

Legislative Council Study Report
Reemployment Policies, Practices and
Means of Limiting Job-Attached Claimants and Work First Project Report

Testimony of Larry D. Anderson
Job Service North Dakota

before the

Interim Legislative Committee on Industry, Business, and Labor
Senator Karen Krebsbach, Chair

Wednesday, September 27, 2006

Chair Krebsbach and members of the Interim Industry, Business and Labor Committee, I am Larry Anderson. I am the Director of Unemployment Insurance and Workforce Programs for Job Service North Dakota. Madam Chair and Committee Members, my purpose here today is to follow up with you on the discussions and recommendations from committee members during your last meeting in the matter of the reemployment study. As you will recall, this study resulted in a number of recommendations including assessing a fee for businesses who routinely utilize job attachment as a retention tool and to modify tax rates for businesses. Based on direction provided by the committee, we have worked with Mr. Bjornson of Legislative Council in the development of the bill drafts in front of you.

Madam Chair, with your permission I would like to start with bill draft 70163.0100 which proposes to modify the tax rate structure. This bill draft is a result of a motion that came out of this committee regarding the recommendations in the reemployment study. Very briefly, this bill as previously testified would build on HB 1195 by adopting a subtraction versus a multiplicative formula used in HB 1195 and now in UI statute. By

using a subtraction versus a multiplier, when rates are decreased, the effect provides for a greater decrease for positive rated businesses than for negative rated businesses in establishing the tax rates. We have further reviewed the impacts of this potential legislation and considered the discussion of this committee since the last meeting. We believe that this bill as drafted is consistent with current legislative policy guidance for the Agency regarding the distribution of tax burden for positive and negative rate groups and is consistent with the findings in the study. We are not proposing any further changes to this bill draft for these reasons.

The 1999 legislative session provided policy direction regarding the distribution of the tax burden for the negative and positive rate groups. In the course of this interim session, there have been suggestions to charge the negative rate employers a greater share of the tax burden. Significant changes could impact certain industries and we encourage discussion and consideration of impact of increasing the tax burden on those employers before making a major change. Absent further policy guidance from this legislative body, we are not proposing any extensive change beyond the change to the method in calculating declining rates in bill draft 70163.0100 . Enclosed, as Exhibit 1, is an illustration of the impact of further shifting the tax burden to negative balance employers. This was requested of us by a legislator and so we are providing it to the committee should the committee choose to revise policy guidance for the agency regarding the distribution of tax burden for positive and negative rate groups.

Madam Chair, I would be glad to respond to any questions regarding this prior to proceeding with comments on bill draft 70164.0100 which proposes the assessment of a fee for job attachment.

Madam Chair and Committee members, regarding bill draft 70163.0100 (fees for job attachment) based on direction provided by the committee, we have worked with legislative council and have made some fairly substantial changes to this bill draft.

They are as follows:

- ❖ Modified to impact only employers whose cumulative contributions are less than their cumulative benefits and who utilize return to employer status for employees who have worked for an employer during the base period to the date of claim and are temporarily laid off by the same employer
- ❖ Established fifty percent of fee paid shall be considered as an unemployment contribution and may be used in determining unemployment insurance tax rates
- ❖ Included language to direct the remaining fifty percent to be deposited to the FAIRA account--twenty five percent for UI Administration and twenty five percent for reemployment services
- ❖ Indexed the fee upon the affect of job-attached benefits on the trust fund

The formula for calculating the fee for each employer is as follows:

1. Calculate the amount of benefits paid to claimants who are job-attached to a negative rate employer for the previous three calendar years. This amount reflects the true affect of the job-attachment upon the Trust Fund.
2. Divide the dollar amount of benefits paid to these job-attached claimants by the number of individuals that actually received benefits to come up with an average amount paid per claimant.
3. Subtract three claimants from the total number of job-attached claimants that received benefits to come up with a baseline number of claimants for which we would charge the fee. By subtracting three claimants from the total number of claimants, we are creating an "exemption" for the smaller organizations with a small number of employees.
4. Multiply the average benefits paid from number 2, by the claimants for which a fee is charged from number 3, to come up with a dollar amount to base the fee upon. This number should then be divided by three because it is a three year total. By dividing by three, we are getting a one-year total.
5. Multiply the dollar amount the fee is based upon from number 4, by a percentage. We recommend that the committee determine the appropriate percentage.

