

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMERCE COMMITTEE

Tuesday, July 1, 2003
Job Service North Dakota Building Conference Room
1601 East Century Avenue
Bismarck, North Dakota

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

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

Others present: Harley Engelman, Vocational Rehabilitation, Department of Human Services, Bismarck

Maren Daley, John A. Graham, Korrine Lang, DeAnn Berg, Gregory Wald, Michelle Jenks, Barb Serr, Neil Charvat, Lee Thomason; Job Service North Dakota, Bismarck

Wayne Kutzer, State Board for Vocational and Technical Education, Bismarck

Mark Dougherty, Associated General Contractors, Bismarck

At the request of Chairman Keiser, Mr. John D. Olsrud, Director, Legislative Council, reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

Chairman Keiser said the committee was assigned three studies, two of which may have a significant impact on the unemployment compensation program. He said if the federal government transfers to the states the responsibility for funding administration of the unemployment compensation system, the Legislative Assembly would need to make important decisions regarding administration of unemployment compensation. He said the committee's study of the impact of pending federal legislation that would change the federal-state relationship for funding unemployment insurance programs and workforce development and training can help prepare the state for any future transfer of responsibility. He said the second study with respect to unemployment compensation is a study of the reserve guidelines for the unemployment trust fund, the system for ratesetting, treatment of positive balance and negative balance employers, and the feasibility and desirability of creating an unemployment compensation board. He said the committee will focus on that study at a series of meetings held in Fargo, Grand Forks, Minot, and Dickinson. In addition to those studies, he said, the

committee is charged with studying consumer protection with respect to contractor competency and out-of-state contractors licensed in the state. He said the committee has also been designated to receive a report from the State Board of Agricultural Research and Education on its annual evaluation of research activities and expenditures.

WORKFORCE DEVELOPMENT - UNEMPLOYMENT COMPENSATION - IMPACT OF FEDERAL CHANGES

At the request of Chairman Keiser, committee counsel presented a memorandum entitled *Impact of Pending Federal Legislation That Would Significantly Change the Respective Federal-State Responsibilities and Funding for Workforce Development, Workforce Training, Public Labor Exchange, and Unemployment Insurance Programs - Background Memorandum*.

Representative Glassheim requested that the committee receive a report regarding the funding for the various workforce training and development programs administered by state entities and the number of individuals served by each of those programs.

Chairman Keiser requested that the committee receive a report regarding the Centers for Excellence at the meetings that will be held in Fargo and Grand Forks.

In response to a question from Representative Ekstrom, Chairman Keiser said the committee may be able to request a report from representatives of the University System regarding the economic impact of faculty turnover at the various institutions, particularly with respect to the variances and turnover throughout the various age groups.

Chairman Keiser called on Ms. Maren Daley, Executive Director, Job Service North Dakota, who presented information regarding the workforce investment system, one-stop career centers, and reauthorization of the Workforce Investment Act. Copies of the materials distributed by Ms. Daley are on file in the Legislative Council office.

One-Stop Career Centers

Ms. Daley said the one-stop career centers play a key role in workforce training and development. She said the one-stop system helps job seekers find a job and employers find workers. She said the one-stop system provides staff assistance and self-help services in a professional atmosphere. She said the one-stop career centers are able to refer employees to training providers and assist employers in finding training programs to train job seekers.

Ms. Daley said globalization, diversity, and technology are transforming the national workplace and the trend to an older and more diverse workforce is true in North Dakota as well as the rest of the nation. She said the state's small population creates the challenge of getting every willing individual into the workforce, including individuals who have language barriers to overcome. She said it is important to link employment, education, and economic development.

In response to a question from Representative Glassheim, Ms. Daley said Job Service North Dakota is working to provide information to educators so that the education system can adapt to meet the needs in areas where job growth is forecast.

In response to a question from Representative Keiser, Ms. Daley said getting jobs to where people want to live is a challenge, as is getting people to live where jobs are located. She said Job Service North Dakota has offices on the Indian reservations and the tribes get Workforce Investment Act funding.

In response to a question from Senator Flakoll, Ms. Daley said the Job Service North Dakota employees who take the initial information from job seekers and who have the most contact with unemployed persons are highly trained. She said there is a relatively low turnover rate for those employees in the local offices.

