

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1276

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1276
January 26, 2011
13481

Conference Committee

Committee Clerk Signature <i>Ellen Letang</i>

Explanation or reason for introduction of bill/resolution:

Relating to eligibility for unemployment compensation benefits; and to declare an emergency

Minutes:

Chairman Keiser: Opens the hearing on HB 1276.

Representative Amerman~District 26-Forman: (see attached testimony 1) 2009 session, the American Recovery Act was put into play, federal stimulus was put into the play, part was put back from the job service. In part we had to tweak it to allow the money to flow, yet we turned back money to save lives. HB 1276 will do is allow certain victim of abuse, they relocate, they can collect unemployment. I did learn there should be some amendment, Legislative Council is drafting them and I will get them to the committee. In closing, we should help these families.

Representative Vigesaa: I remember from 2 years ago, if we accepted some of the stimulus money from the unemployment area, once those funds were gone, the state would have to continue with those programs, could you share if that would have to happened if we accepted the money.

Representative Amerman: That was one of the concerns. I attended the national state legislature's meeting at Philadelphia and this subject was brought it up. My understanding was that if you introduced this legislation, you couldn't sunset it, but you could repeal it in subsequent session one the funds run out and be a burden on your system.

Representative Ruby: Generally, unemployment benefits are provided to an employee who is leaving to no fault of their own, which is probably the action or the fault of the employer. With some of the issues with different abuses, I understand that's not the fault of employee but they're not the fault of the action of the employer either. Could you elaborate on how the employer should be hit in those situations?

Representative Amerman: My own thoughts, the stimulus money would have covered it; I believe there should be some court document to provide that.

Representative N Johnson: In the note of the recovery money, but on top of page 2, were all four of those things identified in that criteria that needed to be in place before you could qualify for the funds?

Representative Amerman: The trigger to start the funds flowing is under section 1 that would start a portion. When we get to what you are talking about, you have to meet 2 of certain criteria to have the rest of the stimulus money flow down and I think this is one of that criteria.

Chairman Keiser: I would encourage committee members to read the handout by Representative Amerman. It is specific in detail.

Representative Boe: Are there still stimulus money available?

Representative Amerman: We have to have the law in place by August to capture the 14.6 million dollars of stimulus money. There is an emergency clause on this and I'm not sure whether it is needed. I hate to have this bill pass and not get the stimulus money because we didn't have the emergency clause on it.

Vice Chairman Kasper: If we don't take this 14.6 million, will it go back to federal or distributed to other states.

Representative Amerman: I represent the state of North Dakota and if we don't take it, we lost. I don't know where it goes after that.

Representative Gruchalla: I'm assuming that Job Service is going to say that if we pass this, that we will have to pick up the tab once the federal money runs out. How long can we continue using this 14.6 million if we take it? Can we use it until it's all gone and then we repeal the law, how does it work?

Representative Amerman: If this is put in and we go to the 14.6 million and it goes to domestic violence, it goes on to ten, fourteen years or until it's gone. You can ask Job Service.

Dave Kemnitz~North Dakota AFL-CIO President: (see attached testimony 2).

Chairman Keiser: Questions for Dave? Anyone else here to testify in support of HB 1276?

Janelle Moos~Executive Director of the North Dakota Council on Abused Women's Services: (see attached testimony 3).

Vice Chairman Kasper: On page 1 you talk about the survey of survivors of domestic violence found that abusive husbands or partners have harassed 74% of employed battered women at work. What does that survey tell us about workplace violence?

Janelle Moos: What that survey indicated were those women that were part of their study, noted that at some point in time, they have been harassed by their partner, husband or

former partner at work, not necessarily at the same work place. It was not necessarily at work where they worked at the same place, but had a definite ability to come to work and be productive employee.

Vice Chairman Kasper: You said they must leave their job to protect their safety, where do they go? Seems you would be safer at work.

Janelle Moos: We haven't tracked that number, this is part of a national effort of what's happening across to women across the country if they choose to leave employment. We trust victims because they know what is going to keep them safe, if that means leaving employment, family members, leaving or staying with their partner.

Vice Chairman Kasper: Do you have an idea of how many victims your organization works with on an annual bases in North Dakota?

Janelle Moos: We are just compiling our 2010 statistics, but we have 2009 and served over 4600 domestic victims and another 4500 children that directly impacted by that.

Representative Ruby: I remember this issue in 2001 session, the employer is getting hit in his account for the loss of that employee and it's not his fault. There are other sources for domestic violence, at that time the bill failed and the representative asked and received 100,000 in human services for domestic violence. Do you think more appropriate to be handled in a different agency rather than Job Service for the employer who did nothing wrong?

Janelle Moos: I familiar with the bill that you are remembering from a couple of sessions ago, what is important about this one is that adding domestic violence victims under section 2 is the non-charging section of this law, the employer, it would be spread throughout. The cost is quite minimal to employer and its spread out entire pool. In terms of your other question whether or not this fits somewhere else, most of our non profits, it's almost like a patchwork in terms of how their funding is set up. We do receive federal funding that we have to apply for but we do get some state funding that is spread out though 21 programs.

Representative Ruby: You do acknowledge that it is drawing from a fund that everyone is paying into and has some liability to maintain. That is where I'm alluding to is that it is affecting that employer at no fault of their own.

Janelle Moos: Most states had to grapple with that and that is why they put it in the non charging section so it is spread throughout and it very minimal in terms of the overall claims each year.

Representative Clark: If you would get this source of funding, would you go for the other sources of funding in Human Services.

Janelle Moos: That funding would goes directly to the victims; it wouldn't come to our domestics programs.

Representative M Nelson: Do you have any figures on a person who suffers from domestic violence and they have to leave, what are the expenses to start moving on?

Janelle Moos: No, I could do some research to project that out. It's a difficult for the victim to leave, it get very costly.

Chairman Keiser: Anyone else here to testify in support of HB 1276?

Renee Stromme~Executive Director of the North Dakota Women's Network: (see testimony 4).

Representative Amerman: You bring up a good point under section 2, the concerns if they had to leave, the employer would not be charged?

Renee Stromme: That's how I read it, it would not count against the employer's experience rating.

Chairman Keiser: You mentions about the relocation, first of all we have to agree to adjust the alternate base rate period and get two of the four. If we changed alternate base rate period and we included the relocation of the spouse, would it qualify if we put further limits on that? Do you know if that would that jeopardize the fund?

Renee Stromme: I don't. I'm compelled to believe that the relocation is the greatest needs.

Representative Kreun: In some of these incidences, isn't that covered in paid time off and other employee benefits rather than worker's comp.

Renee Stromme: It is to some extent. If you are working part time without sick leave or where no time off exists, so there is no pay.

Representative Kreun: So supplementing this with some of those kinds of benefits, so you are giving benefits to the employee through the unemployment rather than through the benefits of the employer.

Renee Stromme: They would not be eligible for paid benefits.

Representative Kreun: I know, in essence, we are switching the responsibility to the employer to unemployment for those issues.

Renee Stromme: They can't keep it if they are keeping their job and can't receive benefits that way.

Representative Kreun: We are trying to give a benefit one way or another or you are trying to advocate a benefit so that you could be home to take care of a sick child under these circumstances. I'm just saying that the employer providing some of that and you are saying some employers don't. So this would be a method of utilizing rather than employers.

Renee Stromme: I think most people leaving for a sick child; it's a pretty severe case. It's something that will not be taken care of in a month.

