

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2101

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2101

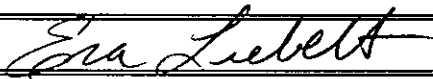
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 7, 2009

Recorder Job Number: 6656

Committee Clerk Signature



Minutes:

Chairman Klein: Call meeting to order. We will hear Bill # 2101.

Darren Brostrom, Job Service of North Dakota: Testified in support of Bill# 2101. See attachment.

Chairman Klein: You haven't had an issue with employers, this is something you as an agency want more specific guidelines in place?

Darren Brostrom: No problems. The process we use we would like to have outlined in the statute.

Senator Potter: Why round down and then just round?

Darren Brostrom: The 1989 rate limiters were in place. We needed to round down to meet the requirements of legislation.

Senator Wanzek: Is this to make legal what we are already doing?

Darren Brostrom: Yes.

Chairman Klein: Thank you, Darren. Any opposition? We will close the hearing. Motion to pass, Senator Wanzek and Seconded by Senator Nodand.

A Vote was taken on the bill. Yes 7, No 0, Absent 0. Floor Assignment: Senator  
Nodland.

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/18/2009

Amendment to: SB 2101

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$600	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill amends statute to clarify the rounding methodology used by the agency in calculations made during the annual tax rate setting process. This amendment reflects the current calculation processes employed by Job Service North Dakota.

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

The sections of the bill creating a fiscal impact are: Section 1 (6)(b)(1) and Section 2 (2). Although SB2101 reflects current tax rate setting processes, one section of the measure creates the need to complete programming of our mainframe computer application. The programming relates to the assignment of rates for new employers. By existing statute, the assigned rate must be the greater of ninety percent of the positive employer maximum rate or a rate of one percent. The current programming does not accommodate for the one percent provision.

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

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

NA – Because the measure reflects current tax rate calculation processes, no additional revenues will be received.

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

Scope of work to be done:

- Analysis – None
- Design – None
- Coding and unit testing – 3 hours
- Program (JTA31), change programming to accommodate section 1 (6)(b)(1) where new employers must be assigned a rate that is ninety percent of the positive employer maximum rate or a rate of one percent, whichever is greater. Program does not accommodate for the one percent – 3 hours
- Rate calculations in the program are calculated using rounding to the nearest one-hundredth of one percent already.

- User Acceptance Testing – 2 hours
- Implementation – 1 hour

Total Hours for Project: 6 hours

Cost: 6 hours x \$100.00/hour = \$600.00

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

<b>Name:</b>	Darren Brostrom	<b>Agency:</b>	Job Service
<b>Phone Number:</b>	701-328-2843	<b>Date Prepared:</b>	03/18/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/22/2008

Bill/Resolution No.: SB 2101

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$600	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill amends statute to clarify the rounding methodology used by the agency in calculations made during the annual tax rate setting process. This amendment reflects the current calculation processes employed by Job Service North Dakota.

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

The sections of the bill creating a fiscal impact are: Section 1 (6)(b)(1) and Section 2 (2). Although SB2101 reflects current tax rate setting processes, one section of the measure creates the need to complete programming of our mainframe computer application. The programming relates to the assignment of rates for new employers. By existing statute, the assigned rate must be the greater of ninety percent of the positive employer maximum rate or a rate of one percent. The current programming does not accommodate for the one percent provision.

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

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

NA – Because the measure reflects current tax rate calculation processes, no additional revenues will be received.

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

Scope of work to be done:

- Analysis – None
- Design – None
- Coding and unit testing – 3 hours
- Program (JTA31), change programming to accommodate section 1 (6)(b)(1) where new employers must be assigned a rate that is ninety percent of the positive employer maximum rate or a rate of one percent, whichever is greater. Program does not accommodate for the one percent – 3 hours
- Rate calculations in the program are calculated using

rounding to the nearest one-hundredth of one percent already.

- User Acceptance Testing – 2 hours
- Implementation – 1 hour

Total Hours for Project: 6 hours

Cost: 6 hours x \$100.00/hour = \$600.00

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

<b>Name:</b>	Darren Brostrom	<b>Agency:</b>	Job Service
<b>Phone Number:</b>	701-328-2843	<b>Date Prepared:</b>	12/24/2008

Date: 1/7/09  
Roll Call Vote #: 7

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate

Committee

**Industry, Business and Labor**

☐ Check here for Conference Committee

Legislative Council Amendment Number 2101

Action Taken ☒ **Pass** ☐ **Do Not Pass** ☐ **Amended**

Motion Made By Senator Wanzek Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nodland

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



**REPORT OF STANDING COMMITTEE (410)**  
January 7, 2009 12:02 p.m.

**Module No: SR-02-0084**  
**Carrier: Nodland**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2101: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends**  
**DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2101 was placed  
on the Eleventh order on the calendar.

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2101

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2101

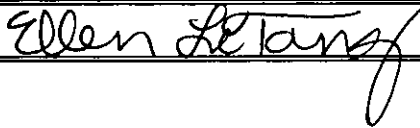
House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10085

Committee Clerk Signature



**Chairman Keiser:** Opened the hearing on SB relating to rounding of calculations for employer unemployment compensation contribution rates.

**Chairman Keiser:** This is coming out of House Industry, Business and Labor committee, members for your information and update, this bill, we will hear it but not act on it, hold this for quite a while. The world of unemployment is changing quickly in the state of North Dakota and we need a vehicle to do something with, this is the bill.

**Darren Brostrom~Job Service North Dakota.** See testimony attachment.

Representative Ruby: On the one section you are rounding down, why aren't you on the other calculation.

**Brostrom:** At the time in 1999 there were rate limiters in place of a 130%. In that section of statue, we were approaching 130% and if we hadn't rounded down in that section, we would have hit that. So we programmed our systems to allow for the rounding down in that specific area. So, at this point, it's worked well with us and there haven't been any issues. It was out of necessity at the time.

**Chairman Keiser:** Sounds good, but why are we treating them differently?

**Brostrom:** It comes down to changing of the system at this point. If we rounded up, we would see an increase of taxes for \$25 per employer.

**Chairman Keiser:** For half of them.

**Brostrom:** Just for the new employers. You are exactly right. We feel at this point, the system is serving us well. There was no specific reason, other than we didn't want to hit those rate limiters at the time.

**Chairman Keiser:** Would we hit the rate limiter now, if you did round up?

**Brostrom:** No.

**Representative Ruby:** Why don't we round the other one down so that it could be consistent?

**Brostrom:** I don't have a great reason as to why not now, I know at the time, this is the way the system was programmed. As far as being consistent with the two, it's certainly something that could be considered. It would result in significant changes in our main frame system and that would be one reason why we wouldn't do it, either way would work.

**Representative Ruby:** Would that be very substantial deduction in taxes if you rounded them down?

**Brostrom:** I don't have those figures in front of me right now, if that's something you wanted to pursue, I certainly put some numbers together.

