

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

10883

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1083

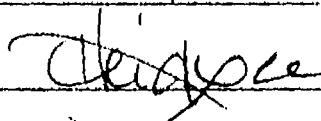
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1083

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		0 - 1658
Committee Clerk Signature 			

Minutes:

Chairman Berg: Why don't we open the hearing on HB 1083.

Ray Gudaites - ND Job Service: Presenting the written testimony of Jim Hirsch in support of HB 1083. (see written testimony).

Chairman Berg: For a little background for the committee, one of the problems we had was in the winter of '97, we had a lot of heavy equipment operators moving snow and as a result it goofed up their benefits. They couldn't go out and do temporary work. If work is available for people collecting unemployment benefits that are trained for that work and have the ability to go out and do that and not affect their payments, the question is "how broad is this, does it affect other people?" You talk about the base period employer. Is the scenerio you laid out specific to those people with permanent seasonal jobs that they would be going back to?

Gudaites: These individuals would have an attachment to that employer of earnings and six months of a twelve month period. It would involve seasonal employers and may involve

manufacturers, example: Last year MCI had a layoff in December of 1999-January 2000. We had an individual that took another job and was then called back by MCI and then MCI laid him off after 2 weeks. He was disqualified from benefits. It can fall into those types of situations.

Chairman Berg: Rep. Keiser

Rep. Keiser: In this same area, the oil fields are having trouble getting workers to come back. There is some problem associated with training dollars for re-employment of those individuals. Does that come into play in this area?

Gudaites: I am not familiar with the training dollar repayment. An individual in the oil fields could fall into this scenerio. If they go back to their previous employer and they aren't there long enough to earn 8 times the weekly benefit amount it will over come the disqualification for their quit. This specific case does not necessary come up that often except in the case of construction, they are called back and due to weather they may be off for a short period and not have enough earnings to overcome that disqualifications.

Chairman Berg: Rep. Severson

Rep. Severson: This only applies to the people who go back to a previous employer? If they took a secondary job and quit and went back to an employer who maybe paid the same and then were laid off as long as they don't go back to their attached employment they are qualified?

Gudaites: That is correct. Conditions only apply if they go back to a demonstrated attachment.

Chairman Berg: What do you think the effect on the trust fund would be?

Gudaites: We think the impact would be neutral. There may be some folks that would receive additional benefits. But we feel that by virtue of having this in place that it would be an

encouragement for individuals to accept temporary work and in the long run not draw as long on benefits or not draw on benefits at all.

Chairman Berg: Rep. Severson

Rep. Severson: The attached employer, is there any responsibility on their part to make sure they make their calls exacting as can be, or can they call them back to work on April 1 knowing full well there is too much snow to do, is there any more requirement for the employer to be a little more responsible? Or not?

Gudaites: Not specifically, maybe indirectly because their account is charged.

Rep. Severson: Thank you.

Chairman Berg: Let's say an employee is laid off and they exhaust their benefits and have not been called back to their base employer and take a temporary job for two weeks or a month and go back to their base employer for two weeks and then are laid off. Would they receive benefits or because they have already exhausted those benefits, not receive benefits?

Gudaites: If they exhausted their benefits, they would not be eligible for benefits until the end of their claim year. If this claim year is gone and come back and apply for benefits, they are eligible potentially again because we are using a different base period. During the base period year, the scenerio could work out again.

Chairman Berg: It seems to me this bill really does two things. It will help the trust fund because people that are collecting benefits now will have the incentive to go out and work temporarily, on the other hand I also see it as helping those base employers because if that employee does not go back to work for them they wouldn't be entitled to this. It seems that it has an economic clawback, but it seems like there's a stronger attachment in terms of employers that employ

seasonal people, if they are out working they may enjoy that job more than the one they had on the seasonal basis and not come back. As you said to Rep. Severson, it seems that they really need to go back to that base employer.

Gudaites: Mr. Chairman, that is correct. They would need to go back to the base employer to whom they have the attachment.

Chairman Berg: Are there any other questions on the committee? Anyone else wish to testify on HB 1083?

