

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMERCE COMMITTEE

Wednesday, June 23, 2004
Sakakawea Room, State Capitol
Bismarck, North Dakota

Representative George Keiser, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives George Keiser, Donald L. Clark, Mark A. Dosch, Mary Ekstrom, Pat Galvin, Eliot Glassheim, Ron Iverson, Kim Koppelman, Dan J. Ruby, Arlo E. Schmidt; Senators Dick Dever, April Fairfield, Tim Flakoll, Karen K. Krebsbach

Members absent: Representatives Mary K. Nester, Jo Ann Rodenbiker

Others present: Maren Daley, John Graham, Cheri Giesen, Wayne Brostrom, Jeff Kubisiak; Job Service North Dakota, Bismarck

Larry Anderson, Job Service North Dakota, Grand Forks

David L. Kemnitz, North Dakota AFL-CIO, Bismarck

Dave MacIver, Greater North Dakota Association, Bismarck

Michael Wolf, North Dakota Association of Counties, Bismarck

Curt Peterson, Associated General Contractors of North Dakota, Bismarck

Doreen Mehlhoff, North Dakota Association of Builders, Bismarck

Alvin A. Jaeger, Secretary of State, Bismarck

Scott Nainis, Information Technology Support Center, College Park, Maryland

It was moved by Senator Flakoll, seconded by Representative Ekstrom, and carried on a voice vote that the minutes of the May 20, 2004, meeting be approved as distributed.

UNEMPLOYMENT INSURANCE SYSTEM COMPUTER REPLACEMENT

Chairman Keiser called on Mr. John Graham, Job Service North Dakota, for comments regarding replacement of the unemployment insurance computer system. Mr. Graham said the unemployment tax and benefit processing computer system is reaching obsolescence. He said obtaining support for the system is very difficult. He said Job Service would like to proceed with an analysis of the potential for development of a base system for unemployment tax and benefit processing at a reasonable replacement cost. During the next legislative session, he said, Job Service will request an appropriation to begin

development of the system and to develop a request for proposals to be released during the next interim. He said the Information Technology Support Center is a contractor with the United States Department of Labor and has been asked to help states with unemployment insurance technology issues. He said a representative of the Information Technology Support Center will demonstrate for the committee one possibility for replacement of the unemployment insurance computer system.

Chairman Keiser called on Mr. Scott Nainis, Information Technology Support Center, College Park, Maryland, for a presentation regarding replacement of the unemployment insurance computer system. Mr. Nainis distributed written information, copies of which are on file in the Legislative Council office.

Mr. Nainis said several other states are in the process of replacing unemployment insurance computer systems. He said Project Genesis in Colorado was begun in 1998. Since 1998, he said, the State of Colorado has spent over \$50 million on development of the computer system. He said Wisconsin is developing a benefit system and a tax system. He said the tax system project was commenced in 1997 and cost \$27 million to \$30 million. The benefit system, he said, was commenced in 2002. He said the expected cost of that system is \$8 million to \$12 million.

In response to a question from Representative Keiser, Mr. Nainis said all of the funds used for the Colorado project are state funds. Therefore, he said, the software will remain the property right of the vendor. He said the Colorado legislature approved a surcharge tax to help fund the system. He said the Wisconsin project has been funded through a combination of Reed Act funds and administrative funds.

Mr. Nainis said the estimated system development cost of a modernization project in Louisiana is \$38 million. He said that project has a four-year development horizon. He said the modernization project for the Texas unemployment insurance system cost over \$65 million almost 10 years ago. In New York, he said, three contracts have been let for unemployment insurance modernization for over \$35 million. He said nearly \$9 million was spent for a benefit system in New Mexico, which was not

completed, and a contract with the same vendor for \$24 million in Indiana was canceled.

Mr. Nainis said the United States Virgin Islands will use the unemployment tax and benefits baseline system which was developed with the Information Technology Support Center. He said the unemployment tax and benefits baseline system is a fully integrated, web-enabled unemployment insurance tax and benefit system designed with iterative development methodology. He said the system is built on Oracle technology with a multitiered architecture. He said the system has sustainable programming technology and includes archiving. He said the concept is a hub and spoke-based system consisting of Intranet baseline tax and benefit systems and pluggable components.

Mr. Nainis, with the assistance of Mr. Erik Keese who was connected to the committee room via the Internet, demonstrated the unemployment tax and benefits baseline system.

In response to a question from Representative Ruby, Mr. Nainis said Job Service would have to determine the quality of old data that may be imported into a new system. He said modernizing and converting the data is a very complex step in the modernization process.

In response to a question from Representative Keiser, Mr. Nainis said the Information Technology Support Center can give the base software to the state. He said adapting the system for use in the state is where the cost of the project is involved.