**Vice Chairman Kasper:** It always puzzles, when I hear the statement it would result in significant cost to change our program. I'm not a computer expert, but it appears to me that if one party of program is rounding up and the other part is rounding down, it wouldn't be a huge challenge to change the part that's going down. Can you tell me where the significant cost would be?

**Brostrom:** It may be when I say a significant amount, I'm says that without knowing the exact amount. It could end up be a very low number. Typically when you do touch our main frame system, we do run into so fairly high dollar amounts and the reason for that is our system is

very old and for a lot of these changes, we require contractors. These contractors are very limited because the system is very old. It's out of New Zealand.

**Chairman Keiser:** I look at the committee and realize that the majority of our committee hasn't had the pleasure of working in this unemployment domain and it's very complicated. In many respects it's more complicated than WSI but from a policy standpoint, it's very difficult to defend that for the new employer who is a high risk employer, we are going to round them down. For the positive group, we are going to round some of them up and some of them down, when they are our best employer.

**Brostrom:** The changes of necessity at the time, there is nothing stopping us at this point.

**Representative Ruby:** You mentioned the mainframe is old. Wasn't there one are of your computer IT area that was upgraded. Is it a web base type system? What parts are you using the new system and parts for the old mainframe?

**Brostrom:** The bases for our entire system reside on the main frame system. You are absolutely correct in that we recently added a significant web processing for our employers and claimants. We also utilize some other systems that interface with our main frame but all the primary calculations as they relate to benefit entitlement, monetary terminations, tax rate and all of those items are calculated in that main frame system and that feeds the various systems that we utilize.

**Chairman Keiser:** Since we are going to hold this bill and we do have time, if you could go back and address how difficult it would be. If it can't be done and it's expensive, we are not going to push the point.

**Chairman Keiser:** Anyone here to testify in opposition of SB 2101, neutral and closes the hearing.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2101

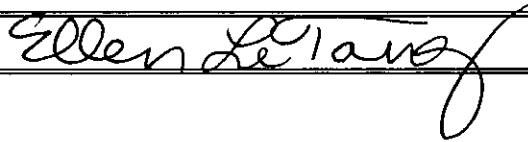
House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 16, 2009

Recorder Job Number: 11036

Committee Clerk Signature



**Chairman Keiser:** Opened the committee work session on SB 2101.

**Chairman Keiser:** We are caught in an interesting situation in that if we start to make significant changes to SB 2101, it does have to go out today. I've been holding this bill at the request of Job Service North Dakota in case we needed a vehicle with which to do some

amending, primarily based on the stimulus program that is coming down. I worked with

**Darren Brostrom & Maren Daley of Job Service** over the weekend and we created a position statement that reflects my position and this is a work product. I will walk through this statement handout and give you as much background as I can and conclude where my position is, but have committee discussion. First of all, the stimulus package funding for Job Service North Dakota (**JSND**) can be broken down into four components. You see them on the first page of this handout (see attachment, page 1).

**Component 1~Workforce Investment Act-handout.**

**Component 2~State Employment Service & Reemployment Service Grants-handout.**

These two, the \$5,217,000 & \$3,014,761 are currently in the appropriation budget for Job Service of North Dakota in some compactly. These are crucial dollars for implementing the stimulus program in JSND as it now exists.

**Component 3~ARRA-handout.**

**Component 4~UI Modernization-handout.** This is why we are discussing this issue at all; this is the element that is before this committee. The governor asked JSND to go to the chairmen's of the Senate & House Industry, Business and Labor committees and ask for a discussion of the position that the committees would like to take relative to these dollars. To summarize this, I tried to do it in outline form as simply as I can.

**Representative N Johnson:** What's the emergency Unemployment Compensation (ECU) component 3, number 1?

**Maren Daley:** It's an extension of unemployment benefits. If a claimant in North Dakota runs out of their 26 weeks that is paid by the North Dakota employer, the Fed's now pick up the tab and pay an additional up to 20 weeks.

**Chairman Keiser:** That is in place until 12/31/09. It is operating in-between.

**Chairman Keiser:** Goes back to explaining component 4.

**Chairman Keiser: Component 4, number 1, A, 2-handout.** You would take the current formula, take the last five quarters and the most recent quarter doesn't qualify for calculation, it's the four quarters prior to that. This would require a change in that formula. You just work with the last four quarters. That's a major shift in the policy.

**Representative Vigesaa:** The 408 individuals, would those be individuals that have run out of their eligibility currently or with run out soon?

**Chairman Keiser:** If you take a construction job, go back to four quarters that they have calculated on, a large part of that first quarter may not have qualified for any benefits. As a result, if you take the last four quarters, they get full credit for four quarters and maybe only partial for credit for four quarters under the old formula. Is that correct Darren?

**Darren Brostrom:** Yes.

**Vice Chairman Kasper:** Would a good number of those 408 individuals be job attached?

**Marin:** Our estimate based on 2008 numbers, 144 were working in construction would be job attached.

**Chairman Keiser:** **Component 4, number 1-A, number 3-handout.** This is a better deal and more would see it as an option that could be exercised.

**Chairman Keiser:** **Component 4, number 1-A, number 4, 5, & 6-handout.**

**Chairman Keiser:** **Component 4, number 1-A, number 7, page 2-handout.** One of the first questions I had of JSND was, well, let's implement the change for two years, take the 14.5 million and then we will reverse ourselves the next legislative session. The Federal government already anticipated that and they have in effect issues notice that "play games with these dollars and we will claw those dollars back". They are asking that these changes be done on a permanent basis. This is a major shift in the way North Dakota would be doing this phased base period component.

**Chairman Keiser:** **Component 4, 1-B, page 2-handout.** These dollars can be accessed by meeting two of the conditions. You get your choice as a state.

**Chairman Keiser:** **Component 4, 1-B, number 1, page 2-handout.** If we have somebody who in their base period, where we established the rate of reimbursement is all part-time work, they can work part-time work after starting to receive unemployment compensation and not be too heavily impacted. We are already doing that as a state. The good news is we have met one the conditions to meet the 9.7 million.

**Chairman Keiser:** I have now put 2, 3, & 4 in descending order of cost and difficulty.

**Chairman Keiser:** **Component 4, 1-B number 2, page 2-handout.** We currently offer 26; this would add 26 or 52, which is a year. Folks on unemployment would qualify for up to 52



weeks. However, it's just not everybody, it's for claimants participating in state approved or WIA funded trained programs for high demand occupations.

**Chairman Keiser: Component 4, 1-B, number 2-d, page 2-handout.** This is a tough one because if you assess it directly to the impacted funds, you are going to put some people out of business. This is a big cost feature. If you spread it out, that 9 million dollars across the entire pool, it would be a significantly smaller hit to anyone entity, but of course you have all the employers who are not contributing to this, who are not going to support that. That will be a big debate if we go that route.