Mr. John A. Graham, Director, Centralized Services, Job Service North Dakota, said the local offices often have a number of temporary employees who work when the number of unemployment claims are likely to rise. Because of the cyclical nature of unemployment claims, he said, the hiring and laying off of temporary employees is necessary.

In response to a question from Representative Koppelman, Ms. Daley said underemployment is a significant problem in this state due, in part, to the high level of community attachment of the people of the state. She said individuals will often take multiple jobs in an effort to stay in the community in which they want to live. She said North Dakota has one of the two highest levels in the nation for the number of individuals with multiple jobs. She said it is very difficult to provide training for people holding multiple jobs, but Work Force 2000 has been a good program for raising wage levels of employees. She said Job Service North Dakota, the Department of Commerce, and other entities are working together to help reduce

the flow of outmigration and to bring people back to the state.

In response to a question from Senator Dever, Ms. Daley said although information regarding the availability of jobs is available to students and school counselors, Job Service North Dakota is looking at holding workshops to provide information to students and parents regarding the availability of jobs in particular industries in the state.

Representative Koppelman said it appears that students are often being told by teachers or professors that jobs are not available in this state or that wages are too low.

Ms. Daley said another part of the problem is that employers in the state must do a better job of recruiting students as employees. With respect to the measurement of the performance of the one-stop career centers, Ms. Daley said, Job Service North Dakota is a leader in meaningful performance management. She said Job Service concentrates its efforts on timeliness, accuracy, quality, customer satisfaction, and financial benefit to its customers.

Chairman Keiser called on Ms. Korrine Lang, Director, Employment Statistics and Workforce Programs, Job Service North Dakota, who presented information regarding the one-stop career centers and the Workforce Investment Act proposed changes, copies of which are on file in the Legislative Council office.

Ms. Lang said the customers for the one-stop career centers are a job seeker and an employer. She said the needs of the business customer is to get the right person at the right wage with the right potential, right quick. In addition, she said business customers need labor market information, employment information, and training information. She said the job seeker's needs are the right job at the right wage with the right potential, right quick. She said other needs of a job seeker include labor market information, training, and work support services.

Ms. Lang said some of the causes of unmet needs include insufficient numbers of workers and deficiencies in skills. She said solutions to those needs include tapping undiscovered pools of workers such as individuals with disabilities, older workers, youth, and public assistance recipients and providing financial incentives such as tax credits and training assistance. She said the one-stop system is able to provide a map to services available, coordinate services to develop skills of job seekers, enable employer needs to be heard and communicated, and make connections between the job seeker and the employer happen faster.

Workforce Investment Act Reauthorization

Ms. Lang said the principles of the federal Workforce Investment Act are to improve individual choices, reflect local conditions, and increase employment, retention, and earnings of participants. She

said goals of the Workforce Investment Act include streamlining of services, empowering individuals, increasing accountability, providing local oversight, improving youth programs, increasing state and local flexibility, creating a one-stop career center network, and providing universal access.

Ms. Lang said a one-stop career center is a place where local, state, and federal employment, education, and training programs are brought together as a single network of public and private resources. As part of the state responsibility for the one-stop career center, the Governor appoints a state Workforce Investment Board to oversee the one-stop career centers and to develop a statewide five-year strategic plan. In addition, she said, the Governor is required to designate a state agency to oversee the state system. She said performance of the centers is based upon performance levels the Governor negotiates with the United States Secretary of Labor.

Ms. Lang said one-stop partners incorporated within Job Service North Dakota include the Workforce Investment Act adult, dislocated worker, and youth activities, the Wagner-Peyser Employment Service, unemployment insurance, the trade adjustment assistance program, veterans programs, migrant and seasonal farmworker programs, and Title V of the Older Americans Act. In addition, she said, other services and partners include vocational rehabilitation, adult education, postsecondary vocational education, community services block grants, Job Corps, Native American programs, and Housing and Urban Development employment and training programs. She said the job opportunities and basic skills (JOBS) program is funded through the temporary assistance for needy families program.

Ms. Lang said the core services available through the one-stop career centers are determination of eligibility for services, initial assessment, job search and placement assistance, career counseling, provision of labor market information, assistance in establishing eligibility for programs and financial aid, and followup services. In addition, she said, the centers provide in-depth assistance for those unable to get a job after exhausting core services. She said those intensive services include comprehensive and specialized assessment of skill levels, development of an individual employment plan, group counseling, individual counseling and career planning, case management, and short-term prevocational services.