In response to a question from Representative Keiser, Mr. Graham said the purpose of the proposed study to be conducted by Job Service during the next interim would be to determine the difficulty of data conversion and to lay out requirements of the system. He said the appropriation would be used for beginning the procurement process such as developing a request for proposals, issuing the request, and selecting a vendor. He said Job Service would then request an appropriation from the Legislative Assembly in 2007 for the implementation of the system that is selected.

In response to a question from Representative Dosch, Mr. Graham said although Job Service owns and operates its mainframe unemployment insurance computer system, the new system would be a server-based system operated by the Information Technology Department.

In response to a question from Representative Keiser, Ms. Maren Daley, Job Service North Dakota, said a strategic information technology committee is looking at funding options for implementation of the proposed computer system. She said options include establishing surcharges or an employer tax. She said Job Service will also be working with the Information Technology Committee and the Appropriations Committees in the development of the computer system project.

In response to a question from Representative Schmidt, Mr. Nainis said an initial estimated cost for a new system is approximately \$18 million to \$24 million.

In response to a question from Representative Ruby, Mr. Graham said because each state's unemployment insurance laws differ, it is often difficult to use another state's computer system. He said there is a need to modify the system to address the unique laws and requirements in each state. If another state's system would be deemed to be appropriate for use in North Dakota, he said, the Legislative Assembly may ultimately have to determine if North Dakota laws should be changed to be compatible with that system or if modifications should be ordered for such a system.

In response to a question from Representative Ekstrom, Mr. Nainis said if users of the system are involved in documentation and design of a new system, training of the users will likely be easier because the users see that the system will improve the process. He said implementation of a system in Ohio has been delayed more than six months because of training issues.

In response to a question from Senator Krebsbach, Mr. Nainis said the proposed study can determine if a new system can be implemented in phases.

In response to a question from Representative Glassheim, Mr. Graham said because basic requirements are needed in a system developed by any state, it is difficult for a small state to save money in implementing a system.

In response to a question from Representative Koppelman, Ms. Daley said it is important to move forward with the computer system modernization because the current system will not be supported much longer. She said Reed Act funds can be used to help address the computer system modernization.

In response to a question from Senator Krebsbach, Mr. Graham said \$15.2 million of Reed Act funds have been held since March 2002. He said there is another congressional appropriation pending which would transfer another \$9 billion to the states. However, he said, he is unsure of the potential of that appropriation proceeding. If the appropriation were passed, he said, North Dakota would likely receive another \$16 million in Reed Act funds. He said a Reed Act distribution in 1997 or 1998 was dedicated for information technology uses.

In response to a question from Senator Dever, Mr. Graham said representatives of Job Service will be meeting with representatives from Kansas to discuss the potential of a joint effort for the unemployment insurance computer system.

It was moved by Senator Flakoll, seconded by Representative Iverson, and carried on a roll call vote that the committee express its support for a request by Job Service North Dakota to the

59th Legislative Assembly for an appropriation of Reed Act funds adequate to fund procurement planning studies, including development and issuance of a request for proposals, relating to the costs and appropriate technology to replace the mainframe computer application used to process unemployment insurance claims and unemployment insurance tax reporting and payments. Representatives Keiser, Clark, Dosch, Ekstrom, Galvin, Glassheim, Iverson, Koppelman, Ruby, and Schmidt and Senators Dever, Fairfield, Flakoll, and Krebsbach voted "aye." No negative votes were cast.

JOB SERVICE "WORK FIRST" REEMPLOYMENT MODEL

Chairman Keiser called on Mr. Larry Anderson and Mr. Wayne Brostrom, Job Service North Dakota, for a presentation regarding the "Work First" reemployment model proposal. Mr. Anderson and Mr. Brostrom submitted written documents, copies of which are on file in the Legislative Council office.

Mr. Anderson said Job Service is receiving less administrative funding while customer needs are increasing. He said the goal of the "Work First" project is to get people back to work quicker and do more things better and faster. He said the authorized full-time equivalent positions for Job Service have been reduced from over 400 during the 1995-97 biennium to an estimated 350 for the 2005-07 biennium. However, he said, there is an increased need to connect workers with businesses due to a growing skills gap. He said Job Service gets employees back to work 4.5 weeks quicker than the national average. He said Job Service strives to sustain and grow the economy of the state by providing customer-focused services to meet the current and emerging workforce needs of the state. He said North Dakota businesses are primary customers of workforce services, providers of training, leaders and policymakers, and managers of local workforce programs. As a result, he said, Job Service is a demand-driven business which strives to provide skilled workers to fill jobs created by businesses.

