for the Department, and was vital to the Department's ability to adapt to new technology, business process improvements, and assist the agency overall in our software and technology needs during this time wherein we are working remotely indefinitely.

The final piece of the 2021-2023 base budget changes will be talked about further in this testimony, but includes the \$177,717 for IT Contractual Services

and Repairs – which is for our one time expense to improve our current software, and what the Department is referring to as “Phase II” of our Power Dynamics system. This system has allowed us to go paperless, and create a case management system wherein we can continue to expand on a “smarter” system, creating faster and more efficient work for the citizens of North Dakota.

The 2021-2023 budget recommendation totals \$3,051,841. This includes the above stated total for salaries and wages, along with operating expenses. The Department strongly urges the Committee to approve of this budget recommendation, as much thought, time, work, and consideration went into this total number. The Department’s goal with the proposed budget is to continue its good work, with an extremely talented team, and its focus on the North Dakota citizen.

Federal Funding

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. The Department’s current projected federal dollars that provide to our budget includes \$516,868. This dollar amount must be reiterated that we have to work for these funds. It helps us lower the Department’s State dollars in our budget. \$30,000 of those dollar have been set aside in order to provide for our “Phase II” funding for our major technology upgrade to our current system. 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. From the agreements with our federal partners, the Department receives a certain dollar amount from the EEOC and HUD for each case it closes. We believe and know to be true that this is fiscally responsible for us and the state of North Dakota.

One Time Expense -- “Phase II Power Dynamics”

The Department's proposed budget with its one time expense of \$177,717, is working to forward on its effort in performing as a more efficient agency. The Department has been extremely frugal in the work we do. This is a one time ask to make sure that we can expand on the current software we are working off of. While our recent upgrade has been tremendous movement for the Department it was not enough, as far as what is needed as a remote team looking for a “smart” system. I am happy to discuss this further in person, but I would like to say that, we worked very hard at vetting the system we are currently using, and know we can further our progress with “Phase II”. This system will allow the Department to become more efficient and reduce operating costs in the long term.

Conclusion

This Commissioner is extremely proud of the Department and its members. The Department is always seeking ways to hold down costs, and this Commissioner believes we have done a very great job at continuing that work. The agency’s

long-term plan is for improving the efficiency and effectiveness of achieving its statutory duties continues. This includes our major efforts in improving our technology. Finally, we will continue to look for ways to train employees in the most efficient and effective manner, especially as we look towards onboarding future team members in a remote style. We please urge that our Department's budget will be approved, and thank you for your kind attention.

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

Erica Thunder
Commissioner
North Dakota Labor and Human Rights