In response to a question from Senator Flakoll, Ms. Lang said Job Service North Dakota attempts to address specific skill areas that have been identified as high-demand jobs in the primary sector.

In response to a question from Representative Glasheim, Ms. Daley said although the University System and labor unions are not mandatory Workforce Investment Act partners, those entities have representatives on the Workforce Investment Board and are partners in the process.

In response to a question from Representative Keiser, Ms. Daley said North Dakota was one of the limited number of states that received incentive grants as the result of its performance accountability.

In response to a question from Senator Dever, Ms. Lang said in addition to providing quality services at no cost to job seekers, Job Service North Dakota works with private employment services. She said the separation of unemployment insurance from the one-stop offices has helped improve the image of the one-stop offices. In addition, she said, updated web services have increased the use of the one-stop career centers and outreach has grown.

In response to a question from Representative Ekstrom, Ms. Lang said Job Service North Dakota is working with employers to demonstrate what Job Service can do for employers.

Representative Severson said there appears to be the impression in rural areas that the one-stop career centers are not fully utilized. He said that may be due to a lack of knowledge of the system and a lack of trust.

Ms. Daley said Job Service North Dakota is working to provide public awareness of the advantages of the one-stop career centers. She said Job Service is working with local chambers of commerce and other business groups to provide information to employers.

Ms. Lang said reauthorization of the Workforce Investment Act could provide opportunities for strengthening the coordinating infrastructure, capitalizing on innovations from states and local communities, and creating a more responsive, demand-driven system. With respect to state workforce investment boards, she said, board membership requirements may be streamlined, but Governors would retain authority to expand the board membership. She said the board would have increased authority to formulate policies and priorities for state one-stop career center systems. She said local workforce investment boards' memberships and functions would be reconfigured.

In response to a question from Representative Glasheim, Ms. Lang said there is no requirement for local workforce investment boards, but states are allowed to establish local boards. She said the membership of local workforce investment boards could be streamlined to be more responsive to local needs and provide an increased voice for business representatives, community groups, and worker advocates. Although local youth councils would not be required, she said, states would have the authority to create youth councils.

In response to a question from Representative Keiser, Ms. Daley said the most significant changes under Workforce Investment Act reauthorization would be the change in the cost allocation for running the one-stop career centers and the administrative and consolidated funding stream. She said one-stop

career centers are funded through Job Service North Dakota federal funds. Under reauthorization, she said, each partner would pay a portion of the cost. She said the proposal could force coordination or cuts in funding.

Ms. Lang said the planning cycle and required submission of state and local plans under reauthorization would be reduced to two years. She said the consolidation of funding streams could provide greater flexibility and alleviate much of the current local cost negotiation issues. She said reauthorization could allow expanded use of individual training accounts. With respect to the focus on out-of-school youth, she said, reauthorization could direct funds to local workforce investment areas that are particularly impacted, which could result in a loss of funding in this state for youth programs.

Unemployment Insurance

At the request of Chairman Keiser, Mr. Graham presented testimony regarding an overview of the unemployment insurance program and the potential ramifications of pending federal legislation. A copy of Mr. Graham's testimony is on file in the Legislative Council office.

Mr. Graham said unemployment insurance originated in 1935 as part of the original Social Security Act to serve as an economic stabilizer in times of recession. He said benefits and administrative costs of the program were to be financed by employer taxes. Under the program, benefits are paid to workers who were attached to the labor force who are able to work and available for work and who are unemployed through no fault of their own, he said. He said state unemployment insurance taxes are assessed based on the employer's experience with the program and the revenue is placed in a federally held trust fund that can be used only to pay benefits. He said a claimant for benefits must comply with a reemployment program and must file unemployment insurance claims through the claim center using the interactive voice response system before interfacing with a claimtaker. He said claimants must certify their continued eligibility for benefits on a weekly basis by telephone using the interactive voice response system.

Mr. Graham said a claimant's monetary eligibility is calculated on wages earned in the base period that is the first four of the last five completed quarters and the benefit amount is based on a table listing ranges consisting of the total wages earned during the 2.5 quarters of the highest earnings. He said if earnings during those quarters are less than \$2,795, a claimant is not eligible for a benefit. He said the duration of benefits is calculated as a ratio of total wages during the base period divided by the wages earned during the quarter in which the highest earnings occurred. He said a weekly benefit may range from a minimum of \$43 to a maximum of \$312 and benefit

duration can range from 12 to 26 weeks. He said a claimant may earn up to 60 percent of the claimant's weekly benefit amount without impact on the benefit amount.