Chairman Keiser: **Anyone else here to testify in support, in opposition of HB 1276?**

Tom Balzer~North Dakota Motor Carriers Association-On behalf of the Business Groups: We have been here before and our position has not changed. The position at that time was that we were to make policy decisions that had long term impacts with short terms funds. To get at some of these issues, we have to take up the big issue first. This is the biggest sticking point for us is that policy decision that is there that has the long term impact of the fund. There is a bill in the Senate heard yesterday that specifically addresses this issue and the business community did not take a position on that because it's a bigger issue besides money. That is one we wanted to see work through the system to address that very specific unique issue. Some of the other issues we had when people have to leave and to relocate for example, the Air Force Base closing, it's an issue to make long term decisions. We would oppose the adoption of this particular legislation.

Representative Amerman: I don't recall any bills with domestic violence that would have triggered the stimulus money last session, would you enlighten me on the bill?

Chairman Keiser: It was a resolution that passed not a bill.

Tom Balzer: Thank you for that clarification and I stand corrected.

Representative Amerman: You alluded to the Senate bill, does their bill trigger the 14 million of the stimulus money that the state could use.

Tom Balzer: No it does not because you have to do the first section about the alternate base period. We are leaving it up to the policy makers.

Representative Ruby: You mention in a scenario about the relocation of the jobs with the Air Force Bases closing and it's much broader than that, isn't it?

Tom Balzer: If you have a person working for the base and their spouse gets transferred out, the fund would have to pay for the unemployment benefits for that person working for you.

Chairman Keiser: **Anyone here to testify in opposition, neutral HB 1276.**

Darren Brostrom~Job Service North Dakota: (see attached testimony 5).

Representative Ruby: Would you explain to me how changing the base period adds more people to qualify for benefits rather than just using it a different period to base what their wages are or what their benefit would be?

Darren Brostrom: The individual has wages to become eligible but just not at the time that the claim was filed. It comes down to a timing issue because under our current model,

if an individual doesn't qualify under our current base period calculations, but we found that they would under the alternate base period. If they had waited a quarter to file that claim, they would become eligible under our current program. That would go primarily to seasonality of employers depending on when they earned wages and filed their claims. It comes down to a timing more than this expands as a people issue.

Representative Ruby: With the stimulus funds how much does that goes into administrating the changes and the fund to compensate for the changes?

Darren Brostrom: It comes down to the decisions of the committee. What we would request would be that we would ask for the technology and the implementation dollars to pay for that 14.5 million. We are not requesting any additional administrative funds to do this and the remainder of those dollars will be available to pay for benefits.

Representative Ruby: We can use however we wish.

Darren Brostrom: Yes, once those dollars are available to us.

Representative N Johnson: Why was the lag quarter established in the first place?

Darren Brostrom: I believe from the technology differences between now and 1935 when the program began. The information wasn't readily available that are available to us now.

Representative Boe: On page 4 of your testimony, your graft of individuals you identified were denied benefits because they didn't qualify, are there people out there that would have didn't apply and would qualify additional above this number if this bill was passed?

Darren Brostrom: As far as the alternate base period piece, the only thing that I can speak to there is our record of those that would have applied for benefits; we would have denied them based on the monetary eligibility. As far as someone not having applied for benefits, I have difficulty speaking that.

Representative Boe: On page 8 you referred to passage of section 3 would amount to 9.7 million. I'm assuming that's part of the 14.5, is that correct?

Darren Brostrom: You are correct.

Representative M Nelson: The date for the quarter is when they applied; can they wait to the end of the next quarter if they are still unemployed and apply again?

Darren Brostrom: They can wait and file again at the new quarter because there is no claim established for them when they are not monetarily eligible; the real concern is there is a quarter without any income. Yes, they could absolutely do that.

Representative Amerman: You alluded to the million dollars passed down from federal government for administrating, the states were under the implementation of the recovery act and they were given a million dollars in anticipation that they would have to change software and so on, but now under your testimony it was given to use for whatever?

Darren Brostrom: No, I believe their intent was to assist us in processing the increase in the work load. Most states use for the temporary staffing for the increase and that is what we've been utilizing it for.

Representative Amerman: You alluded there were some problems in the bill; I have some amendments coming that would that alleviate some of your concerns?

Darren Brostrom: I don't see anything that we can't overcome. I received the same information you received late yesterday concerning issues that the federal government identified with the language of the bill. With every one of our bills, we are required to send the information to the US Department of Labor and they do a conformity review. In additions to that, this bill is associated with the receipt of ARRA dollars and they do an additional review on top of that. Yesterday is when they got back to us with any of their concerns. There is no specific conformity issues for federal law but there are some issues of whether or not it meets the ARRA requirements the way it's written. Ultimately the desire to receive the federal funding, we would definitely have to amend the language where they were looking at was in the domestic violence area. They did have some comments about the alternate base period, they did feel it would pass muster, but they had some suggested language changes.

Chairman Keiser: On page 4 in your graph, you state that the number of people who were found ineligible for benefits under current law, is there another adjustment based on a change for people who were eligible under current law, the length of coverage now changes, what that included in this? When you say weren't covered, what about people who did have coverage continuously and leave with that different base period, is there any financial impact on that you could measure?

Darren Brostrom: We did not look at those individuals that did qualified. I'm assuming that you are talking about the ratio and duration of benefits that they would be eligible for, which could result from increased wages. That was not something we specifically reviewed.

Chairman Keiser: The only reason you I bring it up is you say the 14.5 million you are projecting will last 4-7 years?

Darren Brostrom: Yes.

Chairman Keiser: If this is a non factor I'm not worried about it but I don't to find out if we were to pass the bill and you run your analysis, oops, there was 2 million more per year that we didn't recognize, that 4-7 years goes down to 2-3.

Darren Brostrom: I don't think that will be a factor in our calculation of the length of time the benefits would last.

Chairman Keiser: Anyone else here to testify in neutral position of HB 1276. Closes the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1276
February 2, 2011
13901

Conference Committee

Committee Clerk Signature

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Relating to eligibility for unemployment compensations benefits and declare an emergency.

Committee Work Session Minutes:

Chairman Keiser: Open the work session on HB 1276. Do any of these amendments change the fiscal note?

Representative Amerman: Didn't pass after last session, we didn't accept the 14.1 million. It will make the changes to allow the dollars to flow. (inaudible).

Chairman Keiser: There are some changes required to accept the federal money. There are 2 gates that you have to be gone through; one is that you have to agree to the alternated base rate schedule which moves the period of people who would qualify. Then we have to meet 2 of a series of other changes and we have already met one of those changes. The additional ones are relocation because of a spouse, sick family member or taking another job, the Federal Government has said you cannot put a sunset on this legislation, but you can change the law after the money is gone.

Representative Amerman: Explains amendment (see attached amendment and testimony).

Chairman Keiser: Do we have a motion on the amendments?

Representative Amerman: Move the adoption of the amendments.

Representative Gruchalla: Second.

Chairman Keiser: Further discussion on the amendments.

Voice roll call taken, motion carried.

Chairman Keiser: We have HB 1276 before us as adopted, what are the wishes of the committee?

Vice Chairman Kasper: Moves a Do Not Pass as Amended.

Representative Ruby: Second.

Chairman Keiser: Further discussion?

