

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2034

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2034

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2034**

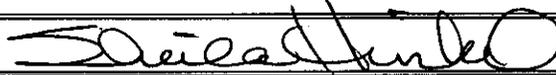
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 10, 2007**

Recorder Job Number: **876**

Committee Clerk Signature



Minutes:

John Jorgenson- Neutral

TESTIMONY #1 Testimony read. Half account, payment

S Klein: We found that 2034 is this against the rules? We are eliminating that from the Hog

House amendment. [Look at issue. Explanation.]

John Jorgenson: Explains the proposal.

S Klein: This now meets the law requirements. Is that at a rate \$100 per employee?

S Hacker: Did you profile 2034 when you found out they didn't approve?

J Jorgenson: Yes Found out in amendment preparation

S Heitkamp: Is there a new fiscal note?

J Jorgenson: There will be a new fiscal note.

S Potter: the 50% that is going to be an unemployment contribution, is that a credit against the tax that they would normally offer?

J Jorgenson: They will get into that, they will get into the specifics.

S Andrist: I would like an explanation.

S Klein: Job Service will explain the amendment.

Larry Anderson – director of Workforce & Unemployment Insurance Programs w/JSNN

– Neutral

Covers the testimony. Reviews the bill – “Hog House Amendment

S Hacker: 50% that they pay, would be accredited toward negative balance?

L Anderson: 50% toward negative balance Federal Advantage

S Hacker: What account is that?

L Anderson: Special account [explains]

S Hacker: Who does it benefit?

L Anderson: funds are split 50% [15:10m]

S Hacker: Is this account flush, do you need money?

L Anderson: No, not an effort to build the account.

Maren [Attorney] It's a very tight account that the Feds require that we have a source of state money. This account is for real estate improvements.

S Hacker: These dollars are coming from job attached employers. The employers pay a fee, part of that fee will be paid and benefit non-job attached employee somewhere else. My question is from Job Services prospective and for lower premiums of all employers across the board, would be more effective to put 75% into the negative employers, [explains process suggestion 17:40]

Maren: It's a balance, it benefits all in the trust fund.

S Hacker: 50% is arbitrary?

S Klein: Did the committee in interim look at this and determine that this was the best way... it was the work of the committee. This is how it could be addressed to the best?

Maren: The committee expressed the need. Recognized the need for this need. Because of the lack of funds, reduced 47 staff last year because of Federal cuts and have additional costs.

S Wanzek: Has any consideration been given to have an employer bring two potential employers together and coordinate his employment situation where he could be designated attached and for temp time work with a second employer and receive a paycheck and maybe cut his benefits in ½ for a win-win solution for both employers or is that just not legal?

L Anderson: There has been much discussion with employees who would do that. Worked the first year and the 2nd year it didn't work.

S Andrist: Philosophically, employees and employer worked out arrangements on employee claim?

L Anderson: Yes, no matter their efforts, they are not in a position to control weather conditions.

S Andrist: Is it to his economic advantage to lay this person off and pay the benefits.

L Anderson: It's less expensive

S Heitkamp: Is there a new fiscal note?

L Anderson: You have the note we've prepared.

S Heitkamp: So the dollars are right in the fiscal note. This was endorsed by the Senate Industry, Business & Labor committee am I to assume, it's a Hog House and it came to us late, that no longer helps, holds that endorsement.

L Anderson: It was endorsed by interim committee.

S Heitkamp: Those committee members didn't get a change to vote on the Hog House. Why did we get here? Didn't we know we didn't comply, is it that confusing?

Maren: As a lawyer, there are 2 major issues: 1. Administrative efficiency, set up get approval from the employers to designate the job attached employers in advance. 2. Not Federal conformity issue

S Hacker: How long can an employee stay job attached?

L Anderson: Can stay job attached through their entire duration. On average, a job attached employee will receive no more benefits than 10 weeks. For non-job attached 11.3 weeks. Nearly equal.

S Potter: the unemployment fund has been running a positive balance, 12-20% more in premiums coming in than claims paid, this this correct?

L Anderson: We have achieved our solvency target balance Nov. 2005. Set by '99.

S Klein: Where did it start? Give us a background. Why did we take this route to get there?

S Potter: Question for Maren.

Maren: the bill was designed to hit the nail on the head.