**Chairman Keiser: Component 4, 1-B number 3, page 2-handout.** We had this in legislation before that looks like number 3. This is really prohibited. In one to two years, that money is gone and we now own it.

**Representative N Johnson:** I don't know what the wording is but would it have to be for all of those reasons or do you do just some of those?

**Chairman Keiser:** You have to do it for all of them.

**Chairman Keiser: Component 4, 1-B, number 4, page 3-handout.** This has been in legislation before and defeated but its back.

**Chairman Keiser:** Again, parts 1, 2, 3 & 4, these are permanent changes to the operation of the North Dakota fund. You can't go in and out.

**Representative N Johnson:** Would that be on the average ratio, 11 weeks, would that be a cost for a year?

**Chairman Keiser:** Yes, for one year.

**Chairman Keiser: Continues going over the hand out on page 3 after number four-handout.**

**Chairman Keiser: Goes over page 3 & 4-Trust Fund & Claim Information-handout.**

**Chairman Keiser: Program & General Job Service North Dakota Information-pages 4 & 5-handout.** JSND provided all the major programs that are in place that impact the ability to get people back to work.

**Chairman Keiser:** This brings us to the last page and this is my position. It is not a decision of any caucus or anybody else, but the governor, through Maren, has asked direction from the House & Senate House Industry, Business and Labor committees. I tried to convey my perspective in this position statement and reads the statement on page 6. We have until 2011 to come back and visit this, but we designed our statutory formula for this very condition. What we tried to do was instead of having giant peaks and valleys based on employment changes, we are going to establish this surplus and maintain it based on our experience and if we drop below, we don't have to make it up the next year. We then have to reset the target and we have seven years to reach target. It's a revolving target. It keeps changing every year based on our experience. It's recalculated every year; the employers in our state pay the premiums to move us from where we are to the target. I don't expect all of you to sign this. I'm going to sign it and pass it around. For us to make the kind of change that is required, given the situation we are in, to take this money and make these permanent changes, at this point would be very difficult.

**Representative Vigesaa:** I noticed in *USA Today* that there was an article about states not taking this package.

**Chairman Keiser:** What this position is say, we are not taking at this time but leaving the opportunity there. Unemployment is going to go up in North Dakota.

**Representative Schneider:** Would the SB 2101, if we would want to implement it, this would be the vehicle to do so?

**Chairman Keiser:** Let me say just the opposite, if we sign this, we can send SB 2101 out, but if we chose to accept this new base period and absorb the cost for administration and everything else that goes along, that would then require a huge fiscal note.

**Dave Kemnitz:** I have the *USA Today* article. See attachment.

**Representative Schneider:** If we would wait until 2011 and make a decision, do we incrementally lose the funds?

**Chairman Keiser:** No and there are two options. One, which if the economy truly went south, the governor could always call us back and two, the other option is to wait until the next legislative session and you decide whether you want to request this money. I going to be honest from my perspective, to accept that money and make these changes on a permanent basis, lies in the face of all the great work that North Dakota has done to position itself where we are. We are the ones that are absorbing these changes and have solvent funds. There are states that really don't have an option; they have to take these dollars.

**Representative Boe:** Do they have to do substantial changes or are they just about there in the first place?

**Chairman Keiser:** Representative Boe just asked an interesting question, some of the states accepting this money, could they meet these changes? Are they already doing what is required in terms of the base period and 1, 2, 3 & 4?

**Maren:** There are 17 states that are currently eligible; they already have the benefits provisions in place. There are a multiple number of states that have combinations thereof.

**Chairman Keiser:** Do you know the solvency position of those states that are currently in this configuration?

**Maren:** I don't know, I think it's pretty much mixed.

**Representative Amerman:** By signing or not signing, what will this do as far as not taking the money?

**Chairman Keiser:** Well, to take the money, we have to make a lot of statutory changes, but by signing this, the governor asked for our input from the House Industry, Business and Labor committee, I'm willing to give him my input. This is all that this is doing at this time. Anyone else, who supports it, can sign it and say, we share that position.

**Representative Amerman:** Is JSND going to be presenting to the governor?

**Chairman Keiser:** JSND came to us from the governor saying, would like your input. Have you given a recommendation to the governor yet, Maren?

**Maren:** We have not made a strong recommendation. We have pointed out pros and cons on both sides and we did not see a rush for any registration. We have the opportunity to look at and still have the opportunity in 2011 if needed to apply.

**Representative Clark:** Part of the money comes without strings, we can accept that and part of it comes with strings and that doesn't have to be decided until 2011, right?

**Chairman Keiser:** Maren, are the dollars in the first three components, are those without strings?

**Maren:** They are without strings in the content that we don't have to change our laws or expand benefits. The strings are that they have to be used for the intended purposes. Those intended purposes are narrowly honed under those grants and they are designed to make sure that JSND does its job and puts those resources to work for North Dakota to get people back to work.

**Chairman Keiser:** I will say that Maren repeatedly pointed out to me that it is very important the dollars in the first three programs be used for the purpose they are intended for North Dakota and not moved too significantly to other uses. So again, if the majority of the

committee wants to accept the 14.5 million dollars, I need to do two things. One, I get the leadership and they will go for it and they will give us an extension. Number two, we will have to start a lot of drafting of amendments to change our law. I don't support that and but I don't want to speak for anyone else. We don't have a bill and that's why I'm presenting it in the form of this kind of position statement that we can vote on. I'm going to sign this and send it around.

**Representative Vigesaa:** If we took the money and North Dakota experiences a soft landing on this recession and our fund truly handles this beautifully. No way we could come back in two or four years and legislate changes.

**Chairman Keiser:** They want their money back but you will have started spending it.

**Representative Amerman:** The funding is above you in modernization?

**Chairman Keiser:** Correct but it's not in this committee. The ARRA funds are already in JSND. The other two, Workforce Investment Act and State Employment Service grants are already in appropriations. Those monies are coming but the uses are already dedicated and we don't need to change the law. For the UI Modernization, we need to change our law.

**Representative Amerman:** If we turn back 14.5 million dollars, that does not affect those three components?

**Chairman Keiser:** It has no impact on those three resources.

**Representative Schneider:** In regards to the SB 21201, what does it mean in relating to the modernization funds if we passed this as is or defeated as is?

**Chairman Keiser:** Nothing, no impact, we just simply holding it because need to maybe amend.

**Representative N Johnson:** Are the other stimulus packages kind of a moving target, is this one determined totally or is this still a moving target to some extent?

**Maren:** They were moving until last week. We received our allocation from the US Department of Labor.

**Chairman Keiser:** I think that if many states start, not rejecting but not taking the dollars, they are going to have to reexamining it and say, what do we have to change to make it more palatable? What they are asking is so major.

