

Mr. Chairman and members of the Committee, my name is Arik Spencer with the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, representing small and large businesses, local chambers, and trade and industry associations across the state. We stand in **Opposition** to House Bill 1527.

Our members oppose regulatory changes and mandates that would increase business burdens and costs, and HB 1527 certainly would increase both costs and burdens on every private employer in North Dakota.

The problems with HB 1527 are numerous. First, HB 1527 is a large and expensive government expansion giving the Department of Labor sweeping authority over private employers by creating regulatory burdens. The Department of Labor would need more funding and staffing to provide licenses, conduct investigations, create rules, and have administrative proceedings. The Department of Labor would also provide advice on a federal immigration program for paperwork and technical aspects of the application.

HB 1527 requires the Labor Commissioner to investigate every complaint and has no discretion should frivolous claims against an employer be made. Also, there is no penalty for frivolous claims.

HB 1527 puts requirements on employers that could be contrary to what the federal government wants or requires. If federal law changes as it pertains to verifying the immigration status of an individual, an employer would be met with the dilemma of whether to follow federal or state law. As such, compliance with both federal and state law would be impossible. The state cannot order the federal government to accept paperwork or verify working status in a certain amount of time.

HB 1527 does not require any judicial action or review before the forced closure of a business, even temporarily. It makes the executive branch, in the form of the Department of Labor, judge, jury, and executioner. As a result, the state would almost certainly be subject to costly litigation to defend lawsuits. Because HB 1527 would deny owners the possession of their property, a business, in violation of the Due Process Clause through a general business license, it may be unconstitutional.

HB 1527 presents even further issues. A violation, even a minor one, such as failing to timely verify employment, could destroy businesses. Few employers can afford not to conduct business for several days or months. This will also cause litigation for employers. For example, if a contractor is suspended for 90 days while building a structure, there will almost certainly be litigation regarding the contract. Employees will be unemployed at this time, including any of the other employees who could legally work. This will cause increased unemployment costs for the state. Additionally, the current law could violate federal labor laws, as an employer cannot employ anyone during a suspension. If an employer does not conduct certain business aspects, like paying employees, it could be subject to state and federal labor law violations.

Employers are already required by federal law to verify immigration status in hiring new employees under penalty of perjury. The federal government has set out extensive requirements on how employers must comply with verification by filling out "Form I-9, Employment Eligibility Verification Form". Both employees and employers are responsible for completing their respective sections of Form I-9. On the form, an employee must attest to their employment authorization. Employees must also present their employer with acceptable documents as evidence of identity and employment authorization. The employer must examine these documents in a particular amount of time to determine authenticity and relation to the employee, then record the document information on the employee's Form I-9. Employers must retain Form I-9 for a certain time period and make it available for inspection by authorized government officers. Employers must also keep photocopies of the documents verifying authorization, with exceptions if the employer voluntarily participates in E-verify. Form I-9 is a U.S. Citizenship and Immigration Services ("USCIS") form. It is not filed, but it must be retained and available for inspection by U.S. Government officials.

HB 1527 is not needed in North Dakota and will present significant challenges to the state and private employers if enacted. I urge a "Do Not Pass" recommendation on HB 1527, and I'll stand for any questions.