S Heitkamp: I thought negative employers held a bigger percentage than that.

L Anderson: 70% of claimants are attached, 30% are not.

Tom Balzer – Mgr. Director of the ND Motor Carriers Association - In Favor

TESTIMONY #3 Covered testimony

Ammendment will bring it into uniformity.

Q?

Marv Scar – EW Wylie – In Favor

TESTIMONY # 4 Covered testimony

Have 150 employees, truck drivers, brokerage businesses, can't go after people that are job attached. WHY? We have a driver shortage. Problem is we don't have access to those "job attached" employees. We give them the right to sit at home and not seek work. Last Sunday in the Fargo Forum there were 900 jobs open, 1,200 people – 1,700 are job attached, we can't have access to them. That's what's wrong with job attached policy. All these jobs and we can't go after the people that are unemployed, even for a temporary reason. Not against the policy, I'm against how you are funding it. The people that cause the problem aren't paying their bill.

They're passing it on to have full time jobs. Crazy for people to not seek work. Preferential application of the law. I don't think it's policy to give some employers an economic advantage.

[36.15m explains the problem]

Wants the best rate. Tax rate isn't high enough for negative balance employers. "Work first" program – don't participate, make employer pay his share.

Testimony – shows his "Insurance Fund" – not an insurance, it's a tax. Call it what it is.

[37:26m examples]

How it works – support anything that makes people pay their share of the taxes. [see page 2 of testimony] [ends 46.15m]

Q

S Heitkamp: Question – issue was in front of the interim committee, it was deemed not to have met with the Federal requirement, now we have a new issue. Basically - \$100. I hear they're not doing enough, but yet you're for the bill. Are you in favor of this bill or not?

M Skarr: I'm in favor of a bill of charging an employer for the reason of job attachment. I am not in favor of a minimum amount of \$100. I do not think what they're doing in this bill will change job attached policy one iota.

S Heitkamp: That's why I asked you. That's what this bill does. That's what the amendment does, right?

Q?

Marin: Neutral Position

I've listened to his issues, used to be that the claimant themselves would designate themselves as job attached. They would call in, call their claim and say, "I'm job attached."

We need to say, "You decide employer, who's critical and who do you want job attached?"

Making the employer making the decision, not the employee in making the decision, and the dollar amount is right, but it's an attention getter, as we've used the rate setting bill and maybe another in the hopper to better reward the best experience employers with lower rates.

S Wanzek: Reference to Scarr's comments, would it conform to law if instead of making rate reductions if you put it back into positive balance?

Maren: Not sure how far you could go with that.

S Hacker: Can you self-insure your own un-insured? Can I not participate in Job Service...

Maren: No. You can not self-insure and you must participate.

S Behm: Why don't you call it a tax?

S Andrist: I find Mr. Scarr's testimony pretty provocative, at a time when people are begging of workers, and workers are being held, how did they deal with this question? Especially when they're looking for workers like the oil fields.

Maren: Neutrality. Public policy issue. 1999 debated when it was set up to retain workers.

S Potter: Job attached workers are not taken off market, they can still take employment with somebody else?

Maren: With the \$350 unemployment, you're not going to get rich sitting around getting unemployment. In ND you can earn up to 1/2 of your benefit amounts and not reduce your benefits.

S Potter: As I understand, formerly job attached workers were 70%, now less than 60%, do you feel you've had any impact on that?

Maren: Job attached still runs about 70% of claims. What has changed is the industries that make job attached. Used to be construction, now manufacturers are using it more, other businesses and industries that are increasing.

OPPOSITION to 2034

Russ Hansen - Opposed

During interim period, we were opposed to the bill. We are the largest payer of a negative balance, we did look at the concerns of a positive balance employer. And supported the previous bill to give them the consideration. Industry does take job attached seriously. Job attached industry depends on the weather.

S Klein: ½ would go to set off their insurance. They'd be out \$50.00 if we stay at \$100.

R Hansen: yes

S Potter: What's the average wage in your industry? Any idea?

R Hansen: No, but we need to promote construction as a job opportunity because the wages are very competitive. Good pensions, benefits.

S Heitkamp: Question: some of the people, why do they have to hang on to these job attached people. If this \$100 was going to get tacked on, are they still going to be able to hang on to these workers?