**Representative Vigesaa:** Maren, do you have any best guess as to when we would have more clarity about how the picture is going to look in North Dakota? We have 2 ½ years to decide. Do you have any idea at all when we will need to get together and decide? It is a wide open question.

**Maren:** It is a wide open question. We have a margin in our trust account now that affords us this opportunity to take care of the unemployed. There are a lot of big things that can impact this. I don't have a better guess than anyone else.

**Representative Vigesaa:** If you waited until 2011 for this UI Modernization, is there any way you could go back? Do we have some flexibility in the legislation were we could go back and pick up some folks?

**Maren:** Are you asking to (inaudible) benefits? I don't know on that one. However, we might have an opportunity to do what the Feds are doing now on a short term basis is statutorily increase benefits for a short period of time. We would have to do more research on that.

**Chairman Keiser:** Mr Kemnitz, do you have any comments?

**Dave Kemnitz~President North Dakota AFL-CIO.** What I have happened to bring with me the National Employment Law project. See testimony attachment.

**Tom Balzer~North Dakota Motor Carrier Association.** With the strings attached with this is very scary. There is already a bumper involved with the Federal government, 20 extra weeks until the end of the year. You have 46 weeks of unemployment insurance coverage. That is

not a permanent thing and is not a policy that the state has to adjust and make permanent.

The 42 weeks is meant to get us through and if we are in the same position that we are today, the Federal government will extend that. That is one reason not to jump into the deep end of the pool. When I sat down and talked with Russ Hanson, the positive balance that employers built in the reserve, it was sold to us that it would help us weather economical storms. We are in our first economical storm since we built this funding. Let's give it a test run to see if we did the correct thing. We have a two year limit. The third thing I would like to say is that 14.5 million dollars isn't a lot of money. If you take a look at the 21,000 employers, if it's for four years, it's \$173 per employer per year. If you take it out six years, it's a \$115 per employer per year extra. I think that is a check our guys can write. I guess my concern is if we are jumping into the deep end of the pool and if somebody has a \$100 a year per employer dangling in front of them; it's a tough decision to make. We have the opportunity to see if the funds are going to work the way we designed it as well as we have next session to pick up this money if it doesn't.

**Representative Boe:** What I'm hearing is that if we accepted this 14.5 million, once the money ran and expanded the benefits, the money runs out, each employer in North Dakota could continue for \$100 a year?

**Balzer:** No, if we accepted this, these are permanent benefits that will last from here until somebody else comes up with a better idea. The employers will have to make up the difference based on the impact of the fund. That's a permanent thing. The \$100 a year analogy that I used, was to cover the 14.5 million dollars that we getting in the state in this particular package.

**Representative Schneider:** If employers can absorb the \$100 extra a year now to make up the 14.5 million, who is to say that couldn't do four years from now when this money goes away.

**Balzer:** I think that they can, but the question before you is that the right thing to do? We are sitting at a situation where we have 10 or 11 weeks as the annual unemployment rate. Job attached employees and non-job attached employees all have that same range. We aren't even close to hitting the 26 weeks, but we are going to make a very major policy shift. The problem is that we don't know what the impact to the employers will be. I don't think it will be \$100 a year, if the average unemployment goes up into the 40's, 50's or 60's weeks, that number to employees will be significant increase.

Bill Shalhoob~North Dakota Chamber of Commerce. If sound to me like it's got to be a lot more than \$100 per employer per year. Taking today's numbers, currently in this year, employer's are going to pay 15 million dollars in premiums. At this point, 65 million dollars in estimated shortages in 2009 based on a new projection, which means that we will dip into the reserves by about 15 million dollars, it seem to me that it would be more than \$100. My point on the job attached, these are the people, even though are getting a larger benefit, they aren't seeking work. I think we should go for the soft landing. Let's see where we are going to go because an extension of benefits that we are talking about, permanent extension of 26 weeks to 52 weeks is a major deal. We have put in extra money into the fund for 11 or 12 years now, we have the extra 20 weeks from the Feds, let's give it a chance to work.

Chairman Keiser: First of all, the employers have an option, they will respond.

Shalhoob: I was wrong, we asked for a surtax in 1997. Former Governor Schafer insisted that we could build the fund slowly and he was right and we were wrong.



**Representative Schneider:** Did you consider that this would be 14.5 million that would go back into the North Dakota economy over the next three or four years?

**Shalhoob:** Yes, I only was able to talk with only a couple of people amongst ourselves and in no way represent our members across the board. We did not have time to get together and talk about this issue.

**Vice Chairman Kasper:** Isn't the average benefit that an employee receives before they go back to work right now, 11 weeks, somewhere in that neighborhood?

**Shalhoob:** That what Maren indicated.

**Representative Amerman:** The \$100 that Tom Balzer mentioned, that just pertains to what we are talking about, the UI Modernization?

**Balzer:** My poor attempt at the math was to show the 14.5 million dollars in making policy decision isn't a whole lot of money to be dangling out there.

**Marnen:** For the short notice committee, I think you have a pretty balanced overview on this. I don't disagree with Mr Kemnitz's comments on UI Modernization. UI benefits covers a small portion of the population today than from back when the program was started because of the change in the workforce. Mr Chairman, I commend you for getting this piece put together. Two things that I wanted to share, on a cost basis, our estimate, if the alternative based period were adopted and options one & two, the average increase for employers would be .04% of a percent from a tax rate. So, .04% based across the spectrum of tax rates, that would be significantly more for some with negative balance employers and less for others.

**Representative Schneider:** So procedurally, is only the governor who decides whether we are going to accept or not?

**Chairman Keiser:** We have to pass the changes in law. Taking the money does nothing.

**Representative Schneider:** If the governor decides in six months from now that we need these dollars, we would have to come back?

**Chairman Keiser:** We would have to come back in my opinion.

**Representative Amerman:** The second component in the handout, says "provides universal access to unemployment services at no charge to claimants". Would you put a toll free number for calls because you said "no charge"?

**Maren:** That's a good question, technically, that should be employment services, and it's the state wide employment service. It's a possibility if there was a prime need. Is it sustainable long term, probably not for the same reasons why we had to eliminate it. The Feds have underfunded this whole system for so many years and now when they realize that unemployment in the employer service is the emergency room for today's unemployment economy. They are getting funds back in so we can do our job. If we did it, it would be short term.

**Representative Amerman:** Say we took the money and down the road the money runs out, we are stuck the program. What happens if we come back in the next legislature and cuts some of the strings that are originally attached, what are the Feds going to do?

**Maren:** Chairman Keiser answered that issue, it hasn't been written in policy but the Feds have talked about clawing back. I would be nervous about it.

**Chairman Keiser:** The stimulus program has indicated in written form, these are permanent changes. That's very important to recognize and you will not have a legal leg to stand on. These are legal changes said up front if you accept these dollars.