Ron Ness - ND Petroleum Council: Just an expansion of the clarification of the situation Rep. Keiser brought up. In the oil field in western ND, we are having a terrible time trying to find employees, the starting wage is \$20.00 an hour and we plain and simple cannot find employees. Our infrastructure is gone from the year 1988-89 when we laid off many employees. What I hear from those companies is that many employees were laid off and received unemployment insurance and federal retraining dollars. Now those companies are trying to hire those people back and those employees are not willing to come back under the provisions of Job Service rules they would have to repay those Federal retraining dollars. Is there a way we can address this or take a look at it? If I lost my job, get retrained, I am a better worker, i. there is an opportunity to go back to a better job or higher pay, should we penalize those employees?

Chairman Berg: Have you had a chance to review that to determine if that is a state or federal issue?

Ness: I have not, and maybe Jim or Ray have that information. That is the heart of the question.

Chairman Berg: From the committees standpoint if you could find out what could be done on the

state level, we would be interested in taking a look at that. Anyone else wish to testify on HB 1083?

Greg Sund - City of Dickinson: I learned of this bill last week at a joint meeting of Job Service, the city, public works managers and also owners and managers of construction companies, because we have a need for seasonal employees. We have seen in the past discouragement of some employees to take jobs to remove snow. It is unpredictable if we need these employees or not. Mr. Hirsch gave a presentation that was helpful, there are several employers that feel it is necessary to maintain a job attachment. Currently in ND there is no job attachment. We worked out an arrangement with the employers present that day that they feel if they have a job attachment, they would like the city to contact them to see if they have any employees who could remove snow. Rather than contacting the employee directly. We are more than willing to do that. They maintain knowledge of what their employees that are laid off are doing. This bill helps encourage that type of cooperative relationship.

Chairman Berg: Any questions for Greg? Anyone else here wishing to testify on HB 1083?

Curt Peterson - ACC of ND: We employ lots of seasonal workers and at this point we would say ditto, but there must be some consideration given to folks who cannot work today perhaps other than snow removal. A brief period of time of doing winter work like that should not impact their benefits.

Chairman Berg: Any questions for Mr. Peterson? Is there anyone else wishing to testify for HB 1083? Is there anyone here to testify in opposition of 1083. We will close the hearing on HB 1083. What are the committees conditions for this bill?

Chairman Ekstorm: I would like to move that we DO PASS HB 1083.

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1083

Hearing Date January 15, 2001

Rep. Johnson: I second.

Chairman Berg: It has been moved and seconded that we DO PASS on HB 1083. Any discussion. I think Greg made a good point, we want seasonal employers to find counterpoint employers to create more of a long term employment. The employee can receive a paycheck from the same place. That is a relationship we would like to see happen. Any other questions? Call the roll, the motion is for a DO PASS.

Chairman Berg: Motion carries. Rep. Severson would you mind carrying that?

ACTION: YES 15, NO 00

REP. SEVERSON WILL CARRY

FISCAL NOTE
 Requested by Legislative Council
 12/14/2000

Bill/Resolution No.: HB 1083

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This legislation is expected to have a positive impact on the Unemployment Insurance (UI) trust fund by encouraging and removing barriers preventing claimants from accepting other work during their off-season. Although some claimants may draw additional unemployment insurance benefits, many claimants will more readily accept other employment rather than file for unemployment insurance benefits, or they will reduce the duration of receiving unemployment insurance benefits. We are not able to project the dollar amount of the positive impact.

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.*

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.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Wayne Kindem	Agency:	Job Service North Dakota
Phone Number:	328-3033	Date Prepared:	01/05/2001

Date: 1-15-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1083

House Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Ekstrom Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstrom	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 13 No 0

Absent 0

Floor Assignment Severson

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

REPORT OF STANDING COMMITTEE (410)
January 15, 2001 2:35 p.m.

Module No: HR-05-0994
Carrier: Severson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1083: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends
DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed
on the Eleventh order on the calendar.

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1083

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1083

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 20, 2001.

Tape Number	Side A	Side B	Meter #
1		x	6.0 to 21.3
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1083 relating to disqualification for purposes of determining unemployment compensation benefits; to provide an effective date; and to declare an emergency.