Representative Ruby: The first part dealing with the base period, I asked the question what was the reason that the original base period we used now is in place and they mentioned about the reporting time and computers systems make it more feasible. However, when I file my quarterlies in the employee reports, so the money they get is still after that quarter. Basing the money I'm paying into Job Service still fits into the way the current base period is being used. When the payments go to the person receiving the unemployment benefits so considering that and because of that we should keep it the same. In past sessions, my biggest problem is that the employer is responsible for the employee not being employed anymore and at no fault of the employee and it's not a qualifying reason; the employee's account is charged. I think the way they receive the benefit is they qualify. This is at no fault to the employee, but then somewhat originated by the employer. This doesn't have anything to do with the employer being necessarily at fault of the loss of the employment to his account but it hits the fund he is paying into. To me that's not an employment program, it's more of an assistance program in that context, it's more of a wage replacement.

Representative Amerman: I find it ironic that Job Service accepted over a million dollars. The 2 major points was to implement this type of thing or use it for the purposes of the bill. It does state other provisions that they could use it for that was stimulus money and turned it back because of domestic violence because they didn't want stimulus money flowing that way. I think it's a good bill; it gives you a bridge with some income so you can get back to work.

Vice Chairman Kasper: I have a couple of problems with this whole concept. One, is the stimulus money in on itself, our federal government is broke and we have unfunded liabilities of a trillion dollars. Yes we keep looking for ways to get money from the federal government but is that right? Secondly, on top of page 2, expanding in areas that are not the fault of the employers and asking them to pay. Those are the reasons that I can't support the bill.

Chairman Keiser: Further question?

Roll call was taken for a Do Not Pass as Amended on HB 1276 with 10 yeas, 3 nays, 1 absent and Vice Chairman Kasper is the carrier.

FISCAL NOTE

Requested by Legislative Council
01/24/2011

Bill/Resolution No.: HB 1276

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$294,240	\$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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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).*

HB 1276 provides for 3 separate changes to the unemployment insurance system. The change associated with this fiscal note relates to section 1, the addition of an alternate base period in 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.*

Programming changes are associated with Section 1, number 3, and provide the basis for the fiscal impact of this bill.

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.*

None

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.*

FTE counts will not be impacted. Expenditures will relate to mainframe programming necessary to implement the alternative base period outlined within Section 1 of the bill.

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.*

No funding is available to Job Service to implement the necessary programming associated with the changes outlined within this bill. Additionally, no appropriation of state general funds was requested by Job Service. As a federally funded agency, Job Service is limited in the funding received, and would need to request to receive an appropriation of funds in order to complete the changes required by the bill if it were passed.

Name:	Darren Brostrom	Agency:	Job Service North Dakota
Phone Number:	701-328-2843	Date Prepared:	01/25/2011

VK
2/3/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1276

Page 1, line 19, overstrike "who either"

Page 1, line 20, overstrike "Left" and insert immediately thereafter "Who left"

Page 4, line 18, after the underscored semicolon insert "or"

Page 4, line 22, remove "; or a reliable statement from"

Page 4, remove lines 23 and 24

Page 4, line 25, remove "violence or sexual assault"

Page 4, line 27, remove "need to care for the individual's spouse, parent, or minor child who has a"

Page 4, line 28, replace "that necessitates the care of the ill or disabled individual" with "of the individual's spouse, parent, or minor child"

Renumber accordingly

Date: Feb 2, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1276

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.0495.01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Amerman Seconded By Rep Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

voice vote, motion carried.

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Date: Feb 2, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1276

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Kasper Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman		✓
Vice Chairman Kasper	✓		Representative Boe	AKO	
Representative Clark	✓		Representative Gruchalla		✓
Representative Frantsvog	✓		Representative M Nelson		✓
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 10 No 3

Absent 1

Floor Assignment Rep Kasper

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

REPORT OF STANDING COMMITTEE

HB 1276: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1276 was placed on the Sixth order on the calendar.

Page 1, line 19, overstrike "who either"

Page 1, line 20, overstrike "Left" and insert immediately thereafter "Who left"

Page 4, line 18, after the underscored semicolon insert "or"

Page 4, line 22, remove "; or a reliable statement from"

Page 4, remove lines 23 and 24

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Page 4, line 28, replace "that necessitates the care of the ill or disabled individual" with "of the individual's spouse, parent, or minor child"

Renumber accordingly

2011 TESTIMONY

HB 1276

Summary of HR 1276

Introduction: HR 1276 amends North Dakota's unemployment insurance laws in order to close gaps in the program that deny benefits to low-wage and workers who are forced to leave work because of compelling family responsibilities. These changes in the law would also allow North Dakota to qualify for \$14.6 million in federal funding provided by the American Recovery and Reinvestment Act (ARRA).

The federal deadline to apply for these ARRA funds is August 2011. However, the law can take effect as late as October 2012 to qualify for the federal funding. Once the new laws are certified by the U.S. Department of Labor, the entire \$14.6 million is deposited in the state's unemployment insurance trust fund, even if the law has not yet gone into effect. North Dakota is one of 18 states that have not yet adopted these basic reforms to the unemployment insurance program.

Section 1 of the bill amends the law to allow more low-wage workers to qualify for benefits by counting their recent wages under what's called the "alternative base period," which has been adopted now by 39 states. Under a historical quirk in the law dating back to when unemployment claims were all hand processed, North Dakota does not count the latest three to six months of wages to determine if an individual has earned enough to qualify for benefits. This change in law would count the wages earned in the latest completed calendar quarter if needed for the individual to qualify for unemployment benefits.

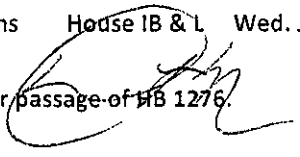
Section 2 of the bill amends the section of North Dakota's law that determines whether certain benefits are "charged" to the employer's "experience rating" account, which determines how much the employer pays in unemployment taxes. Like with other benefits in current law, including benefits paid to workers who leave their jobs with good cause not involving fault on the part of the employer, the payments to workers provided under Section 3 described below – i.e., benefits paid to those who leave work due to certain compelling family circumstances – would not count against the employer's experience rating account .

Section 3 of the bill amends the part of North Dakota's law that determines whether a worker left the most recent employment for reasons that would disqualify him or her from unemployment benefits. For example, currently a worker is entitled to benefits in North Dakota if he or she leaves work due to an illness or injury in certain circumstances.

The amendment would extend the list of non-disqualifying circumstances recognized by North Dakota law to also include workers who leave work for three specific "compelling family" reasons: 1) leaving work due to domestic violence or sexual assault, 2) leaving work due to the need to care of a sick family member; and 3) leaving work because of the need to accompany a spouse who is required to relocate from home to a distance which is not feasible to commute from.

The bill includes specific language that conforms with the requirements of the ARRA. For example, the illness must be fully verified and the domestic violence must be documented in various specific ways to show that the "individual's continuing employment would jeopardize the safety of the individual or the individual's spouse, parent or minor child."

HB 1276 Unemployment benefit reforms House IB & L Wed. Jan. 26, 2011
ND AFL-CIO David L. Kemnitz; President
We urge your favorable consideration for passage of HB 1276.



Section 1: Base Period wages are used to 1. Determine a benefit amount and 2. Determine the number of weeks a person can draw in unemployment.

In the Late 1980's North Dakota's unemployment law was changed concerning how the formulas determined weekly benefit amounts and duration/ number of weeks a person was eligible to draw before exhausting.

What was not addressed then or since was the problem seasonal and cyclical workers face when a large portion of their income comes in one or two quarters of work. The result is that these workers do not qualify for benefits because of a mathematical equation even when they have met all other criteria.