**Maren:** You can't have a sunset provision in the law and they have been clear about that.

**Representative Amerman:** As far as JSND is concerned, would you sign it?

**Maren:** Yes, I would today. I have heard open, complete, honest discussions about the benefit side and the alternative based period & who that can help. The timing for North Dakota to make these huge policy changes is very tight and narrow in this session. The discussions are balanced on both sides; I have seen positive leadership from policy makers, without political grandstanding. It's intelligent discussion, weighing both sides.

**Representative Schneider:** I know you can't predict the future but 2, 3, or 4 years from now, Federal Government decides to extend this benefit, if we didn't take these dollars, do you think, when we will look back, we wished we would have taken these dollars.

**Maren:** My hindsight is always sharper. I can't make that call today.

**Representative Vigesaa:** Anything in the three or four could be changed statutorily by any legislative body without stimulus dollars?

**Chairman Keiser:** We have had bills on these areas before and the fiscal notes to go with the bills. Any of these, changing the base period or on part B, 1, 2, 3, or 4, they could be done in any legislative session.

**Chairman Keiser:** I'm going to give this position statement to Maren.

**Representative Schneider:** Thank you for complying this, Chairman Keiser; this was the best breakdown on the Job Service dollars. I didn't sign it but I think I agree most is that there is a time to wait but the same time, I don't want to sign something that says that I can't help where it would clearly help out people right now.

**Chairman Keiser:** We are not taking a vote because it's not a bill but there are seven signatures. I assuming the majority of this committee chooses not to have this drafted to this bill. This brings SB 2101 before us.

**Representative Ruby:** We were waiting for some numbers.

**Chairman Keiser:** We have the amendments.

**Representative Clark:** Hands out amendment-see attachment. This is not a complicated amendment. On page 2, line 15, is removes one word "down" from the bill because it was inconsistent on the way we round the numbers when we calculate the premiums.

**Representative Clark:** Moves the amendment.

**Representative Nottestad:** Seconded.

**Representative Ruby:** What the reason it was rounded down before because we do charge a fairly rate on new employers?

**Chairman Keiser:** That is correct.

**Brostrom:** At the time when this was changed in legislation, there were great limiters in place. Goes on to describe the rounding for the new group coming in and there was discussion.

**Voice roll call was taken on SB 2101 with all ayes, 0 nays.**

**Chairman Keiser:** What are the wishes of the committee?

**Vice Chairman Kasper:** Moves a Do Pass as Amended.

**Representative Clark:** Second.

**Chairman Keiser:** Further discussion.

**Voting rolling was taken on SB 2101 for a Do Pass as Amended with 13 ayes, 0 nays, 0 absent and Representative Clark is the carrier.**

VR  
3/16/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2101

Page 2, line 15, remove "down"

Renumber accordingly

Date: Mar 16 - 2009Roll Call Vote # 1

## 2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2101House House, Business & Labor Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 98140.0101Action Taken ☐ Do Pass ☐ Do Not Pass ☒ As AmendedMotion Made By Clark Seconded By Nottestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	f		Representative Amerman	f	
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative N Johnson			Representative Schneider		
Representative Nottestad			Representative Thorpe		
Representative Ruby					
Representative Sukut					
Representative Vigasaa					

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

Absent \_\_\_\_\_

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

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

all ayes.

Date: Mar 16 - 2009Roll Call Vote # 2**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**BILL/RESOLUTION NO. 2101House House, Business & Labor Committee☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ As AmendedMotion Made By Kasper Seconded By Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	1		Representative Amerman	1	
Vice Chairman Kasper	1		Representative Boe	1	
Representative Clark	1		Representative Gruchalla	1	
Representative N Johnson	1		Representative Schneider	1	
Representative Nottestad	1		Representative Thorpe	1	
Representative Ruby	1				
Representative Sukut	1				
Representative Vigasaa	1				

Total (Yes) 13 No 0Absent 0Floor Assignment Clark

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

**REPORT OF STANDING COMMITTEE**

**SB 2101: Industry, Business and Labor Committee (Rep. Kelser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2101 was placed on the Sixth order on the calendar.

Page 2, line 15, remove "down"

Renumber accordingly



2009 TESTIMONY

SB 2101

**Senate Bill 2101  
Testimony of Darren Brostrom  
Job Service North Dakota  
Before the  
Senate Committee On  
Industry, Business and Labor  
Senator Jerry Klein, Chair  
January 7, 2009**

**Rounding of Calculations**

**Mr. Chairman and members of the committee, I am Darren Brostrom, the Unemployment Insurance Director for Job Service North Dakota. I am here today in support of Senate Bill 2101.**

**Senate Bill 2101 requests instructive language regarding the rounding of calculation results completed during the annual unemployment insurance tax rate assignment process. Passage of this bill would result in the insertion of such language in two separate subsections of Chapter 52-04.**

**Unemployment Insurance tax rates are set each year based on formulas defined in statute. During the 1999 session, the tax rate setting process was changed to allow for greater calculation precision, out to one hundredth of one percent. However, while the precision was changed, the resulting language in statute did not contain guidance as to the rounding of the results of those specific calculations.**

**During the tax rate setting process, calculations commonly result in numbers exceeding two decimal places. These calculations must then be rounded to account for the precision outlined in the 1999 legislative session.**

The need for guidance in rounding is outlined in two specific situations;

The first situation requiring rounding is because of the language in Chapter 52-04-05, subsection 6 b (1). This section of statute calls for the calculation of a tax rate for “new” non-construction employers (those not having been covered for a period sufficient to qualify for an experience rate). The rate for these employers is to be 90% of the positive employer maximum rate or 1%, whichever is greater. The 90% calculation may result in a fractional remainder exceeding one-hundredth of one percent. Job Service North Dakota (JSND) has, in practice, rounded the result down to the nearest one-hundredth of one percent to obtain the required rate.

The second situation requiring rounding is because of Chapter 52-04-06, subsection 2. This section of statute describes, in part, how the rate groups within the positive schedule are to be calculated. Each successive rate is to be 120% of the previous rate. This calculation may also result in a fractional remainder exceeding one-hundredth of one percent. JSND has, in practice, rounded this result to the nearest one-hundredth of one percent to obtain the required rate.

The intent of Senate Bill 2101 is not to change the way in which employer taxes are calculated, but to ensure that our current calculations are consistent with statute. It should be noted that the changes outlined in the bill will not raise or lower tax rates for any employers. JSND has not been challenged by any entity as to our current rounding practices or calculations, but we feel that this rounding process should be outlined in statute in the same way as the remainder of the tax rate setting process.

Mr. Chairman, this concludes my testimony. At this time I would be happy to answer questions from the committee.