R Hansen: Can't say yes or no. There isn't a problem we see. 10 weeks for job attached, 10 weeks for non job attached.

S Wanzek: The average for job-attached is 10 weeks? Is nearly the same as non job attached?

R Hansen: The duration is nearly identical.

S Hacker: Would ND contractor companies be at a disadvantaged out of state contractors because of the internal costs as the out of state don't have to pay employment benefits?

R Hansen: Possible, I don't mean to pass the buck, but maybe someone who runs a very specialized piece of equipment they may take a different position.

OPPOSITION:

Marvin Miller – VP of Twin City Roofing, Inc. - Opposition

TESTIMONY # 5 Covered testimony

Cold weather sensitive. If weather permits, they put workers together.

S Wanzek: Are employers who have job attached people, is there a limit for employers?

Susan Shearer, President. and Co-owner of Harvey Sand & Gravel, Inc. – Opposition

TESTIMONY #6 Covered testimony

HS&G is a negative balance employer. My employees take out more than I pay in. Not that we choose that, it just happens.

Lloyd Bush – President of Industrial Contractors, Inc. - Opposition

ITI located in Bismarck., one of largest employers. Consider it an additional penalty or tax and we already pay staggering amounts of unemployment compensation premiums, and/or taxes compared to other folks here today. We don't believe this is a fair and equitable adjustment to policy. Come from Michigan originally. New to the system. The average construction worker works for 6-8 different employers per year and those employers pays the maximum amount of premiums on that individual each time.

S Heitkamp: When you get to your employees and what you pay in, do they take out more than you pay in?

L Bush: If you look on an individual basis, yes. In the industry, no.

S Heitkamp: When you looked at it in Michigan, in the type of industry that you're in now, was that the same?

L Bush: Basically, yes.

S Klein: There was no advantage on the job service side to come here?

L Bush: No

S Hacker: You call the \$100 a tax, does that make a difference to you in bidding on jobs?

Could another company get the bid, would this make this make the bid less competitive than theirs?

L Bush: Haven't had opportunity to analyze that. It would have a negative impact on the ability for us to compete, yes, with out-of-state contractors.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2034 B

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 10, 2007**

Recorder Job Number: **897**

Committee Clerk Signature



Minutes: 2:50

S Klein: Lot of discussion, strong feeling on both sides – 2034 – middle ground?

S. Heitkamp: SB2035, one we just passed – if that hadn't passed and we didn't have the time to see what that does to the fund, I'd be willing to work this bill all day of what Mr. Scarr said, I think he's got a legitimate concern. The other bill addresses some of that. #1

#2 In his own words, this bill didn't do what he wanted to do. That's concern #1, #2 it is a Hog House Bill of an interim committee. If somebody wants to bring this bill in, bring it in the way Mr. Scarr wants, I think we're going down the wrong road; I understand the amendment, it makes it a better bill, it didn't work the other way and that's why I supported that, but not convinced the bill through an interim committee should be what comes out of this committee.

S Klein: I would agree that the interim committee is the ones that can take a little more time and their bill has already been nixed.

S Potter: One of my concerns with this is in the funding of the things Job Service wants to do. By diverging ½ of the fee to the federal advance interest repayment fund which is something they can use for a number of different projects, as opposed to direct rate relief for the payers.

S Hacker: Agree with S Potter. Said all will be equitable. Look at the numbers that job-attached employees, where attached, ½ were negative, ½ positive. How can it be equitable

when you're charging the positive balance people the \$100 fee. Frankly, I don't think it is equitable.

Penalizing the positive balance people.

S Behm: Let's call it a tax like it should be called. It's not insurance, it's a tax.

S. Klein: Not part of the amendment, but I agree.

S Wanzek: Makes it difficult when there are people passionate on both sides of the issue that I have respect for. Understand Mr. Scarr's comments and realize that construction is a little more unique.

S Andrus: I question whether the \$100 is high enough. I find Mr. Scarr compelling. There are lots of people who need those workers. Workers are needed in the industry.

S Klein: Agree with S Heitkamp, have a bill that could be introduced in a different form and a regular form which help take a better look at it and give it a little time.

S Wanzek: Can we sleep on it?

S Klein: We don't need to take action right now

S. Heitkamp: If you're going to run the bill up, the two should be on the calendar together. 2 bills address each other together.