The Alternative Base Period uses the most recent wages earned and results in a substantial number of workers actually drawing benefits that had been previously disqualified.

If North Dakota allowed the use of the "Alternative Base Period" method for those workers who meet all other criteria, and in addition allowed for coverage to victims of Sexual Assault or Domestic Violence a total of \$12.9 million would become available to support the added expenditure on behalf of these workers.

Handouts include:

4 pages from a ND Job Service manual explaining unemployment benefits.

Table 2. Status of Unemployment Insurance Modernization Reforms, North Dakota and Neighboring Plains States

State	Incentive Funding Status	Alternative Base Period	Part-time worker coverage	Extended Benefits While training	Domestic Violence	Spouse Relocates	Illness & Disability
Iowa	Full	Yes	Yes	Yes	No	No	No
Kansas	Full	Yes	Yes	Yes	Yes	Yes	No
Montana	Full	Yes	Yes	Yes	Yes	No	No
Nebraska	Full	Yes	Yes	Yes	Yes	Yes	Yes
North Dakota	None	No	Yes	No	No	No	No
South Dakota	Full	Yes	Yes	Yes	Yes	No	No
Wyoming	None	No	Yes	No	Yes	No	No
US Totals	33	39	29	16	32	26	24

²⁰ Recovery Act's Unemployment Insurance Modernization Incentives Produce Bipartisan State Reforms in Eight States in 2010, National Employment Law Project, September 2010, <http://www.nelp.org/page/-/UJ/2010/modernization.update.pdf?nocdn=1>

To-Do List for Unemployment Insurance

Failure to Complete These Activities May Result in Loss of Benefits

Everyone filing a claim must:

- Complete weekly certifications. (See pages 4-8)

If you are not returning to your employer and/or if you are required to do weekly job contacts, you must also:

Within 10 days of filing your claim:

- Put a Resume on www.jobsnd.com. (See pages 15-16)

Each week, starting the week you file your claim:

- Complete a minimum of 2 job contacts or the number assigned, and record them on page 30 of this guide. (See pages 16-17)

By the due date indicated in letters mailed to you:

- Complete your online Eligibility Reviews on **UI ICE**. (See pages 18-19)
- Complete your online Reemployment Activities on **UI ICE**. After the first letter, you will need to look at the Reemployment Schedule on **UI ICE** for required activities and due dates. The Interview Workshop needs to be scheduled and completed in your nearest Job Service office. (See page 19)
- If you have been selected to participate in Case Management activities, contact your Case Manager on the date and time scheduled.

Within 90 days after entering your resume or each time you re-open your claim:

- Bring your resume up to date by going online to www.jobsnd.com. (See pages 15-16)

Your Resume, Eligibility Reviews, and Reemployment Activities need to be completed online at www.jobsnd.com. You can also do your weekly certifications online. To complete these activities, you will need two different login IDs and passwords: one for the resume and one for **UI ICE**.

State of North Dakota (**UI ICE**)

Resume Login

Login ID _____

UserName _____

Password _____

Password _____

What Will My Benefit Amount Be? Base Period Moving Out of State While Filing a Claim

What Will My Benefit Amount Be?

Your Weekly Benefit Amount (WBA) is based upon wages you earned from liable employment during the Base Period of your claim. **Your approximate WBA will be the total of your highest two and one-half quarters of base period earnings divided by 65.** The maximum and the minimum benefit amounts are determined by law and are subject to change each July. A benefit chart is available for your review at www.jobsnd.com.

Your wages are also used to help determine the duration of your claim and the maximum benefit amount you can receive. The duration ratio, determined by law, establishes the number of weeks that you will receive benefits, and ranges from 12 to 26 weeks. This duration is calculated by dividing the total number of wages in your Base Period by your highest quarter. If you report earnings, or have other reductions to the benefits paid to you each week, you may actually receive benefits for more weeks than the number calculated by your ratio. However, you will not receive more benefits than your original maximum benefit amount. After filing your claim, you will receive a Monetary Determination that outlines your Weekly Benefit Amount and the duration of your Unemployment Insurance claim. You should receive your Monetary Determination within 5 days of filing your claim.

Base Period

The amount of Unemployment Insurance that you can receive is based on the wages paid to you during your Base Period. Base period is defined as the 12-month period consisting of the first four of the last five completed calendar quarters preceding the date that you filed your claim.

If you filed your claim in calendar month:	Your base period is the previous:
January, February, March	October 1 through September 30
April, May, June	January 1 through December 31
July, August, September	April 1 through March 31
October, November, December	July 1 through June 30

Moving Out-Of-State While Receiving Benefits

Notify Job Service North Dakota before you leave the state. You will be instructed how to continue your claim once you are living out of state. **Please note:** Your claim for unemployment benefits may stop if you fail to notify Job Service North Dakota of your move. You may reopen your claim on the Internet by using the *UI ICE* system on www.jobsnd.com or by calling 701-328-4995.

Weekly Certifications

Weekly Certification Process

Questions Asked During Certification

Weekly Certification Process

During the certification process, you will be asked a series of questions to determine your eligibility for the week. You will also be required to tell Job Service North Dakota about any pay you received, as this pay may affect the benefit amount that you receive for the week.

Sometimes an issue is identified with your claim. Issues are items that affect your eligibility for benefits. Examples of issues that can disqualify you from benefits can be found on pages 20-21 of this guide. When an issue is established on your claim, payment is withheld until all of the information is gathered and an eligibility decision is made. This can take up to three weeks. **Continue to complete your weekly certifications during this time, even if you are not receiving payments.** If a decision is made in your favor and you met all other eligibility requirements, you will receive payment for all weeks you certified. If you do not complete weekly certifications during this time, you will not be paid for those weeks, even if a decision is made in your favor.

If you return to temporary employment (1-3 weeks), you should continue to certify each week regardless of your earnings, making sure to report the amount of earnings for the week. If you return to work for more than 3 weeks, stop certifying. You will need to call or go online at www.jobsnd.com to reopen your claim if you are laid off again and wish to resume benefit payments.

You will also need to reopen your claim if you do not complete your weekly certification in a timely manner. Without reopening your claim, you will not receive any further benefits. If you wait to file your claim, it will become effective the Sunday of the week in which you call. **It will not be backdated.**

Questions Asked During Certification

- Did you refuse to apply for any jobs you were referred to?
- Did you refuse to accept any work offered to you?
- Were you physically able to work?
- Were you fully available for work?
- Did you contact employers for work? *(This question is asked if you are required to make a work search.)*
- Were you available for recall to your last employer? *(This question is asked if you are returning to the employer that laid you off.)*
- Did you receive any vacation pay, holiday pay, sick pay, or a bonus? *(If yes, you will be asked to enter the gross amount of pay received.)*
- Did you work for any employer or in self-employment? *(If you earned wages, you will be asked to enter your gross earnings for the week. This is the amount of hours worked times your hourly wage.)*
- Has your address changed?

Note: The exact wording of the questions may be slightly different, and additional questions may be asked, based upon your answers.

Basic Eligibility Requirements: Able to Work Available for Work

Basic Eligibility Requirements: Covered Employment and Unemployment

In order to receive Unemployment Insurance benefits, certain conditions must be met. Following are the eligibility requirements set forth by the Unemployment Insurance Program. These conditions are meant to ensure that payments are made only to individuals eligible to receive Unemployment Insurance.

Covered Employment

You must have worked for an employer who is liable under the North Dakota Unemployment Insurance program. Not all employers are considered liable or covered employers. Liable employers are required to pay Unemployment Insurance taxes on the wages that they pay out.