Senate Bill 2101  
Testimony of Darren Brostrom  
Job Service North Dakota  
Before the  
House Committee On  
Industry, Business and Labor  
Representative George Keiser, Chair  
March 3, 2009

Mr. Chairman and members of the committee, I am Darren Brostrom, the Unemployment Insurance Director for Job Service North Dakota. I am here today in support of Senate Bill 2101.

Senate Bill 2101 requests instructive language regarding the rounding of calculation results completed during the annual unemployment insurance tax rate assignment process. Passage of this bill would result in the insertion of such language in two separate subsections of Chapter 52-04.

Unemployment Insurance tax rates are set each year based on formulas defined in statute. During the 1999 session, the tax rate setting process was changed to allow for greater calculation precision, out to one hundredth of one percent. However, while the precision was changed, the resulting language in statute did not contain guidance as to the rounding of the results of those specific calculations.

During the tax rate setting process, calculations commonly result in numbers exceeding two decimal places. These calculations must then be rounded to account for the precision outlined in the 1999 legislative session.

The need for guidance in rounding is outlined in two specific situations;

The first situation requiring rounding is because of the language in Chapter 52-04-05, subsection 6 b (1). This section of statute calls for the calculation of a tax rate for “new” non-construction employers (those not having been covered for a period sufficient to qualify for an experience rate). The rate for these employers is to be 90% of the positive employer maximum rate or 1%, whichever is greater. The 90% calculation may result in a fractional remainder exceeding one-hundredth of one percent. Job Service North Dakota (JSND) has, in practice, rounded the result down to the nearest one-hundredth of one percent to obtain the required rate.

The second situation requiring rounding is because of Chapter 52-04-06, subsection 2. This section of statute describes, in part, how the rate groups within the positive schedule are to be calculated. Each successive rate is to be 120% of the previous rate. This calculation may also result in a fractional remainder exceeding one-hundredth of one percent. JSND has, in practice, rounded this result to the nearest one-hundredth of one percent to obtain the required rate.

The intent of Senate Bill 2101 is not to change the way in which employer taxes are calculated, but to ensure that our current calculations are consistent with statute. It should be noted that the changes outlined in the bill will not raise or lower tax rates for any employers. JSND has not been challenged by any entity as to our current rounding practices or calculations, but we feel that this rounding

process should be outlined in statute in the same way as the remainder of the tax rate setting process.

Mr. Chairman, this concludes my testimony. At this time I would be happy to answer questions from the committee.



North Dakota House Industry, Business and Labor Committee  
61st Legislative Assembly

**Stimulus Package Funding for JSND**

- Component 1.**
- Workforce Investment Act – Provides \$5,217,000 to fund certain adult, youth and dislocated worker programs.
- Component 2**
- State Employment Service and Reemployment Service Grants – Provide \$3,014,761 to fund local JSND offices and provide universal access to unemployment services at no charge to claimants.
- Component 3**
- ARRA – Short Term Impact (already in place)
    1. Emergency Unemployment Compensation (EUC) extended through 12/31/09 *Extension of unemployment benefits*
    2. Increase weekly benefit payment by \$25 (began 3/6/09) - not assessed against employer *Additional \$ to the unemployed*
    3. Temporary suspension of taxation of UI benefits on the first \$2,400 (federal taxes only) *not state taxes*
    4. Funding – separate pool of \$1,039,443  
*This is the element before IBL*
- Component 4**
- UI Modernization – expansion of benefit eligibility – *what the committee was asked permanent change. Have to do it, this is not optional.*
    1. Total funds available - \$14,552,205 as follows:
      - A. \$4,850,735 to help fund additional costs for changing unemployment compensation eligibility.
        - 1) This change must be made in order to receive any of the UI Modernization funds *you have to do it.*
        - 2) Would currently impact 408 individuals at a cost of \$1,012,428 annually with construction companies *Vigesaa: Are the individuals who have run out of their eligibility current or will run but soon?* being the most affected. *144 in construction - Job Attached*
        - 3) It would be reasonable to expect this number would increase resulting in an increase in dollar impact to the fund.
        - 4) The cost to implement the new base period is \$334,800
        - 5) Assuming an average annual impact of \$1,500,000, the stimulus funds for this component would run out in 3+

3<sup>+</sup> years (\$4,850,735 - \$334,800/\$1,500,000) and the unemployment fund would then be responsible for the funding 3<sup>+</sup> Before state step in and take over.  
Yrs

- 6) In addition, the unemployment reserve accounts for the impacted employers would be reduced requiring increased premiums to replenish their reserve accounts.
- 7) Change to base period would be considered a permanent change.

Second part → B. \$9,701,470 – Providing the base period has been adjusted (see A above), these dollars can be accessed by meeting two of the following conditions: choice as a state

- 1) No denial of benefits for seeking part-time work if the majority of weeks worked in the base period are in part-time employment – North Dakota already meets this requirement. There would be no additional impact to state claimants or employers.
- 2) Provide an additional 26 weeks of unemployment benefits to claimants participating in state approved or WIA funded training programs for high demand occupations
  - a) cost to implement program - \$149,000
  - b) claimants affected unknown Unquantifiable
  - c) estimated life of funding – 4-6 years
  - d) costs could be assessed directly against the impacted employer reserve accounts or spread across the entire fund. this is the tough one  
this will be a big debate.
- 3) No disqualification for benefits for separating from work due to compelling family reasons (domestic violence, illness or disability of family member, or accompanying a spouse). we have had legislation like this before.
  - a) cost to implement – minimal
  - b) 1,102 claimants – currently
  - c) cost to fund - \$5,416,472

do it for all reasons



- 4) Payment of dependents' allowances of at least \$15 per dependent/week, with a minimum cap of the lesser of \$50 or 50% of individual's weekly benefit amount.

a) cost to implement - \$149,000

b) assumes 18,000 claimants

Johnson: Cost for one year

Keiser: Yes

c) Cost to fund:

(1) average duration is 11 weeks \$1,841,000 or

(2) average duration is 26 weeks \$4,352,000

Keiser:  
Money runs  
out, cost transfer  
to employers

The UI Modernization – Expansion of Benefit portion of the Stimulus Package requires North Dakota to make very significant changes on a permanent basis in the level of services offered to claimants and the financial impact on employers.

Several statutory changes would be required to implement a change in the base period as well as subsections 2, 3 or 4. *need statutory changes to do it + this is why we are holding a ballot.*

Key  
Point →

States have until August of 2011 to make a decision regarding accepting the funding provided in the UI Modernization – Expansion of Benefits Program.

States experiencing dramatic unemployment appear to be moving quickly towards accepting these dollars, whereas some states appear to be rejecting the funding, at least at this point in time.