Ray Gudajtes, Job Service North Dakota. This bill would add an additional exception that would support initiatives intended to reduce claimant duration and claimant exhaustion rates.

Written testimony attached. This amendment would remove barriers to re-employment and create incentives for claimants to look for and accept temporary employment without jeopardizing their unemployment. Exception applies only if you return to your former employer.

Dave Kimmnitz, President, ND AFL-CIO: reasonable bill, good for the employers support it.

Senator Krebsbach: Is there a length of time during which employee eligible for re-employment.

R Gudajtes: No, flexible especially for construction employees. If they don't want to go back

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Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1083

Hearing Date February 20, 2001.

they would be disqualified.

Discussion held. **Senator Mathern:** Motion do pass. **Senator Espegard:** Second.

Motion carried. Floor assignment: **Senator Espegard.**

Date: Feb 20/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1083

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Mathern Seconded By Sen Espeland

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espeland	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Espeland

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

REPORT OF STANDING COMMITTEE (410)
February 20, 2001 1:44 p.m.

Module No: SR-31-4008
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1083: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed
on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1083

HOUSE BILL 1083
Testimony Before the House Committee On
Industry, Business and Labor
Representative Rick Berg, Chairman
January 15, 2001

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM JIM HIRSCH
DIRECTOR OF CENTRALIZED SERVICES OF JOB SERVICE NORTH DAKOTA.

I AM HERE TODAY IN SUPPORT OF THE AMENDMENT TO SUBSECTION 1 OF
SECTION 52-06-02 (THE VOLUNTARY LEAVING DISQUALIFICATION
PROVISION). THIS BILL WOULD ADD AN ADDITIONAL EXCEPTION THAT
WOULD SUPPORT INITIATIVES INTENDED TO REDUCE CLAIMANT
DURATION AND CLAIMANT EXHAUSTION RATES. STATE LAW REQUIRES
CLAIMANTS TO BE AVAILABLE FOR, ACTIVELY SEEKING AND TO ACCEPT
SUITABLE WORK WHEN IT IS AVAILABLE. JOB SERVICE REEMPLOYMENT
EFFORTS SUPPORT RETURNING CLAIMANTS TO WORK AS SOON AS
POSSIBLE AND TO REQUIRE CLAIMANTS TO ACCEPT SUITABLE WORK
WHEN IT IS AVAILABLE.

SUBSECTION 1 OF SECTION 52-06-02 CURRENTLY PROVIDES FOR A
DISQUALIFICATION FOR INDIVIDUALS WHO LEAVE THEIR MOST RECENT
EMPLOYMENT VOLUNTARILY AND WITHOUT GOOD CAUSE
ATTRIBUTABLE TO THE EMPLOYER. THIS DISQUALIFICATION IS IN EFFECT
UNTIL THE CLAIMANT HAS EARNED WAGES EQUIVALENT TO EIGHT TIMES
THEIR WEEKLY BENEFIT AMOUNT.

THIS PROVISION CREATES A BARRIER TO REEMPLOYMENT EFFORTS. THIS
IS ESPECIALLY TRUE FOR THOSE INDIVIDUALS WHO ARE LAID OFF ON A
TEMPORARY OR SEASONAL BASIS AND PLAN TO RETURN TO THEIR
FORMER EMPLOYER WHEN WORK IS AVAILABLE. THESE INDIVIDUALS
JEOPARDIZE THEIR POTENTIAL ELIGIBILITY FOR UNEMPLOYMENT

INSURANCE BENEFITS IF THEY ACCEPT TEMPORARY OR INTERMITTENT WORK, THEN QUIT THAT WORK TO RETURN TO THEIR FORMER EMPLOYER.