S Klein: Need more time to think about it

S Hacker: Plenty of time to work with Mr. Scarr .

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **2034 C**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 10, 2007**

Recorder Job Number: **#901 :00**

Committee Clerk Signature

Sheila Andrist

Minutes:

S Klein: We have adopted the Hog House amendment

2034 We want to take action on this because we have taken action on 2035.

S Heitkamp: I know the majority of the committee may not agree with me, but 2035 is a bill that is going to have a little more time and we're going to have to see some of the things equalized out. There is more time to put another bill into address Mr. Scarr's issues, he even pointed out that he didn't feel this bill did what he wanted it to do, not only that it's going to go to the floor as a "Hog House" bill and an Interim bill and I'm not all that comfortable with that.

Senator Heitkamp made a motion for a **Do Not Pass**.

Second for purposes of discussion by **Senator Potter**

Motion and a second for a "Do Not Pass"

S Heitkamp _____

S. Andrist: I'm going to oppose the motion Mr. Chairman, because the law has always been skewed against the employer a positive employer, I'm just not comfortable where he needs to pay the freight because certain negative employers have a problem.

S Hacker: I agree with S. Andrist. Until it equitably address the problem. \$100 that they pay, some of it goes towards the premiums, so you have positive balance employers, so we are

actually re-penalizing them, they already have their regular premiums, now they pay an additional fee. As I understand, they are negative balance employers, but this bill affects negative and positive balance employers and so I don't think it's the correct vehicle for that reason in trying to fix negative balance employers as it penalizes positive balance employers as well. For that reason, I support...

S Heitkamp: I vote to support MY motion would be a "yes" vote even though that's mean you're voting AGAINST the bill.

S Klein: Correct. And it would be a RED VOTE on the floor

S Heitkamp: It would be a Red Vote on floor but it's a motion to_____

S Potter: There was no testimony that \$100 was the appropriate fee for this. \$50 of the \$100 is not affecting premiums for anybody, that's it's going to Job Service which they could seek through Appropriations.

S Wanzek: It's tough, I can see compelling arguments on both sides. I think Mr. Scarr was very convincing and made some good points. Being a farmer, I understand businesses based on weather. I'm thinking in my mind is a more appropriate way to do it is to do it in SB 2035 and trying to be more reflective with the rates and I think in that bill we made a move towards \$3 million shift or whatever. If we had more time if we were going to address this bill, or an additional bill. Maybe we have to put a little pressure to narrow it down and be more precise about identifying the key franchise players and control. I'm, going to support the motion with Interest in trying to look at other ways to address.

S Klein: I venture to bet we will see it at this table again. There's still going to be some discussion.

More discussion? Hearing none.

Hear roll for a DO NOT PASS on SB 2034 as Amended

Roll call for **DO NOT PASS 7-0-0**

Motion carried.

Carrier: S. Heitkamp

FISCAL NOTE
 Requested by Legislative Council
 01/18/2007

Amendment to: SB 2034

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$1,118,530	\$0	\$906,010
Expenditures	\$0	\$0	\$0	\$379,525	\$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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Requires Job Service to impose a fee on negative rate employers for each employee they choose to place in a return-to-employer status.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based upon current usage of return to employer status, it is estimated that fees collected during the first year would be approximately \$588,700.00. Of this amount, 50% is being considered fee revenue and will be deposited in the Federal Advance Interest Repayment Fund. The remaining 50% is considered a contribution by the employer and will be deposited in the Unemployment Insurance Trust Fund. It is anticipated that during each successive year, return to employer status will decline by 10%, resulting in a decline in the amount of revenue generated by this fee. Estimated revenues for the 2007-2009 biennium are \$1,118,530. Estimated revenues for the 2009-2011 biennium are \$906,010.