Currently, North Dakota is recognized as a leader in terms of the solvency of our Unemployment Trust Fund, the solvency formula we statutorily implemented, our successes in programs designed to return people to work and our average duration in return to work. The information provided below clearly demonstrates that the unemployment compensation program designed for North Dakota is working and serving the needs of our citizens:

Keiser

*Our average duration is 10 weeks but it's going up for people returning to work*

#### Trust Fund and Claim Information

Current trust fund balance - \$107.6 million\*

Current trust fund target - \$76.6 million\*\*

Benefits projected in 2009 - \$56.2 million\*\*\*

Current average duration (how long claimants receive benefits) – Approx. 10 wks.

\*The trust fund balance is fluid, in that it changes on a daily basis. The number provided is approximate, and will change on a daily basis as benefits are paid and tax revenues are received.

\*\*The dollar amount shown is utilizing North Dakota's target calculation. At the current North Dakota target and balance, the gap between target and balance is approximately \$31 million. It should be noted that the USDOL has a recommended target that is significantly higher than North Dakota's target. The

primary reason for this difference is that while both targets look at past recessions within the formula used, the worst years on record have now "fallen off" the formula for North Dakota. However, North Dakota historically does not experience the dramatic shifts in our economy or unemployment rates that most other states do experience. The USDOL projects that North Dakota has a trust fund balance sufficient to cover 8 months of benefits, they recommend 12 months.

\*\*\*This projection was created in October of 2008. Since that time, an increase in claims has occurred, and we are significantly ahead of the projection in benefits paid. At this point, we are exceeding the projected amount by approximately \$9 million.

Although the Trust Fund Balance is currently \$9 million over projections for benefit payments, definitely a negative trend, the statutorily established target, will as intended, be automatically adjusted based upon the actual impact on the Trust Fund.

#### **Program and General Job Service North Dakota Information** - Programs that get people back to work.

Job Service has a variety of programs and procedures in place that share a common goal of getting unemployed individuals back to work and providing income support during periods of unemployment. Following is a list of some of the items that play a role in achieving this goal:

- Re-employment Eligibility Assessments (REA) – This program is conducted by Job Service and funded by the USDOL. The program provides for intensive re-employment activities through interaction of the unemployed individual and Job Service. The individual claimants work with a Job Service Case Manager who assesses the individual's needs and assigns activities targeted to assisting the claimant in becoming re-employed as quickly as possible. These activities are done online, via the telephone, and in person. The targeted activities include items such as attending in-person workshops on improving interviewing skills, receiving information on coping with job, and assistance with resume creation.
- Worker profiling - This process identifies individual claimants that are most likely to exhaust benefits. The identification process is done automatically through the Job Service computer system, and is based on a variety of factors. A few of the factors are education, employment history and county of residence. The goal of this program is to identify people that will have a barrier to re-employment due to a declining industry type, level of unemployment in an area, etc. Once identified, these individuals are targeted for more intensive re-employment services.

- Unemployment insurance benefits are provided to individuals seeking part-time work – In North Dakota, if a majority of wages earned by a claimant in the base period were earned in part-time employment, claimants are allowed to seek part-time work while receiving unemployment insurance benefits. By allowing this, more individuals that earn a low-wage are eligible to receive unemployment insurance benefits.
- Unemployment insurance claimants are able to earn 60% of their weekly benefit amount each week without an effect upon their benefit payment. This allows individuals to earn income in part-time employment, or during periods of reduced hours, while still receiving a weekly unemployment insurance benefit payment.
- Assistance in developing resumes, conducting job searches, interviewing and job retention – These activities all serve the purpose of preparing an individual to enter or return to the workforce.
- The online labor exchange system Findjobsnd.com provides access to jobs statewide - As of March 1, 2009, over 10,000 job openings are listed on the system across the spectrum of industries and wage levels.
- Rapid response events at employer sites when layoffs are announced - These events give affected workers an initial contact with Job Service, help with unemployment insurance, and begin the process of seeking new employment.
- Assessment of skills and skill needs in relation to the job market
- Identification of training opportunities to address skills gaps.
- Assistance with the cost of training and supports needed while in training – Various programs that Job Service administers allow Job Service to assist with the cost of training, as well as providing other income support to individuals while they are in training. However, declining federal funding has limited the ability of Job Service to offer some of these support types at a level that we feel appropriate.
  - Employment Service and Workforce Investment Act stimulus funds, if fully included in the Job Service budget, will allow us to provide an increased number of unemployment insurance claimants with reemployment activities, as well as funding for retraining and supportive service needs when appropriate.



North Dakota House Industry, Business and Labor Committee  
61st Legislative Assembly

**Position Statement:**

Based on the overall quality of North Dakota's Unemployment Compensation Program, the statutorily directed solvency requirements of the Unemployment Insurance Reserve Trust Fund, the relatively financially sound economy within North Dakota and the significant long term negative impact of the required changes found in the UI Modernization – Expansion of Benefit Eligibility component of the Stimulus Package, we the undersigned will not support participation in the UI Modernization – Expansion of Benefit Eligibility Program at this time.

(dated 3/16/09)

\_\_\_\_\_  
Chair, House Industry, Business  
& Labor Committee

\_\_\_\_\_  
Vice-Chair, House Industry,  
Business  
& Labor Committee

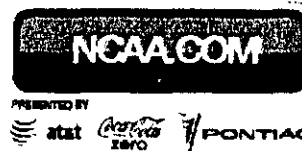
Members, House Industry,  
Business  
& Labor Committee:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



# THE NCAA® CHAMPIONSHIP

WATCH LIVE GAMES | ONLINE | 100% FREE



PRINT THIS

Powered by Clickability

## Governors reject stimulus money for unemployment

By Matt Kelley and John Fritze, USA TODAY

WASHINGTON — As money from the economic stimulus package begins flowing, some Republican governors are rejecting their states' share of \$7 billion for enhanced unemployment benefits, saying the strings Congress attached would lead to higher business taxes.

To get the money, states must expand unemployment benefits, such as covering part-time workers who lose their jobs. Texas Gov. Rick Perry said he doesn't want the stimulus money because his state would have to raise taxes on businesses or cut back on benefits once the federal funding runs out.

Texas, which had an unemployment rate of 6.4% in January, was entitled to \$555 million.

"It seems really unreasonable that the federal government would require a change in state law as a condition of accepting these funds," Perry spokeswoman Katherine Cesinger said. "The governor's main message is Texans who hire Texans drive our state's economic engine, and the last thing we need to do is burden them with higher taxes."

Led by Republican Governors Association chairman Mark Sanford of South Carolina, a group of conservative GOP governors has rejected or considered rejecting the unemployment money or other funding from the \$787 billion stimulus package. Bobby Jindal of Louisiana, Haley Barbour of Mississippi, and Bob Riley of Alabama also have rejected the unemployment money.

Democrats and labor groups say rejecting the expanded unemployment benefits will hurt laid-off workers. The Democratic National Committee said it plans to air television ads Monday in South Carolina criticizing Sanford for rejecting stimulus money for his state, which had the nation's second-highest unemployment rate in January at 10.4%.