EXAMPLE: A SEASONAL EMPLOYEE OF A ROAD CONSTRUCTION FIRM IS LAID OFF IN NOVEMBER AND STARTS TO FILE FOR BENEFITS. IN FEBRUARY, THE INDIVIDUAL STARTS WORK WITH AN EMPLOYER DOING SIMILAR WORK, BUT AT A LOWER RATE OF PAY AND FEWER HOURS OF WORK. IN APRIL, THE INDIVIDUAL IS CALLED BACK TO HIS FORMER EMPLOYER. THE INDIVIDUAL WORKS ONE WEEK AND THEN THE PROJECT IS SHUT DOWN BECAUSE OF A SNOWSTORM AND RAIN. THE PROJECT IS SHUT DOWN FOR TWO WEEKS.

THIS INDIVIDUAL WOULD NOT BE ELIGIBLE TO RECEIVE UNEMPLOYMENT INSURANCE BENEFITS FOR THOSE TWO WEEKS BECAUSE HE QUIT HIS MOST RECENT EMPLOYMENT AND HAD NOT EARNED AT LEAST EIGHT TIMES HIS WEEKLY BENEFIT AMOUNT. A CO-WORKER WHO DID NOT ACCEPT OTHER EMPLOYMENT COULD BE ELIGIBLE TO RECEIVE BENEFITS FOR THE TWO WEEKS IF THAT INDIVIDUAL HAD BENEFITS AVAILABLE.

PROVIDING AN EXCEPTION TO THE VOLUNTARY LEAVING DISQUALIFICATION WOULD REMOVE A BARRIER TO REEMPLOYMENT AND WOULD POSITIVELY IMPACT ON THE UNEMPLOYMENT INSURANCE TRUST FUND BY CREATING OPTIONS ALLOWING CLAIMANTS TO ACCEPT WORK DURING PERIODS OF LAYOFF WITHOUT AFFECTING THEIR POTENTIAL ELIGIBILITY FOR BENEFITS WHEN NEEDED.

MR. CHAIRMAN, THIS AMENDMENT SUPPORTS THE RECOMMENDATIONS IN THE JOB SERVICE NORTH DAKOTA PERFORMANCE AUDIT AND THE LEGISLATURE'S GOALS OF REDUCING DURATION AND EXHAUSTION RATES. I WOULD ANSWER ANY QUESTIONS.

HOUSE BILL 1083
Testimony Before the Senate Committee On
Industry, Business and Labor
Senator Duane Mutch, Chairman
February 20, 2001

Mr. Chairman and members of the committee, I am Ray Gudaites with Job Service North Dakota. House Bill 1083 amends Subsection 1 of Section 52-06-02 (The voluntary leaving disqualification provision). This bill would add an additional exception that would support initiatives intended to reduce claimant duration and claimant exhaustion rates. State law requires claimants to be available for, actively seeking and to accept suitable work when it is available. Job Service reemployment efforts support returning claimants to work as soon as possible and to require claimants to accept suitable work when it is available.

Subsection 1 of section 52-06-02 currently provides for a disqualification for individuals who leave their most recent employment voluntarily and without good cause attributable to the employer. This disqualification is in effect until the claimant has earned wages equivalent to eight times their weekly benefit amount.

This provision creates a barrier to reemployment efforts especially for those individuals who are laid off on a temporary or seasonal basis and plan to return to their former employer when work is available. These individuals jeopardize their potential eligibility for unemployment insurance benefits if they accept temporary or intermittent work and then quit that work to return to their former employer.

Example: a seasonal employee of a road construction firm is laid off in November and starts to file for benefits. In February, the individual starts work with an employer doing similar work, but at a lower rate of pay and fewer hours of work. In April, the individual is called back to his/her former employer. The individual works one week and then the project is shut down because of a snowstorm and rain. The project is shut down for two weeks.

This individual would not be eligible to receive unemployment insurance benefits for those two weeks because (s)he quit their most recent employment and had not earned at least eight times their weekly benefit amount. A co-worker who had not accepted other employment could be eligible to receive benefits for the two weeks if that individual had benefits available.

Providing an exception to the voluntary leaving disqualification would remove a barrier to reemployment and would positively impact on the unemployment insurance trust fund by creating options allowing claimants to accept work during periods of layoff without affecting their potential eligibility for benefits when needed.

Mr. Chairman, this amendment supports the recommendations in the Job Service North Dakota performance audit and the legislatures goals of reducing duration and exhaustion rates. I would answer any questions.