An example of how the fee would work is:

If there were 100 claimants that received a total of \$300,000 in benefits over 3 years, the average benefits paid to each claimant would be \$3,000. This \$3,000 would then be multiplied by 97 (which is $100-3$) which results in \$291,000. \$291,000 would then be divided by three years which results in \$97,000. This is then multiplied by whatever percentage is chosen, say 20%, to come up with the fee. So in this case, we would take \$97,000 and multiply it by 20% to get a total fee of \$19,400. This calculates to \$194 per claimant in this example. To reiterate, the percentage established for the fee is a policy matter and needs to be determined by the committee.

In order to assist the committee in determining the desired percentage for fee calculation, please refer to exhibit 2, which presents several scenarios to assist in establishing an appropriate percentage.

Madam Chair, this concludes my remarks regarding these bill drafts. I would be happy to answer the Committee's questions.

E: BIT 1

Calendar Year 2006 Tax Rate Schedule						
Description	Number of Employers	Tax Rate Before Multiplier	Tax Rate After 94.15% Multiplier	Percentage of Taxable Wages	Percentage of Taxable Wages per Group	Projected Income
10 groups = 100% of positive employer taxable wages	4,667	0.43%	0.40%	88.27%	10.000%	\$1,405,000
	2,597	0.53%	0.50%	88.27%	10.000%	1,756,000
	1,958	0.63%	0.59%	88.27%	10.000%	2,072,000
	1,194	0.73%	0.69%	88.27%	10.000%	2,423,000
	964	0.83%	0.78%	88.27%	10.000%	2,739,000
	959	0.93%	0.88%	88.27%	10.000%	3,091,000
	1,081	1.03%	0.97%	88.27%	10.000%	3,407,000
	1,148	1.13%	1.06%	88.27%	10.000%	3,723,000
	1,114	1.23%	1.16%	88.27%	10.000%	4,074,000
	1,915	1.33%	1.25%	88.27%	10.000%	4,390,000
Positive	17,597					\$29,080,000
10 groups = 100% of negative employer taxable wages	236	6.43%	6.05%	5.52%	10.000%	1,329,000
	77	6.83%	6.43%	5.52%	10.000%	1,412,000
	79	7.23%	6.81%	5.52%	10.000%	1,496,000
	105	7.63%	7.18%	5.52%	10.000%	1,577,000
	98	8.03%	7.56%	5.52%	10.000%	1,660,000
	193	8.43%	7.94%	5.52%	10.000%	1,744,000
	172	8.83%	8.31%	5.52%	10.000%	1,825,000
	127	9.23%	8.69%	5.52%	10.000%	1,909,000
	178	9.63%	9.07%	5.52%	10.000%	1,992,000
	390	10.03%	9.44%	5.52%	10.000%	2,073,000
Negative	1,655					\$17,017,000
Positive & Negative	19,252					\$46,097,000
Negative - construction		10.03%	9.44%	0.20%	100.000%	751,000
Negative - non-construction		6.43%	6.05%	0.19%	100.000%	457,000
New - non-construction		1.99%	1.87%	5.14%	100.000%	3,824,000
New - construction		10.03%	9.44%	0.68%	100.000%	2,554,000
Rounding						
Total						\$53,683,000
Average Tax Rate						1.35%

Employer counts are from a database with 10-1-2004 to 9-30-2005 taxable wages used for Calendar Year 2006 tax rates