South Carolina Rep. James Clyburn, the third-highest ranking Democrat in the House, has criticized Sanford's position on the stimulus in recent weeks. In a statement Sunday, Clyburn said voters want elected leaders to put aside politics during the economic crisis.

"I think what we're seeing is some governors making political calculations with an eye toward their next job when they need to be making practical decisions on behalf of their constituents," he said. "And I think it will backfire."

The National Employment Law Project (NELP), which advocates for low-income workers, estimates that 533,902 people would benefit from the changes in the unemployment law set out in the stimulus. Maurice Emsellem, policy co-director for NELP, said some states could face automatic tax increases if their unemployment funding doesn't keep pace with demand.

"By deciding against taking millions of federal dollars, the governors are denying benefits to hundreds of thousands of workers and triggering tax increases ... that are going to hurt the economy when it needs the help most," Emsellem said.

Joel Sawyer, a spokesman for Sanford, said it's politically difficult to take away benefits once they're extended. Increasing the number of people eligible for unemployment would exacerbate the long-term problem the state has meeting its benefit obligations.

"There is a political calculation on the part of everyone who is supporting the stimulus package," Sawyer said. "The calculation is this: If you throw enough money at the problem, you dull the pain long enough to get us through the next election."

Advertisement

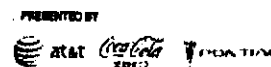


THE NCAA® CHAMPIONSHIP

WATCH  
LIVE  
GAMES



ONLINE  
100% FREE



A study by the Nelson A. Rockefeller Institute of Government suggests states will have to make difficult decisions once stimulus money runs out. States should use the breathing room provided by the stimulus to look for long-term budget solutions, the report says.

Other states are changing their laws to get the money.

South Dakota's Republican Gov. Mike Rounds signed a law last week changing unemployment eligibility requirements to get \$5.9 million from the stimulus. Rounds said in a news release that he is considering whether to support making further changes to the system to get more of the money.

The stimulus sets aside one-third of the \$7 billion for states that consider recent wage information when determining unemployment eligibility. The other two-thirds goes to states that have or enact other changes, including:

- Extending benefits to part-time workers. Before the law was enacted, 20 states allowed part-timers to collect unemployment, according to NELP.
- Providing payments to workers who quit their job for "compelling family reasons" such as domestic violence, relocation because of a change in spouse's employment or the illness or disability of a close relative.
- Continuing payments for unemployed workers who have exhausted their benefits as long as they are enrolled in job training. Five states offer that now, and New York and Massachusetts have similar but limited programs.

**Find this article at:**

[http://www.usatoday.com/news/nation/2009-03-15-unemployment\\_N1.htm?loc=interstitialskip](http://www.usatoday.com/news/nation/2009-03-15-unemployment_N1.htm?loc=interstitialskip)

☐ Check the box to include the list of links referenced in the article.

Copyright 2008 USA TODAY, a division of Gannett Co. Inc.

March 16, 2009  
Submitted to House I, B4h by David Kernitz  
Suggestions to modernize UI laws. NDA 17-010

## SUMMARY OF RECOMMENDATIONS

General "Good Cause" rules: State laws should include broad language that recognizes individual circumstances as good cause for leaving employment. The language in the Pennsylvania statute, which provides that no disqualification will result if the separation is caused by events of a "necessitous and compelling nature," provides an appropriate and flexible model.

Quits "Attributable to the Employer": States should also acknowledge that when a claimant leaves her job due to unilateral changes in conditions of employment that create undue family hardship, she has done so with good cause. The model voluntary leaving provision addressing this issue can be found in Connecticut.

Carving out Particular "Good Cause" rules: Creating exceptions addressing specific issues, such as separations due to marital obligations or domestic violence, will reduce arbitrary disqualifications that disproportionately impact women and low-wage workers. In California, for example, the voluntary separation statute does not require that the reason for leaving work be attributable to the employer. The statute and accompanying regulations provide guidance on how numerous individual circumstances that often lead to job separation should be handled in eligibility determinations.

Quitting a job when a spouse relocates: States should repeal provisions that affirmatively disqualify individuals who terminate employment to accompany a spouse to a new location or to marry. State law should dictate that individuals who quit to accompany a spouse or partner, to marry, or to preserve family unity, will not be disqualified based on a "voluntary" separation determination. California provides a good model statute for states to adopt.

Child Care: States should enact statutes that provide that it is good cause to leave a job when child care becomes unavailable. California and Arizona have model regulations on this point. States should enact provisions that a worker who cannot be available for work at particular times of the day due to child care conflicts is nonetheless eligible for UI. North Carolina has enacted a statute that can serve as a model.

Illness of self or family member: State law should include an exception from disqualification if the separation from employment is due to temporary illness of their own or of a family member (which need not be caused or aggravated by work), that renders the individual physically unable to perform her job. Maine, Illinois, and Washington have such provisions.

States should also provide that a worker has good cause to terminate employment if the employer refuses to grant a worker the leave to which she is entitled under FMLA. States should suspend the base period during the time that leave is used so that an individual is not penalized, in terms of required labor force attachment, because she is physically unable to work or must care for an ill family member.

Pregnancy: State law should provide that an individual who is temporarily unable to perform her job due to pregnancy, will not be denied benefits based on a "voluntary" separation, and that pregnancy will be treated

equally with illness or disability in terms of "availability" determinations. Washington and Mississippi provide good models for "good cause" provisions, and DC and Utah have good availability provisions. State laws that discriminate against pregnancy, like those in Alabama and Arizona, should be repealed.

Domestic Violence: States should enact broad domestic violence UI laws, covering a range of issues of violence against women in the workplace, and include special provisions acknowledging a victim's attempts to find work must accommodate her need to address the effects of violence on herself and her family. Massachusetts and Washington provide the best examples.

Sexual Harassment: State law should specifically provide that sexual harassment constitutes good cause for a woman to quit her job voluntarily, consistent with the standards that apply under State or Federal sexual harassment laws. Massachusetts law, for example, provides that an individual shall not be disqualified from receiving benefits if it is established that the reason for leaving work is due to sexual harassment "where the employer, its supervisory personnel or agents knew or should have known of such harassment." The statute also includes a comprehensive definition of the term "sexual harassment." California and Utah regulations also provide good models.

Part time work: Part-time workers should not be categorically denied benefits, but should receive UI benefits so long as they remain available for a reasonable number of jobs despite any restrictions on their availability. California provides a good model because its statute permits workers with a past history of part-time work to get UI benefits while its rules state that jobless workers with good cause for restricting their availability remain eligible for UI.

Temporary Disability Programs: States should consider enacting temporary disability (TDI) provisions that would cover individuals who are attached to the labor market, but who are temporarily unable to work because of their own disability.

In addition, TDI provisions can be a source for paid family leave, as has been very recently enacted in California.