Unemployed

The definition of an unemployed week is a week during which an individual is substantially unemployed, and the gross wages earned during the week are less than the individual's weekly benefit amount. You may receive Unemployment Insurance benefits if you are working part-time and earn less than your weekly benefit amount.

Basic Eligibility Requirement: Able to Work

You must be physically able to work at the time you file your claim. If you become ill or disabled after filing a claim or are unable to work, notify the Claims Center at 701-328-4995. In some cases, you may be allowed to continue receiving benefits.

Basic Eligibility Requirement: Available for Work

If you are returning to the employer that laid you off, you must be available for recall upon the employer's request. If you are not returning to the employer that laid you off, and/or you are required to search for work and make job contacts, you must be immediately available to accept any work suitable to your training, experience, and capabilities.

Availability for work is a very important part of receiving unemployment insurance benefits. If such things as lack of transportation or lack of child care prevent you from being able to take a job, you are not considered available for work and you will not be eligible to receive benefits. You must also be willing to accept suitable employment for which you are qualified.

If you are out of the area for vacation or personal business other than job seeking, you are not eligible to receive benefits for the time you are gone. If you plan to be out of the area for one to two weeks and plan on drawing Unemployment Insurance benefits once you return, you should continue to complete your weekly certifications, even for the week(s) you are gone. When certifying, answer "NO" to the question about your availability. This will keep your claim open, but you will not receive benefits for the week(s). When you are again available for work, call the Claims Center at 701-328-4995 to notify Job Service that you are now available for work. If you plan to be out of the area for more than two weeks, you should stop certifying and reopen your claim when you return.

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 West Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on HB 1276
House Industry, Business and Labor
January 26, 2011

Chairman Keiser and Members of the Committee:


My name is Janelle Moos and I am the Executive Director of the North Dakota Council on Abused Women's Services. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of SB ~~1276~~ 1276

Many victims and survivors of domestic violence, sexual assault, and stalking must leave work in order to protect themselves, their families, and their coworkers. A woman may be harassed by threatening phone calls at work or may need to miss days of work because of injuries or attempts to seek legal remedies for the abuse. In the worst cases, a victim may be attacked by the perpetrator at work. Rape, sexual assault, and stalking are aspects of domestic violence that may prevent a victim from maintaining employment. A perpetrator may stalk a victim at her workplace because it may be the only place he knows to find her. Stalking may include up to 20 calls in a day, waiting outside her workplace in his car, or coming into the workplace and verbally or physically assaulting her. These experiences may cause a victim to be forced to leave her employment to seek safety.

According to the National Employment Law Project or NELP a survey of survivors of domestic violence found that abusive husbands and partners harassed 74% of employed battered women at work. Domestic violence caused 56% of them to be late for work at least five times per month, 28% to leave early at least five times per month, and 54% to miss at least three full days at work a month. One quarter of battered women say that had to quit work at least partly due to domestic violence.



Workers are generally not able to qualify for unemployment insurance when they leave work "voluntarily", unless they have "good cause" related to work. In many states, including North Dakota, personal reasons cannot constitute "good cause" for leaving a job so survivors of domestic violence and assault who must leave work to flee violence and protect themselves from violence and stalking may not qualify for unemployment insurance.

Under the American Recovery and Reinvestment Act (AARA) incentive funding was available to states to modernize their unemployment insurance programs to include groups of left out workers, including domestic violence victims. In order to receive this incentive funding, North Dakota needs to modernize their program by expanding benefits to workers in at least two of four categories in order to target groups who fall through the cracks of the unemployment system, such as individuals who leave work for compelling family reasons, specifically domestic violence or sexual assault, or caring for a sick family



member or moving because a spouse has been relocated for employment. A majority of states, thirty two, recognize that domestic violence often follows its victims to work and can affect their ability to retain a job. North Dakota is one state where survivors of domestic violence who must leave their jobs to protect their safety can be disqualified from receiving unemployment benefits because domestic violence isn't considered good cause for leaving a job. HB 1276 changes that. Please join me in supporting HB 1276.

Thank you.



NELP

National Employment Law Project

From Tanelle Moos
Executive Director
ND Council on Abused Women's Services.

Unemployment Benefits for Domestic Violence Survivors: What Are Its Costs?

National Employment Law Project

[Click here for a table outlining costs of state DVUI programs](#)

Introduction

As of late 2004, twenty-six states and the District of Columbia had enacted unemployment insurance for domestic violence victims. Most states cover both those forced to leave work to ensure safety of themselves or family members as well as those discharged due to the consequences of domestic violence. These states have recognized that domestic violence survivors are often workers, that they are often forced out of their jobs involuntarily, and that they continue to be attached to the labor force and searching for work. States with domestic violence unemployment insurance laws include AZ, CA, CO, CT, DC, DE, KS, IL, IN, ME, MA, MN, MT, NE, NH, NJ, NM, NY, NC, OK, OR, RI, SD, TX, WA, WI, WY.

Costs Much Lower Than Predicted Prior to Passage

States have found that the cost of providing unemployment insurance to victims of domestic violence has been insignificant (and much lower than opponents have frequently feared). In 2001, advocates in Washington State telephoned state unemployment agencies throughout the country to get data on numbers of domestic violence unemployment claims in each state. At that time, most states described the number of domestic violence unemployment insurance (DVUI) claims as "a handful," or "a few." Minnesota had 21 claims over four years, Nebraska had five in 2000, and Oregon had about 20 claims per year.

In June 2001, the National Association of Unemployment Insurance Appeals Boards (NAUIAB) conducted a survey of states with regard to domestic violence and unemployment insurance. This survey showed that only one state, Connecticut, formally tracked its domestic violence unemployment cases. Statistics on the usage of the domestic violence unemployment legislation in Connecticut have been kept since the October 1999 effective date of the legislation. In calendar year 2004, Connecticut reported 36 paid domestic violence unemployment claims for a total amount of \$144,211. In calendar year 2003, Connecticut awarded DVUI benefits to 47 claimants in a total amount of \$194,000. Between October 1, 1999, and April 1, 2001, 47 domestic violence cases were handled by the Connecticut Department of Labor with an average weekly benefit amount of \$397.00 and an approximate total cost of \$169,850 over that time period. ~

Recent Cost Findings on Domestic Violence UI

Some cost information has been updated for nine of the 27 states with DVUI laws through telephone interviews or electronic mail contact with staff at the state unemployment insurance agencies. In Colorado, from October 2002 through September 2003 there were 37 allowed DVUI claims, out of a total of about 180,000 total UI claims during that same 12-month period. Massachusetts does not track total costs of DVUI claims. In the calendar year 2003, the state had 189 DV claims, compared with over 320,000 regular unemployment insurance claims.

In Minnesota, for the twelve months from March 1, 2003 through February 19, 2004, there were 31 DVUI cases covered by its domestic violence law with a total cost of \$77,000. Total state benefits paid during that time were \$851 million. In New Hampshire in 2002, there were 13 DV claimants who received about \$20,000 in UI benefits. Through mid-December 2003, New Hampshire had 10 DV claimants who received \$43,000 in benefits. In an average recent year, the state overall has at least 25,000 claimants and pays out over \$100 million in benefits.