Implementing this bill will result in a significant fiscal impact due to programming of the agency mainframe Unemployment Insurance (UI) computerized system. Most areas of the Tax system and portions of the Benefits system will need modification to accommodate this new fee. Some of the individual changes required will be:

- Database modifications
- Creation of new databases
- MIS system interface modifications and additions
- Creation and modification of mainframe batch processes Automated correspondence and billing
- Creation of required reports related to employer contributions
- Modification of MIS system for appropriate application of moneys owed
- Modification of the data validation system
- Changes to the Tax Internet based customer application, UI EASY

Due to limited Job Service North Dakota programming staff availability, it is expected that a contractor will be needed to complete the required programming. Contractor programming costs are estimated as follows:

- \$372,360 - 1,284 Programmer/Analyst hours
- \$ 5,000 - Developer software costs
- \$ 1,018 - Ongoing cost of developer software
- \$ 175 - Network hookup
- \$ 232 - Ongoing network cost
- \$ 450 - Emulation software

\$ 290 - Office Suite software
\$379,525 - Total Cost

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.*

The Federal Advance Interest Repayment Fund revenues will increase by \$559,265 in the 2007-2009 biennium and \$453,005 in the 2009-2011 biennium.

The Unemployment Insurance Trust Fund revenues will increase by \$559,265 in the 2007-2009 biennium and \$453,005 in the 2009-2011 biennium. Unemployment Insurance Trust funds may only be used to pay unemployment benefits.

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.*

The expenditure would be to enter into a contract with external programmers. The projected expenditure would affect the operating expense line item and would be charged to the agency's federal funds and/or would be charged to the Federal Advance Interest Repayment Fund.

If the programming is done by Job Service North Dakota IT staff, the number of FTEs would not be changed.

The expenditures, if any, would be offset against another planned expenditure in order to stay within the available resources.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Because the agency would not be receiving any additional federal resources to fund this expenditure, an offsetting decrease in another budgeted operating expense item would need to be accomplished. Therefore, there would not be any impact on the agency's appropriation. Any Federal Advance Interest Repayment Fund revenues and expenditures are under continuing appropriation status.

Name:	Larry Anderson	Agency:	Job Service
Phone Number:	701-328-2843	Date Prepared:	01/19/2007

FISCAL NOTE
Requested by Legislative Council
12/26/2006

Bill/Resolution No.: SB 2034

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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Expenditures	\$0	\$0	\$0	\$379,525	\$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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Requires Job Service to impose a fee on negative rate employers for each employee they choose to place in a return-to-employer status.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based upon current usage of return to employer status, it is estimated that fees collected during the first year would be approximately \$588,700.00. Of this amount, 50% is being considered fee revenue and will be deposited in the Federal Advance Interest Repayment Fund. The remaining 50% is considered a contribution by the employer and will be deposited in the Unemployment Insurance Trust Fund. It is anticipated that during each successive year, return to employer status will decline by 10%, resulting in a decline in the amount of revenue generated by this fee. Estimated revenues for the 2007-2009 biennium are \$1,118,530. Estimated revenues for the 2009-2011 biennium are \$906,010.

Implementing this bill will result in a significant fiscal impact due to programming of the agency mainframe Unemployment Insurance (UI) computerized system. Most areas of the Tax system and portions of the Benefits system will need modification to accommodate this new fee. Some of the individual changes required will be:

- Database modifications
- Creation of new databases
- MIS system interface modifications and additions
- Creation and modification of mainframe batch processes Automated correspondence and billing
- Creation of required reports related to employer contributions
- Modification of MIS system for appropriate application of moneys owed
- Modification of the data validation system
- Changes to the Tax Internet based customer application, UI EASY

Due to limited Job Service North Dakota programming staff availability, it is expected that a contractor will be needed to complete the required programming. Contractor programming costs are estimated as follows:

- \$372,360 - 1,284 Programmer/Analyst hours
- \$ 5,000 - Developer software costs
- \$ 1,018 - Ongoing cost of developer software
- \$ 175 - Network hookup

\$ 232 - Ongoing network cost
\$ 450 - Emulation software
\$ 290 - Office Suite software
\$379,525 - Total Cost

If the project can be worked into the IT Plan, Job Service North Dakota IT staff would complete the programming at a cost of \$74,472 (1,284 Programmer/Analyst hours).

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.*

The Federal Advance Interest Repayment Fund revenues will increase by \$559,265 in the 2007-2009 biennium and \$453,005 in the 2009-2011 biennium.

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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.*

The expenditure would be to enter into a contract with external programmers. The projected expenditure would affect the operating expense line item and would be charged to the agency's federal funds and/or would be charged to the Federal Advance Interest Repayment Fund.

If the programming is done by Job Service North Dakota IT staff, the number of FTEs would not be changed.