Mr. Graham said there are two methods for handling unemployment insurance liability--tax payments and reimbursement of benefits paid. He said the reimbursement of benefits paid option is available only to nonprofit organizations, governments, and Indian tribes. He said unemployment insurance taxes are calculated based on the employer's history with the program and the amount of wages paid by the employer and are assessed on the first \$18,000 of each employee's annual earnings. He said employers are grouped according to their history as either positive balance or negative balance employers.

Federal Unemployment Proposed Changes

Mr. Graham said there are four potential proposals being discussed by Congress or the United States Department of Labor which could have a dramatic impact on the unemployment insurance program in North Dakota. He said one proposal would devolve the administrative funding responsibility for the program from the federal government back to the states. He said the administrative costs of the unemployment insurance program in each state are funded with the employer taxes collected under the Federal Unemployment Tax Act. He said all administrative costs in North Dakota are covered with those federal funds and the amount of tax paid by North Dakota employers has exceeded the amount granted back to the state. He said the proposal would phase out 75 percent of the current federal tax paid until full implementation by 2009. In 2009, he said, states would be expected to cover the full administrative costs without federal support except for a hold harmless provision that would protect states from a too rapid decline in federal administrative grant funding for the first five years of the proposal's full implementation. He said the proposal could be described at the federal level as a reduction of employer taxes. However, he said, the result is that taxes would have to be increased at the state level to cover the administrative costs.

Mr. Graham said a second proposal would take the Wagner-Peyser portion of the grants that states receive as a result of the Federal Unemployment Tax Act and consolidate that funding with the Workforce Investment Act adult and dislocated worker funding streams. He said the stated intent of this proposal is to provide a comprehensive one-stop delivery system delivering a wide range of services to low-wage workers. He said one of the potential impacts of the proposal is that it would focus one-stop funding on low-wage workers when the state needs to attract and serve job seekers from across the income and skills spectrums. He said Job Service North Dakota

customer service offices are funded from the Workforce Investment Act, Wagner-Peyser funds, JOBS contract funding from the Department of Human Services, and the unemployment insurance administrative grant.

Mr. Graham said the first two proposals, when considered together, would significantly impact the workforce training and development and unemployment insurance programs. He said as the federal tax is reduced, the Legislative Assembly would have to determine if, and to what extent, the state should continue to fund the public employment service, reemployment services, and on-line position advertising and virtual recruitment services. He said the Legislative Assembly would also have to determine how to fund those programs, whether it would be an additional tax on employers, general funds, or some combination of funding sources. He said it would be important that employers be made aware of the impact of the reduction of the federal tax.

Mr. Graham said the third proposal pending is to create personal reemployment accounts for claimants profiled as being likely to exhaust their benefits and who are eligible for 20 weeks or more of benefits. He said the accounts would be available to the claimants for purchase of workforce training and support services deemed necessary to prepare them to get reemployed. He said if a claimant who receives a personal reemployment account becomes employed within 13 weeks of receiving the account, the claimant would receive 60 percent of the balance in the account and would receive the remaining 40 percent if the claimant remains employed for six months. He said this proposal would likely result in increased workload for Job Service North Dakota.

Mr. Graham said a fourth proposal relates to the desire of the United States Department of Labor to revise unemployment insurance performance standards by reducing the number of standards and adding a standard measuring the effectiveness of the states' reemployment efforts. He said the potential impact of the proposal would arise if the adopted performance standard would require some specific outcome with respect to all unemployment insurance claimants because that standard could not be met unless Job Service North Dakota staff had interface with all unemployment insurance claimants. He said there could be some concern with the timeframes selected with respect to placement and measuring retention.

Mr. Graham said an additional concern of which the committee should be aware is the need in the near future to replace the aging mainframe unemployment insurance tax and benefits computing system. He said the United States Department of Labor has made it clear that the department no longer intends to separately fund major information technology projects. Because unemployment insurance administrative funding is inadequate to allow the

accumulation of a reserve for information technology projects or to pay off large projects in substantial annual installments, he said, Job Service North Dakota is left with few options when major information technology projects are necessary. He said the agency is exploring reasonable methods that may be used to replace the mainframe system with a modern, customer friendly, web-based system. He said he hopes the committee will include potential solutions for funding of the replacement system within the context of its study.