North Carolina had 63 claims in 2002 (as of June, 2002), for a six-month cost of \$101,088 for domestic violence unemployment benefits. For comparison purposes, North Carolina spent \$961,869,000 on total claims in the year 2001. South Dakota just enacted DVUI in 2003. From July to December of that year, South Dakota had 4 claimants qualified for benefits under its law. Costs totaled \$5400. South Dakota's total claims that year were about 7000 total UI claims, for a cost of \$11,745,000. In 2003, there were 219 DVUI claims in Washington State, compared with 267,000 "first payments" of claims in those years. In New Jersey, for the program year ending June 30, 2004, there were 84 domestic violence claims paid. Delaware reported in October 2004 that it had only a few cases under its domestic violence benefits law but does not keep separate statistics for this type of claim.

In short, updated information on actual costs in states with DVUI laws are consistent with the surveys made in 2001. States have not experienced excessive claims or high costs from these measures, although when they are applied to individual survivors of domestic violence they can result in great assistance in those cases. The attached table summarizes comparative information about costs of DVUI, demographic information on states that have reported costs, and descriptions of the statutes

The modest costs of DVUI go a long way toward explaining its popularity, with twenty-six states and the District of Columbia passing these laws in just 8 rounds of legislative sessions since Maine passed its DVUI law in 1996.

Non-Charging of DVUI Benefits

Non-charging means that individual employers experience-rated UI taxes are not impacted by payment of a particular UI claim. Most states have non-charging provisions. Many states also explicitly spread the cost of DVUI among all employers through non-charging of DVUI benefits. Our research shows that at least the following states non-charge DVUI benefits: CA, CO, CT, DE, IN, KS, MT, NJ, NM, NC, OK, TX, WA, WI.

For further information contact: Rebecca Smith, Western States Coordinator, National Employment Law Project at (360) 534-9160, email smith@nelp.org or Rick McHugh, Midwest Coordinator, (734) 426-6773 or email rmchugh@nelp.org.

Testimony 4

House Industry Business and Labor Committee
HB 1276
January 26, 2011

Good morning, Chairman Keiser and members of the House Industry Business and Labor Committee. My name is Renee Stromme, and I am the Executive Director of the North Dakota Women's Network. Thank you for the opportunity to testify in support of House Bill 1276.

The North Dakota Women's Network serves as a catalyst for improving the lives of women through communication, legislation and increased public activism. We are a statewide organization with members from every corner of the state.

Participation of women in North Dakota's workforce continues to rise. In 2009, women made up nearly half of North Dakota's labor force at 47.1%.¹ It is important to note that nationally women make up a disproportionate share of the low-wage workforce since nearly 60% of all low-wage workers are women.² Significantly, more women are working in North Dakota compared to the rest of the nation.

Industries employing mostly low-wage and women workers did not dominate the economy when North Dakota's UI program was originally designed in the late 1930s. And it is the growth of these jobs that may explain why the program has become less effective over time at providing workers with vital economic support while they seek re-employment.

To address the major gaps in the UI program, the Recovery Act also rewards states that cover workers who leave their job due to compelling family circumstances, thus targeting the growing numbers of women with families who are now represented in the workforce. The federal incentive funding for these compelling family reasons provision specifically applies to those who leave work due to domestic violence/sexual assault, to care for sick or disabled family member, and to accompany a spouse who was transferred out of commuting range.

A majority of the states, thirty-two, recognize that domestic violence often follows its victims to work and can affect their ability to retain a job. North Dakota is one of only two Plains states where survivors of domestic violence who must leave their jobs to protect their safety can be disqualified from receiving unemployment benefits because domestic violence is not considered good cause for leaving a job.

Nearly half of the states, twenty-four, acknowledge that when working families face the illness of a child or family member, it can become impossible to continue working. This is especially true for women workers who are often tasked with the role of primary caregiver. Twenty-six states appreciate the importance of worker mobility to families and to state economies and offer UI coverage to a relocating spouse. If North Dakota adopted the necessary compelling family reasons reforms, it would bring an estimated 250 workers into the UI system.

Thank you for allowing me to speak to you this morning. The North Dakota Women's Network strongly urge you to pass HB1276. I will answer any questions.

¹ Economic Policy Institute analysis of Current Population Survey data

² Gregory Acs, Pamela Loprest, and Caroline Ratcliffe, Progress Toward Self-Sufficiency for Low-Wage Workers, The Urban Institute for the U.S. Department of Health and Human Services, January 2010, <http://www.urban.org/uploadedpdf/412173-low-wage-workers.pdf>

House Bill 1276
Testimony of Darren Brostrom
Job Service North Dakota
Before the
House Committee on
Industry, Business and Labor
Representative George Keiser, Chair
January 26, 2011

Mr. Chairman, members of the committee, I am Darren Brostrom, the Director of Unemployment Insurance with Job Service North Dakota. Although Job Service is neither opposing nor supporting House Bill 1276, I am here today to provide information as to the impact of the bill.

House Bill 1276 is a bill being introduced partially as a result of a federal initiative entitled Unemployment Insurance Modernization. The bill is intended to make changes to the unemployment insurance system to reflect the evolution of the nation's workforce since the unemployment insurance program began in 1935. It is important to note that as an incentive to make these changes, the federal government will provide up to \$14.5 million for implementing all portions of House Bill 1276 if the bill is passed by August 1, 2011.

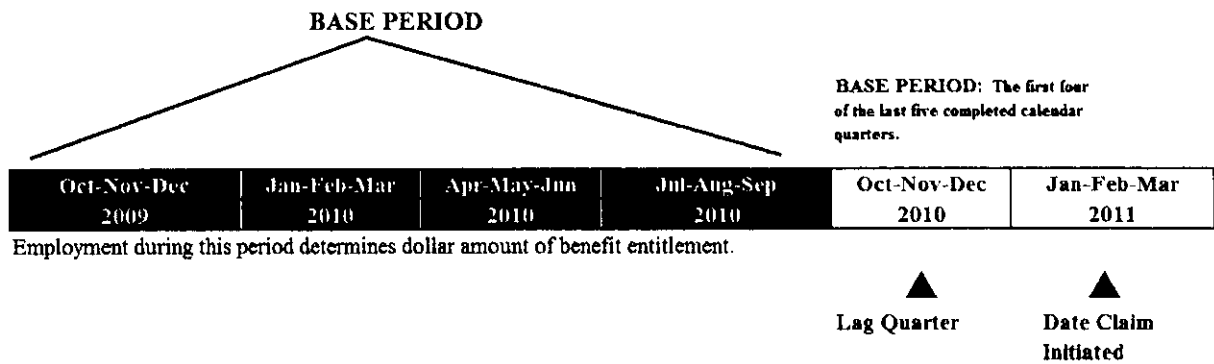
Discussions surrounding Unemployment Insurance Modernization began in 2009. At the time, there was concern with the long-term impact and costs that the expansion of benefits would bring about. At the time, the United States Department of Labor took the position that once implemented into state law, the provisions associated with Unemployment Insurance Modernization could not be repealed without the loss of the funding provided by them. Since that time, the

Department of Labor has adjusted their opinion, and noted that although a sunset clause cannot be included in the legislation, any changes implemented in relation to Unemployment Insurance Modernization can later be eliminated at the state's discretion without monetary penalty.