Mr. Brostrom said the "Work First" project would consist of control sites in Bismarck, Minot, Fargo, and Grand Forks. He said those sites account for 60 percent of the total statewide claimant base. He said the project would consist of orientation to a reemployment program, a one-on-one assessment, development of employment plans, and periodic reemployment reviews. During a period of unemployment, he said, the worker would go through a process that would initiate the reemployment process, conduct a face-to-face appointment, and complete an online resume. He said the worker would participate in a successive series of workshops and seminars and in-person reviews at least every 10 days.

Mr. Brostrom said a random sample of job-attached claimants will be verified for job attachment and expected duration of unemployment. In addition, he said, a sample of the required job contacts will be verified. He said Job Service will issue stop payments for a claimant's failure to meet participation requirements or if the claimant's job contacts are not valid. Under the project, he said, Job Service will be the first to know when skilled, experienced workers become available through layoff. He said an emphasis will be placed on the study group claimants through which the claimants will be exposed to businesses through the business consulting of Job Service. He said Job Service will partner with businesses to provide a well-qualified workforce and to market and promote claimants as an excellent source of ready-to-work, well-qualified workers.

Mr. Brostrom said the study is expected to show a quantifiable savings to the unemployment insurance trust fund, generate an increase in wages earned, and document customer satisfaction of business and job seeker customers. He said the trust fund savings for the study group is estimated to be \$240,000. In addition, he said, \$1.4 million in savings to the trust fund could be realized for all claimants statewide who are not returning to their previous employer. He said the projected wages generated by employees in the study group could result in \$564,000 if the duration of claims is reduced by one week. He said the investment of \$250,000 in the project should generate a return on investment of \$804,000. He said the project could be implemented between July 1, 2005, and June 30, 2006. He said the results of the program could be evaluated by July 31, 2006, and a final report could be given to the Legislative Assembly in 2007.

In response to a question from Representative Keiser, Mr. Brostrom said including a rural office in the project was discussed, but it was determined that the impact would be difficult to measure because of the low number of claimants in a small office.

Mr. Anderson said if a return on investment can be demonstrated at the proposed pilot sites, similar results should be transferable to rural offices.

In response to a question from Representative Ekstrom, Mr. Anderson said a skills certification program will identify five basic work skills of employees. He said a training program will be used to improve any deficient skills the worker may possess. He said the program is a computer-based, self-instructional program that the worker can use even when the worker is subsequently employed.

In response to a question from Representative Keiser, Mr. Brostrom said Job Service will randomly sample claimants who say they are job-attached to verify their status and will sample to verify job contacts of other claimants. He said approximately 64 percent of claimants are job-attached.

In response to a question from Representative Iverson, Ms. Daley said because Job Service has

limited resources, the project will be used to determine if the extra effort makes a significant difference in returning employees to work.

In response to a question from Representative Keiser, Mr. Jeff Kubisiak, Job Service North Dakota, said because access to job openings is Internet-based, access for workers in the pilot project and all other claimants will be equal. He said the Bismarck office serves eight counties, most of which are rural counties. Therefore, he said, the pilot project would include claimants from rural areas.

Ms. Daley said although the project is not a true scientific study, it is built upon several national research models. She said the intent is to ensure that limited staff time is devoted to the most successful processes.

In response to a question from Senator Krebsbach, Ms. Daley said the majority of unemployment claims are due to seasonality of work in the state. She said Job Service is looking to address job-attached claims to see if there are better methods to handle those claims and to determine a reasonable time period for the job-attached status.

Representative Keiser said the Greater North Dakota Association studied the job-attached issue and took the position to make no changes to the policy. He said it is important to note that North Dakota is one of only two states moving toward solvency with its unemployment insurance trust fund. Because the need for a qualified job pool is crucial for seasonal businesses, he said, it is important to keep the seasonal workers in the state to be available to return to the employer.

In response to a question from Representative Galvin, Ms. Daley said seasonal workers may be employed during the off-season without being penalized for the purposes of payment of future benefits when they return to their main employer.

In response to a question from Representative Keiser, Mr. Brostrom said Job Service can reevaluate the pilot project sites to include another western rural office. He said it may be possible to move one position from the Fargo office to Dickinson.

It was moved by Senator Krebsbach, seconded by Representative Glassheim, and carried on a roll call vote that the committee express its support for a proposal by Job Service North Dakota to request an appropriation by the 59th Legislative Assembly of \$250,000 of Reed Act funds to fund a pilot project on intensive reemployment actions designed to demonstrate whether those actions can have a significant effect upon reducing expenditures from the unemployment insurance trust fund. Representatives Keiser, Clark, Dosch, Ekstrom, Galvin, Glassheim, Koppelman, and Schmidt and Senators Dever, Fairfield, Flakoll, and Krebsbach voted "aye." Representatives Iverson and Ruby voted "nay."