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Because the agency would not be receiving any additional federal resources to fund this expenditure, an offsetting decrease in another budgeted operating expense item would need to be accomplished. Therefore, there would not be any impact on the agency's appropriation. Any Federal Advance Interest Repayment Fund revenues and expenditures are under continuing appropriation status.

Name:	Larry Anderson	Agency:	Job Service
Phone Number:	701-328-2843	Date Prepared:	01/05/2007

**Senate Amendments to SB 2034 (70164.0201) - Industry, Business and Labor
Committee 01/11/2007**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 52-04 of the North Dakota Century Code, relating to imposition of a fee by job service North Dakota on certain employers for employees in the return-to-employer status.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-04 of the North Dakota Century Code is created and enacted as follows:

Return-to-employer fee. The bureau shall impose a fee upon each employer for which cumulative contributions are less than the employer's cumulative benefits and which has the return-to-employer status for any individual who has worked for the employer within the base period of the claimant's unemployment insurance claim to the date of claim and for which the employer is also the claimant's last employer. The amount of the fee imposed under this section is one hundred dollars per base period employee on the return-to-employer status. Fifty percent of any fee paid under this section must be considered as an unemployment contribution under this chapter. The remaining fifty percent of any fee paid must be deposited in the federal advance interest repayment fund provided for under section 52-04-22. A fee paid under this section is nonrefundable.

**Senate Amendments to SB 2034 (70164.0201) - Industry, Business and Labor
Committee 01/11/2007** Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2034: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2034 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 52-04 of the North Dakota Century Code, relating to imposition of a fee by job service North Dakota on certain employers for employees in the return-to-employer status.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-04 of the North Dakota Century Code is created and enacted as follows:

Return-to-employer fee. The bureau shall impose a fee upon each employer for which cumulative contributions are less than the employer's cumulative benefits and which has the return-to-employer status for any individual who has worked for the employer within the base period of the claimant's unemployment insurance claim to the date of claim and for which the employer is also the claimant's last employer. The amount of the fee imposed under this section is one hundred dollars per base period employee on the return-to-employer status. Fifty percent of any fee paid under this section must be considered as an unemployment contribution under this chapter. The remaining fifty percent of any fee paid must be deposited in the federal advance interest repayment fund provided for under section 52-04-22. A fee paid under this section is nonrefundable."

Renumber accordingly

2007 TESTIMONY

SB 2034



Testimony on Senate Bill 2034
Senate Industry, Business & Labor Committee
January 10, 2007

Doreen Riedman, Executive Officer
North Dakota Association of Builders

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Chairman Klein and members of the Senate Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) supports Senate Bill 2034, relating to the return-to-work fee for employers using the service. However, we do encourage an amendment to require 100 percent of the fee to be credited toward the employers' accounts at Job Service.

The NDAB represents over 1,700 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 240,000 members.

We understand the need for return-to-work status for certain employees and certain industries, but we also believe that a fee is an appropriate way to make this option viable. We do recommend that the fee be entirely credited to the employers' accounts, and not divided and put toward the federal advance interest repayment fund.

We respectfully encourage this committee to support Senate Bill 2034, amending it to ensure that 100 percent of the fee goes toward the employers' accounts at Job Service.



Senate Bill 2034
Testimony of Larry D. Anderson
Job Service North Dakota
before the
Senate Committee On
Industry, Business and Labor
Senator Jerry Klein, Chairman
January 10, 2007

Mr. Chairman and Members of the Committee, I am Larry Anderson, Director of Workforce and Unemployment Insurance Programs with Job Service North Dakota. I am here today to discuss Senate Bill 2034, a bill which requires Job Service North Dakota to impose a fee upon employers in the negative tax rate category who choose to utilize return-to-employer status for laid off employees of their firms.

This bill was introduced by the Interim Industry Business and Labor Committee based upon the results of a report on the Reemployment Policies and Practices of Job Service North Dakota as directed by HB 1198 of the 59th Legislative session.

Please note that the version of Senate Bill 2034 that you have before you now is significantly different than the original version of the bill. The reason for this is that the original bill was found to be nonconforming with the requirements of the Federal Unemployment Insurance Tax Act (FUTA). Routinely, in order to ensure compliance with federal regulations, all legislation associated with the Unemployment Insurance program is forwarded to the United States Department of Labor (USDOL) for conformity review.