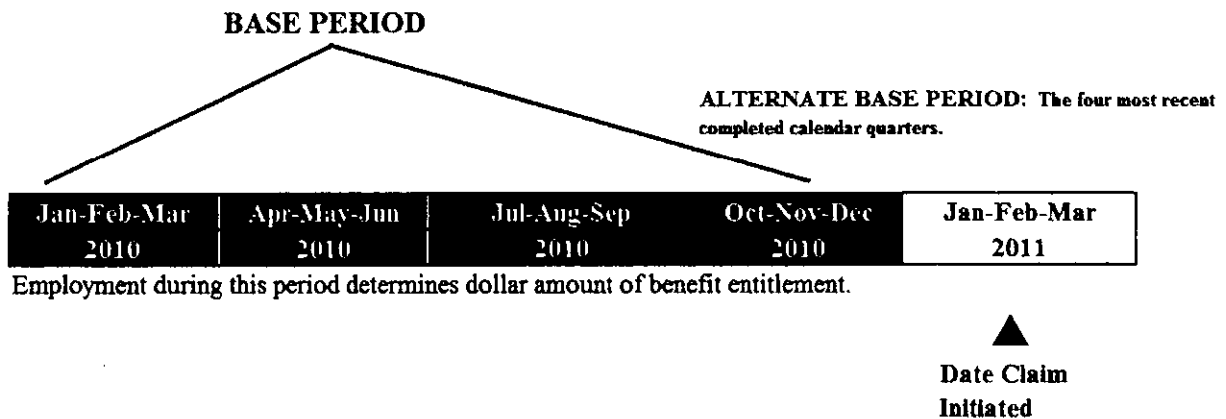
Although there are four sections within House Bill 1276, there are two primary changes associated with the bill. The first change relates to the addition of an alternate base period and is reflected in Section 1.

The base period of each unemployment insurance claim is the basis for determining the monetary eligibility of the individual filing the claim. This means that the amount of money an individual earned during the base period is the basis for determining the amount the individual will collect in unemployment insurance benefits as well as the length of time the individual is eligible to collect benefits.

Currently, the base period is defined as the first four of the last five completed calendar quarters immediately prior to the date the claim for unemployment insurance benefits is filed. The most recent completed calendar quarter is referred to as the lag quarter, and is currently not utilized in any calculations for benefits. Under our current base period definition, if an individual filed a claim for benefits today, the base period of the claim would be October 1, 2009 through September 30, 2010. The wages earned by the individual during this period are used to determine whether or not the individual is monetarily eligible to receive unemployment insurance benefits. A visual representation of the base period is shown on the following page.



House Bill 1276 adds an alternate base period calculation that would be available to individuals not monetarily eligible based upon our current base period. The alternate base period would require that, in the event that an individual is not eligible utilizing the first four of the last five completed calendar quarters, that the four most recently completed calendar quarters be used as an alternate. Essentially, the lag quarter that exists within our current base period model becomes part of the alternate base period. A visual representation of the alternate base period is shown below.



The intent of this alternate base period is to provide eligibility for unemployment insurance to a broader group of individuals. This broader group may include employees new to the workforce and employees working in seasonal employment.

We reviewed data from 2006 to 2009 to evaluate the potential impact of implementing an alternate base period. Our review identified that the alternate base period does in fact increase the number of people monetarily eligible for benefits.

The following table shows the number of people who were found ineligible for benefits under current law, but would have qualified if an alternate base period had been in place. The additional cost of total potential benefit payments that could have been paid to these individuals assuming an average unemployment duration of 12 weeks is also shown.

Year	Additional Individuals	Additional Cost
2006	556	\$1.1 million
2007	473	\$1 million
2008	508	\$1.1 million
2009	821	\$2.1 million

As mentioned earlier, the federal government will provide funding to states implementing the changes outlined within the Unemployment Insurance Modernization initiative, and North Dakota could receive up to \$14.5 million dollars. However, the option exists to receive partial funding based upon passage

of only the alternate base period. If the state implemented only Section 1 of House Bill 1276, the state would qualify for 1/3 of the \$14.5 million, \$4.85 million. Importantly, in order to receive any of the \$14.5 million, the alternate base period must be implemented within the state.

There is a fiscal note associated with the implementation of the alternate base period due to the programming changes needed to alter our systems to allow for the change in the base period. The costs associated with the programming changes amount to \$294,240.

The second primary change associated with House Bill 1276 comes from Section 3 of the bill. Section 3 provides for a significant change in the determination of eligibility for unemployment insurance claimants. Under current law, an individual who quits employment must prove that he or she quit due to good cause *attributable to the employer* in order to be eligible for unemployment insurance benefit payments. Examples of good cause attributable to the employer are things like workplace harassment or significant changes in the hiring agreement.

The basis for this eligibility requirement is that the unemployment insurance program is funded by employer taxes, and employers are not expected to bear the burden of charges associated with benefit payments made to an individual who quits a job due to something other than the employer's actions. House Bill 1276 changes this premise in that it expands unemployment insurance benefit eligibility when the employer's action, or lack of action, has no bearing on the individual's separation from employment.

The expansion of benefit eligibility provided for within House Bill 1276 comes in three ways: 1) Eligibility is provided to individuals who quit a job due to domestic violence or sexual assault, 2) Eligibility is provided to individuals who quit a job in order to care for a family member with a verifiable illness or disability, and 3) Eligibility is provided to individuals who quit a job to relocate with a spouse.

Identifying the impact that this expanded eligibility would have upon both claimants and the unemployment insurance program is difficult to determine. This is due to the fact that a tracking system noting the reasons why an individual quit a job is not available to us within our current system. As a result, estimates had to be made based upon more general information available to us within our existing systems.

Estimates of individuals impacted range from approximately 300 to approximately 1000 individuals. At an average weekly benefit amount of \$311 dollars and an average claim duration of 12 weeks, the monetary impact upon the unemployment insurance system ranges from \$1.1 million to \$3.7 million per year in additional benefit payments.

Even though Job Service is neither opposing nor supporting the changes associated with House Bill 1276, we do have some concerns with portions of the proposed language of the bill. One portion we are concerned with resides within the text relating to domestic violence and sexual assault. Our specific concern relates to ‘reasonable documentation of the domestic violence or sexual assault.’ In particular, the language that reads, “a reliable statement by another individual

with knowledge of the domestic violence or sexual assault” could pose difficulties in our eligibility adjudication process.

This language is broad and transfers the burden to determine whether or not domestic violence or sexual assault has occurred to Job Service adjudication staff – staff who do not have any expertise in these areas.

An additional concern is that this language does not address proximity and time as factors in determining the eligibility of the individual. As written, any documented case of domestic violence or sexual assault, no matter where or when it occurred, would get the claimant past the verified reasonable documentation requirement.

Lastly, we have concerns with the language relating to quitting to relocate with a spouse. Under the proposed language, a quit to move for almost any reason would provide for eligibility for benefits. An example of a situation that causes concern would be one in which a spouse retires or otherwise determines that a move to another state is desirable. In this situation, the move may not be to accept employment elsewhere, but may be due to a personal desire to move. In this scenario, if the other spouse accompanies the moving spouse, he or she would be eligible to receive unemployment insurance benefits.

While these concerns relate to the bill language as proposed, we would welcome the opportunity to work with the committee and bill sponsors to amend the proposed language in such a way as to ensure that the intent of the bill is reflected in an administratively feasible manner.

Passage of Section 3 would qualify North Dakota for the remaining 2/3 of the available federal funding associated with Unemployment Insurance Modernization. This amounts to approximately \$9.7 million.

Because there are no technology changes associated with implementation of Section 3 of House Bill 1276, there is not a technology based fiscal impact associated with this portion of the bill.

The remaining sections of House Bill 1276 – Sections 2 and 4 – provide for the non-charging of benefit payments based upon the expanded benefit eligibility accounted for within Section 3 and declares the bill an emergency measure respectively.

