

August 2005

## JOB SERVICE NORTH DAKOTA REEMPLOYMENT PROCESSES - BACKGROUND MEMORANDUM

House Bill No. 1198 (attached as an appendix) directs a study of reemployment processes and costs and an appropriate method for providing a limitation on the total average number of job-attached unemployment insurance claimants. More specifically, the bill requires the Legislative Council, with the participation of Job Service North Dakota, to study:

1. The costs and effectiveness of the current reemployment processes utilized by Job Service North Dakota and the appropriate methods for providing those services to a substantially greater number of claimants;
2. An appropriate method for limiting the number of job-attached claimants to those employees who are critical to the business processes of the employers that temporarily laid off those employees; and
3. An appropriate means of funding any additional costs that might be incurred as a result of implementation of the study's recommendations.

The bill also requires Job Service to report to the Legislative Council on the progress of and results from the reemployment demonstration project to be carried out by Job Service during the 2005-06 interim.

As introduced, House Bill No. 1198 would have required Job Service to adopt administrative rules setting out a procedure or procedures for identifying a limited number of estimated annual future claimants who may be considered job-attached. The bill would have limited the number of job-attached claimants in any calendar year to an amount not exceeding 30 percent of the estimated number of initial claims to be filed in that calendar year. The bill would have allowed a covered employer to submit a list of no more than 30 percent of the employer's maximum quarterly workforce that the employer desired to have Job Service consider job-attached to assist Job Service in identifying those claimants. The bill would have required any person filing an unemployment insurance claim who had not been identified by Job Service as job-attached to actively seek work during each week that the person certifies continuing eligibility for unemployment insurance, unless excused pursuant to other provisions of law. The bill would have required Job Service to treat those persons identified as job-attached who filed an unemployment insurance claim during the calendar year for which they were so identified, as exempt from the requirement to be actively seeking work for a period of not to exceed 20 weeks.

The bill, as introduced, defined "job-attached" as an identified claimant who is temporarily laid off from employment and who is likely to be reemployed upon the completion of the necessary layoff period, and who will not be required to actively seek work for a period not to exceed 20 weeks during each of which the claimant is certifying continuing eligibility for unemployment insurance benefits.

House Bill No. 1198 was amended in the House to replace the substantive provisions with the interim study directive.

### BACKGROUND North Dakota Law

The federal Social Security Act of 1935 included provisions for the creation of a program for the payment of benefits to unemployed individuals. Under the federal law, payments are made to states with approved unemployment compensation laws under which the state administers an unemployment compensation program through public employment offices. The state program administration must conform with rules established by the federal government. The state of North Dakota has provided unemployment insurance to its residents since 1937 through the state and federal partnership. North Dakota Century Code (NDCC) Section 52-02-01 provides that Job Service North Dakota is responsible for administering the unemployment program in this state.

North Dakota Century Code Chapter 52-06 sets forth the statutory provisions relating to eligibility for and payment of unemployment compensation benefits. Section 52-06-01 establishes the conditions required to be eligible for benefits. That section provides that an individual is eligible for benefits for any week if Job Service finds:

1. The individual has made a claim for benefits with respect to such week in accordance with regulations the bureau may prescribe;
2. The individual has registered for work at, and thereafter continued to report at, an employment office in accordance with regulations the bureau may prescribe, except that the bureau, by regulation, may waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the bureau finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of the North

Dakota Unemployment Compensation Law; provided, that no such regulation may conflict with Section 52-06-03;

3. The individual is able to work and is available for suitable work and actively seeking work provided:
  - a. That notwithstanding any other provisions of the section, no otherwise eligible individual may be denied benefits for any week because the individual is in training with the approval of the bureau by reason of the application of provisions relating to availability for work and to active search for work, or the provisions of subsection 3 of Section 52-06-02 relating to disqualification for benefits for failure to apply for, or a refusal to accept, suitable work; and
  - b. That no claimant may be considered ineligible in any week of unemployment for failure to comply with the subsection, if the failure is due to an illness or disability not covered by Workforce Safety and Insurance and which occurred after the claimant has registered for work and no work has been offered the claimant which is suitable;
4. The individual has been unemployed for a waiting period of one week. No week may be counted as a week of unemployment for the purposes of this subsection:
  - a. Unless it occurs within the benefit year which includes the week with respect to which the individual claims payment of benefits;
  - b. If benefits have been paid with respect thereto; and
  - c. Unless the individual was eligible for benefits, with respect thereto as provided in this section and Section 52-06-02; and
5. The individual participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the bureau, unless the bureau determines that:
  - a. The individual has completed these services; or
  - b. There is justifiable cause for the claimant's failure to participate in these services.

North Dakota Century Code Section 52-06-02 sets forth circumstances under which an individual may be disqualified from receiving benefits. Among the causes for disqualification are:

1. Voluntary separation from work without good cause attributable to the employer.
2. Discharge for misconduct.

3. Failure without good cause to accept suitable employment, to apply for suitable employment, or to return to the individual's customary self-employment.
4. Unemployment due to strike, sympathy strike, or other work stoppage dispute.
5. Receipt of unemployment compensation benefits from another state.
6. Registration as a full-time student.
7. Unemployment due to a disciplinary suspension of not more than 30 days.
8. Submission of a false statement for the purpose of obtaining benefits.
9. Educational breaks or vacations.
10. Receipt of pensions.

North Dakota Century Code Chapter 52-06 also includes provisions for the determination of weekly benefit amounts, maximum eligibility for benefits, benefit reductions for child support, and administrative provisions for determinations and appeals of eligibility.

### **Work First Demonstration Project**

The Legislative Assembly included in the 2005-07 appropriation for Job Service North Dakota \$254,925 of federal Reed Act distributions for the purpose of paying expenses associated with the work first demonstration project during the 2005-07 biennium. Reed Act funds are funds generated by the Federal Unemployment Tax Act. As part of the federal economic stimulus legislation in 2002, the United States Congress distributed approximately \$8 billion of Reed Act funds to the states. As a part of that distribution, North Dakota received about \$15 million to be used for paying benefits or for improving unemployment insurance and employment services.

The general purpose of the work first demonstration project is for Job Service to implement and measure selected reemployment practices and serve as a catalyst to connect skilled workers with business needs. The project would provide to selected claimants orientation to the reemployment program, personal assessments, development of employment plans, skills development, and periodic reemployment reviews. Under the project, Job Service expects to be able to more effectively provide businesses with a well-trained and qualified workforce and market and promote claimants as an excellent source of available and qualified workers.

Job Service anticipates that the project will generate an increase in wages earned because workers will return to work sooner. Thus, it is expected that the project will result in a savings to the unemployment insurance trust fund.

### **POSSIBLE STUDY APPROACH**

In undertaking this study, the committee should seek information from Job Service North Dakota regarding its reemployment programs, including the implementation of the work first demonstration

project. In addition, the committee should seek information from Job Service regarding the number of job-attached claimants, the impact of premium caps, and the cost to the unemployment compensation fund.

ATTACH:1