JOB SERVICE NORTH DAKOTA ADVISORY COUNCIL BILL DRAFT

Chairman Keiser opened the meeting for discussion regarding the bill draft [50010.0200] relating to the establishment of a Job Service North Dakota advisory council.

Mr. David L. Kemnitz, North Dakota AFL-CIO, said he does not support the bill draft in its present form because employees have only one representative on the proposed advisory council. Although the premise of the advisory council is good, he said, better employee representation is needed. He said information regarding unemployment insurance issues presented to the Legislative Assembly in recent years has not been as good as that presented when a balanced advisory council was in place. He said an advisory council similar to the Higher Education Roundtable with employer and employee representatives representing a variety of businesses and trades would be a good option.

Mr. Kemnitz said Job Service has done well to reduce the duration of unemployment insurance claims. He said there are economic incentives to go back to work for all workers, including job-attached employees.

In response to a question from Senator Dever, Mr. Kemnitz said previous advisory councils took a broad approach to examining unemployment insurance issues and did not focus solely on the solvency of the unemployment insurance fund. He said a crucial area to address is employment services.

Representative Glassheim said the bill draft appears to establish an employers' council rather than an evenly distributed advisory council. He said the system is for the benefit of employers and employees and a variety of perspectives is needed.

Representative Keiser said although a Greater North Dakota Association subcommittee has recommended expanding the membership of the proposed advisory council to have representatives of specific groups and to have legislators as members, he strongly opposes having legislators on the council.

Representative Koppelman said limiting membership to members of various trade groups excludes people who are not members of the associations making the recommendations for appointments.

It was moved by Representative Ruby and seconded by Representative Galvin that the bill draft relating to the establishment of a Job Service North Dakota advisory council be approved and recommended to the Legislative Council.

It was moved by Representative Glassheim and seconded by Representative Ekstrom that the motion to approve the advisory council bill draft be amended to revise the bill draft to include on the advisory council membership a member appointed by organized labor in the state, a recipient of unemployment insurance benefits

who received benefits and found a job, and a recipient of unemployment insurance benefits who has received benefits but has not been successful in finding a job. The motion failed on a voice vote.

It was moved by Representative Glassheim and seconded by Representative Ekstrom that the motion to approve the advisory council bill draft be amended to revise the bill draft to change the name of Job Service North Dakota Advisory Council to the Job Service North Dakota Employers' Advisory Council. The motion failed on a voice vote.

After this discussion, the motion to approve the bill draft carried on a roll call vote. Representatives Keiser, Clark, Dosch, Galvin, Iverson, Koppelman, and Ruby and Senators Dever, Flakoll, and Krebsbach voted "aye." Representatives Ekstrom, Glassheim, and Schmidt and Senator Fairfield voted "nay."

UNEMPLOYMENT INSURANCE RATE BILL DRAFT

Chairman Keiser opened the meeting for discussion regarding the bill draft [50040.0200] relating to the determination of unemployment insurance rates. He said the bill draft would adjust premium rates to require negative balance employers to pay a larger amount toward the reaching of the solvency target.

It was moved by Representative Dosch, seconded by Representative Koppelman, and carried on a roll call vote that the bill draft relating to the determination of unemployment insurance rates be approved and recommended to the Legislative Council. Representatives Keiser, Clark, Dosch, Galvin, Glassheim, Koppelman, and Ruby and Senators Dever, Fairfield, Flakoll, and Krebsbach voted "aye." Representative Ekstrom voted "nay."

STATE BOARD OF AGRICULTURAL RESEARCH AND EDUCATION REPORT

At the request of Chairman Keiser, committee counsel distributed copies of a report of the State Board of Agricultural Research and Education as required by North Dakota Century Code Section 4-05.1-19. Senator Flakoll requested the Legislative Council staff to forward copies of the report to the members of the Senate and House of Representatives Agriculture Committees.

CONTRACTOR COMPETENCY STUDY

Chairman Keiser called on Ms. Doreen Mehlhoff, North Dakota Association of Builders, for comments regarding the committee's study of contractor competency. Ms. Mehlhoff said the Secretary of State is working to develop a proposal for legislation to address the concerns expressed at previous meetings of the committee with respect to the laws regulating contractors. She said when the Secretary of State completes a draft of proposed legislation, representatives of contractor groups will review the draft.

Mr. Alvin A. Jaeger, Secretary of State, said he has worked with representatives of the Attorney General's office to develop a proposed bill draft. However, he said, representatives of the interested industry groups have not had the opportunity to review the proposal.

Chairman Keiser requested Mr. Jaeger to forward the completed proposal to the Legislative Council office for review of the bill draft. He requested the Legislative Council staff to review the bill draft and send copies of the bill draft to the committee before the next meeting of the committee.

There being no further business, Chairman Keiser adjourned the meeting at 2:15 p.m.

John Bjornson
Committee Counsel