Because House Bill 1276 significantly increases the amount of benefits paid to unemployed individuals without specifically charging individual employers, the entire pool of North Dakota employers would be required to pay for the increased benefits after the federal funding provided is exhausted. Assuming that the entire \$14.5 million is utilized to fund the additional benefit payments, and that all portions of the bill are implemented, Job Service estimates that the funding would last between four and seven years. After this timeframe, an increase in employer unemployment insurance tax rates would be required to cover the costs of the benefits.

However, it should be noted that due to significant financial constraints, Job Service would request that the technology implementation costs associated with implementation of House Bill 1276 be funded with a portion of the \$14.5 million

made available. Job Service simply does not have the resources to make these changes without an additional funding source.

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

In reading over the fiscal note for HB 1276, we noted the programming costs of \$294,240 for the "alternative base period." The note goes on to say that "No funding is available to Job Service to implement the necessary programming associated with the changes outlined in this bill.... As federally funded, Job Services is limited in the funding received, and would need to request to receive an appropriation of funds in order to complete the changes required by the bill if it were passed."

This is misleading information because the Recovery Act, in fact, provided substantial funding to support administration of the modernization reforms. ND received \$1,039,443 from a special \$500 million fund in the Recovery Act that was part of the UI modernization initiative specifically. As expressly provided in the law (as described in the DOL guidance linked below and Section 2003 of the law, also linked below), the state funds may "only" be used to: 1) implement and administer the provisions of state law that qualify for the incentive payments; 2) to improve outreach to individuals who might be eligible for benefits by virtue of the UI modernization provisions; 3) the improvement of UI benefit and tax operations, including responding to increased demand for UI; and 4) staff-assisted reemployment services for UI claimants.

So, while there's leeway to use the funds for other purposes, the law expressly authorizes using the funds to pay for the costs associated with administration of the UI modernization reforms. In addition, when the state received the \$14.5 million in incentive funding if it adopts the required reforms, the Recovery Act also allows the state (pursuant to legislation) to earmark some or all of the funding for administration of the state's UI program. Thus, from the standpoint of funding of the UI administration, the Recovery Act was a very good deal for the states, certainly not a burden to the states as implied in the fiscal note.

DOL Directive on Uses of the Recovery Act's administration funds:
<http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09d.pdf>

Recovery Act's UI Modernization Provisions:
<http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09f.pdf>

State Administrative Grants:
<http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09g.pdf>

Hope this clarifies the concern raised by the state agency. Please feel free to share this information with the legislative staff and state officials

UC Modernization Distributions – Amounts

State	<u>\$500 M Admin</u>	<u>\$7.0 Billion</u>	<u>1/3 Share</u>	<u>2/3 Share</u>
	<u>Distribution</u>	<u>Distribution</u>		
AK	\$1,115,660	\$15,619,234	\$5,206,411	\$10,412,823
AL	\$7,176,668	\$100,473,351	\$33,491,117	\$66,982,234
AR	\$4,283,524	\$59,969,332	\$19,989,777	\$39,979,555
AZ	\$10,721,206	\$150,096,885	\$50,032,295	\$100,064,590
CA	\$59,905,736	\$838,680,283	\$279,560,094	\$559,120,189
CO	\$9,104,983	\$127,469,762	\$42,489,921	\$84,979,841
CT	\$6,272,238	\$87,811,338	\$29,270,446	\$58,540,892
DC	\$1,973,784	\$27,632,982	\$9,210,994	\$18,421,988
DE	\$1,562,028	\$21,868,398	\$7,289,466	\$14,578,932
FL	\$31,733,965	\$444,275,516	\$148,091,839	\$296,183,677
GA	\$15,734,725	\$220,286,144	\$73,428,715	\$146,857,429
HI	\$2,180,480	\$30,526,725	\$10,175,575	\$20,351,150
IA	\$5,058,171	\$70,814,387	\$23,604,796	\$47,209,591
ID	\$2,304,345	\$32,260,831	\$10,753,610	\$21,507,221
IL	\$21,510,763	\$301,150,687	\$100,383,562	\$200,767,125
IN	\$10,607,023	\$148,498,323	\$49,499,441	\$98,998,882
KS	\$4,926,439	\$68,970,143	\$22,990,048	\$45,980,095
KY	\$6,441,139	\$90,175,943	\$30,058,648	\$60,117,295
LA	\$7,027,524	\$98,385,331	\$32,795,110	\$65,590,221
MA	\$11,620,239	\$162,683,341	\$54,227,780	\$108,455,561
MD	\$9,053,580	\$126,750,124	\$42,250,041	\$84,500,083
ME	\$2,016,519	\$28,231,263	\$9,410,421	\$18,820,842
MI	\$14,877,327	\$208,282,572	\$69,427,524	\$138,855,048
MN	\$9,290,259	\$130,063,620	\$43,354,540	\$86,709,080
MO	\$9,522,006	\$133,308,082	\$44,436,027	\$88,872,055
MS	\$4,009,761	\$56,136,656	\$18,712,219	\$37,424,437
MT	\$1,394,697	\$19,525,764	\$6,508,588	\$13,017,176
NC	\$14,647,397	\$205,063,552	\$68,354,517	\$136,709,035
ND	\$1,039,443	\$14,552,205	\$4,850,735	\$9,701,470
NE	\$3,116,126	\$43,625,769	\$14,541,923	\$29,083,846
NH	\$2,242,944	\$31,401,220	\$10,467,073	\$20,934,147
NJ	\$14,773,097	\$206,823,364	\$68,941,121	\$137,882,243
NM	\$2,787,327	\$39,022,682	\$13,007,527	\$26,015,055
NV	\$5,495,529	\$76,937,412	\$25,645,804	\$51,291,608
NY	\$29,481,579	\$412,742,107	\$137,580,702	\$275,161,405
OH	\$18,893,471	\$264,508,588	\$88,169,529	\$176,339,059
OK	\$5,420,463	\$75,886,483	\$25,295,494	\$50,590,989
OR	\$6,112,474	\$85,574,641	\$28,524,880	\$57,049,761
PA	\$19,521,393	\$273,299,496	\$91,099,832	\$182,199,664
PR	\$2,946,268	\$41,247,756	\$13,749,252	\$27,498,504
RI	\$1,675,756	\$23,460,578	\$7,820,193	\$15,640,385
SC	\$6,961,392	\$97,459,490	\$32,486,497	\$64,972,993
SD	\$1,260,545	\$17,647,634	\$5,882,545	\$11,765,089
TN	\$10,129,145	\$141,808,031	\$47,269,344	\$94,538,687
TX	\$39,690,810	\$555,671,344	\$185,223,781	\$370,447,563
UT	\$4,356,943	\$60,997,206	\$20,332,402	\$40,664,804
VA	\$13,460,932	\$188,453,049	\$62,817,683	\$125,635,366
VI	\$143,065	\$2,002,911	\$667,637	\$1,335,274
VT	\$994,136	\$13,917,898	\$4,639,299	\$9,278,599
WA	\$10,470,988	\$146,593,828	\$48,864,609	\$97,729,219
WI	\$9,566,720	\$133,934,079	\$44,644,693	\$89,289,386
WV	\$2,369,759	\$33,176,630	\$11,058,877	\$22,117,753
WY	\$1,017,509	\$14,245,130	\$4,748,377	\$9,496,753
US	\$500,000,000	\$7,000,000,000	\$2,333,333,331	\$4,666,666,669