Tax Rate Schedule with the Multiplier a Minimum of 100% for Negative Employers						
Description	Tax Rate Before Multiplier	Tax Rate After 94.15% Multiplier	Percentage of Taxable Wages	Percentage of Taxable Wages per Group	Projected Income	Projected CY 2006 Taxable Wages
10 groups = 100% of positive employer taxable wages	0.40%	0.38%	88.27%	10.000%	\$1,335,000	\$3,978,680,000
	0.50%	0.47%	88.27%	10.000%	1,651,000	-105,000
	0.60%	0.56%	88.27%	10.000%	1,967,000	-105,000
	0.70%	0.66%	88.27%	10.000%	2,318,000	-105,000
	0.80%	0.75%	88.27%	10.000%	2,634,000	-105,000
	0.90%	0.85%	88.27%	10.000%	2,985,000	-106,000
	1.00%	0.94%	88.27%	10.000%	3,301,000	-106,000
	1.10%	1.04%	88.27%	10.000%	3,652,000	-71,000
	1.20%	1.13%	88.27%	10.000%	3,969,000	-105,000
	1.30%	1.22%	88.27%	10.000%	4,285,000	-105,000
Positive					\$28,097,000	\$983,000
10 groups = 100% of negative employer taxable wages	6.40%	6.40%	5.52%	10.000%	1,406,000	\$77,000
	6.80%	6.80%	5.52%	10.000%	1,493,000	81,000
	7.20%	7.20%	5.52%	10.000%	1,581,000	85,000
	7.60%	7.60%	5.52%	10.000%	1,669,000	92,000
	8.00%	8.00%	5.52%	10.000%	1,757,000	97,000
	8.40%	8.40%	5.52%	10.000%	1,845,000	101,000
	8.80%	8.80%	5.52%	10.000%	1,933,000	108,000
	9.20%	9.20%	5.52%	10.000%	2,021,000	112,000
	9.60%	9.60%	5.52%	10.000%	2,108,000	116,000
	10.00%	10.00%	5.52%	10.000%	2,196,000	123,000
Negative					\$18,009,000	\$992,000
Positive & Negative					\$46,106,000	\$9,000
Negative - construction	10.00%	10.00%	0.20%	100.000%	796,000	45,000
Negative - non-construction	6.40%	6.40%	0.19%	100.000%	484,000	27,000
New - non-construction	1.95%	1.84%	5.14%	100.000%	3,763,000	-61,000
New - construction	10.00%	10.00%	0.68%	100.000%	2,706,000	152,000
Rounding						
Total					\$53,683,000	\$0
Average Tax Rate					1.35%	0.00%

EXHIBIT 2

Groups	RTE 1 Negative	RTE 1 All Claimants	RTE 1 Claimants Paid	RTE 1 Amount Paid	RTE 1 Average Paid	RTE 1 Claimants >3 Paid	Charge 5.00%	Charge 10.00%	Charge 15.00%	Charge 20.00%
1	6.05%	445	426	1,026,645	2,410	228	27,474	54,948	82,422	109,896
2	6.43%	536	511	1,399,471	2,739	401	54,917	109,834	164,751	219,668
3	6.81%	199	184	575,247	3,126	120	18,756	37,512	56,268	75,024
4	7.18%	587	538	1,292,128	2,402	399	47,920	95,840	143,760	191,680
5	7.56%	336	316	1,054,197	3,336	189	31,525	63,050	94,576	126,101
6	7.94%	670	651	2,083,019	3,200	409	65,440	130,880	196,320	261,760
7	8.31%	739	726	2,455,800	3,383	542	91,679	183,359	275,038	366,717
8	8.69%	802	779	2,727,362	3,501	635	111,157	222,314	333,470	444,627
9	9.07%	819	802	2,859,957	3,566	598	106,623	213,247	319,870	426,494
10	9.44%	754	732	2,644,766	3,613	437	78,944	157,888	236,832	315,776
Total		5,887	5,665	18,118,592	3,198	3,958	634,436	1,268,871	1,903,307	2,537,742
							5.00%	10.00%	15.00%	20.00%
							Average Cost per RTE 1 Claimant	\$111.99	\$223.98	\$335.98
							Average Cost per Employer	\$2,172.72	\$4,345.45	\$6,518.17
										\$8,690.90

Total negative employers			1,655
Total employers charged fee (over 3 RTE 1 claimants)			292
Total employers with three or less RTE 1 claimants utilizing job attachment			513
Employers not utilizing job attachment			51.36%