In response to a question from Representative Glassheim, Mr. Graham said early in a period of unemployment, Job Service North Dakota attempts to reemploy a claimant at a wage similar to that which the employee was earning prior to the period of unemployment. He said as the claim progresses, it is more important to get the claimant back to work and Job Service will reduce the wage demand of the claimant.

Ms. Daley said suitable reemployment is based on skills, prior experience, and wages.

In response to a question from Representative Koppelman, Mr. Graham said with respect to seasonal employment, Job Service North Dakota addresses the likelihood of an individual returning to that job. He said if the likelihood of return is high, Job Service will not stress reemployment as much with that individual. He said the agency attempts to put emphasis on individuals who are not likely to return to that particular job. He said it is important to link employers that have similar needs at different times of the year so that employees with particular skills can be employed on a more regular basis.

In response to a question from Senator Flakoll, Mr. Graham said federal law allows states to provide the option to have income taxes withheld on unemployment benefits. He said income taxes are due on benefits received.

In response to a question from Representative Glassheim, Mr. Graham said the calculation that sets the level of the unemployment tax is established by statute.

In response to a question from Representative Ekstrom, Mr. Graham said the federal unemployment tax trust fund has a substantial balance and Congress has periodically raised the maximum level so that funds have not been returned to the states. He said the proposal to transfer administrative responsibility to the states would provide approximately \$50 million to North Dakota from the trust fund. He said funds transferred to the states as a result of devolution would be limited to use for the payment of benefits, to offset necessary tax increases, and to address unemployment insurance administration.

Ms. Daley said state budget problems have been a detriment to the proposed devolution because the funds have been used to help balance the federal budget.

In response to a question from Representative Glassheim, Mr. Graham said the state will receive an estimated \$7.5 million for administration during 2003. He said those funds are used for financial services, human resources, and augmenting funds to support the one-stop career centers.

In response to a question from Representative Iverson, Mr. Graham said a few years ago the unemployment insurance fund was paying out more than was being received. He said the Legislative Assembly acted to bring the fund back to a balance based upon federally recommended levels.

Representative Keiser said the Legislative Assembly also put in rate limiters that ended this year. As a result, he said, tax increases will no longer be limited in a particular year.

In response to a question from Representative Glassheim, Ms. Daley said the Legislative Assembly would have to make a decision regarding the level at which the state should fund administrative services and at what level employers should be taxed if devolution occurs.

Chairman Keiser requested representatives of Job Service North Dakota to continue to update the committee on the status of the proposed federal legislation and rule changes.

After a recess, the committee toured the one-stop career center.

Ms. Michelle Jenks and Ms. Barb Serr, Job Service North Dakota, presented the committee information regarding Project Share, which combines community- and faith-based services to promote the awareness and ability of one-stop employment services and makes available services provided by faith-based and community-based organizations to one-stop customers in their employment search.

Ms. Serr said the Project Share Network began in January 2003. She said the network has 344 partnerships and 110 service options.

Mr. Neil Charvat, Job Service North Dakota, demonstrated the on-line one-stop service for job seekers and businesses.

In response to a question from Representative Koppelman, Mr. Charvat said the system has approximately 10,000 resumes and 1,500 job orders currently.

Ms. Lee Thomason, Job Service North Dakota, said the system allows job seekers from out of state to put resumes on-line.

In response to a question from Senator Fairfield, Ms. Daley said Job Service North Dakota can provide the committee with information regarding implementation of the performance benchmarks required under House Bill No. 1019. She said the Department of Commerce will be cooperating with Job Service, the Department of Human Services, and the University System to provide an annual report to the Legislative Council regarding the number of individuals trained and the number of individuals who have become employed as a result of each entity's workforce development and training programs.

Chairman Keiser said the committee can get an update regarding progress in implementing those benchmarks at its next meeting. He said the committee will also receive presentations from Job Service North Dakota regarding the unemployment insurance study at the Fargo and Grand Forks meetings and provide employers an opportunity to comment regarding the unemployment insurance program structure and premiums. He said the next meeting will be in Fargo on August 11, 2003, and Grand Forks on August 12, 2003.

Senator Dever requested that the committee receive a report regarding student internships at the meeting in Grand Forks.

There being no further business, Chairman Keiser adjourned the meeting at 3:05 p.m.

John Bjornson
Committee Counsel

John D. Olsrud
Director