Senate Bill 2034, in its current format, requires that Job Service North Dakota assess a fee to negative balance employers choosing to utilize return-to-employer status for employees they have laid off, but who they wish to have return to employment with them after the layoff period. The bill also outlines the specific uses for the moneys collected as a result of the fee.

In order to properly explain the bill, I will first provide some information as to the Unemployment Insurance process. This information should help to understand the various aspects associated with this legislation.

When an unemployment insurance claimant is placed in a return-to-employer status, the program eligibility requirements that must be met by the claimant are different than for a claimant who is laid off permanently. One of the key differences is that claimants who are coded as returning-to-employer are not required to search for work during the time in which they are unemployed. Return-to-employer status is an important piece of the Unemployment Insurance program for many North Dakota employers. At this time, approximately 59% of the unemployment insurance claimants in North Dakota are coded as returning-to-employer. This equates to 10,478 individuals in return-to-employer status. Of these 10,478 claimants, 5,887 work for negative balance employers. This is

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approximately 56% of all of the claimants coded as returning-to-employment. The other 44% work for positive balance employers.

Many employers rely upon the return of trained employees from short-term or seasonal layoffs in order to maintain the viability of their businesses. It should also be noted that there are many businesses in need of employees to maintain an appropriate level of staffing, even as unemployed individuals who could effectively fill these open positions are drawing UI benefits. Although the skill sets desired by these employers does not match the available skill sets of all of the UI claimants coded as returning-to-employer, many of these claimants possess the necessary training and skills required to complete the available work, and many employers have expressed the desire to put these UI claimants to work within their organizations, even if only for a limited period of time.

During the course of the study of Reemployment Policies and Practices of Job Service North Dakota, concerns were raised by a segment of employers that both fell into the positive balance category, and desired to hire additional staff. These employers expressed frustration in the fact that as positive balance employers, they had borne a majority of the costs of building the UI Trust Fund up to the designated target, while negative balance employers were able to "protect" their workforce during times of layoff, even though they had not contributed to the UI Trust Fund at the level that positive balance employers had. It was felt that by imposing a fee upon negative balance

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employers; only those employees who the employer felt were critical to the operation of the business would be coded as returning-to-employer, thus making available to other employers a segment of claimants previously out of the workforce due to return-to-employer status. Additionally, it was felt that imposition of a return-to-employer fee would shift additional monetary burden of the UI program to the negative balance employers of North Dakota.

Senate Bill 2034 is designed to address both concerns raised during the study; the availability of workers, and the shift of monetary burden to negative balance employers. This is accomplished by the imposition of a fee of \$100.00 per employee coded as returning-to-employer at the request of a negative balance employer.

Based on past usage of return-to-employer status, approximately 1,655 employers would potentially be affected by the fee. These employers would be assessed fees totaling approximately \$1,118,350 in the first year. Of this amount, 50% of the moneys collected would be considered as a contribution to the UI Trust fund, and 50% would be deposited in the Federal Advance Interest Repayment Account to be used to fund re-employment efforts of UI claimants in North Dakota, and to assist in maintaining the integrity of the UI program. While the numbers provided are based upon actual experience, Job Service North Dakota feels that by applying this fee, use of return-to-employer status will be

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reduced significantly in subsequent years, and collected fees will decline from the noted amounts.

Mr. Chairman, this concludes my testimony. At this time I would be happy to answer any questions from the committee.

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**TESTAMONY
SENATE BILL 2034
INDUSTRY BUSINESS & LABOR COMMITTEE
JANUARY 10, 2007**

Mr. Chairman and members of the Senate Industry, Business and Labor committee my name is Tom Balzer, managing director of the North Dakota Motor Carriers Association. I am here this morning to testify in support of imposing a fee for utilization of the return-to-employer status.

The return to employer status was established over 25 years ago as a management tool by Job Service to balance workloads during times of seasonal employment and layoffs. It was never intended to be a standard part of the system. With nearly 70% of the claimants being job attached this management decision by Job Service has grown into a business practice for employers.

In both federal and state law, for a claimant to be eligible for unemployment compensation they must meet three criteria:

1. They must be able to work,
2. They must be available for work, and
3. They must be actively seeking work

Over 70 years ago, the unemployment compensation system was built around these three principles and they are today, unchanged.

Our concern is that a job attached employee is given special treatment as they are not required to be available for work or actively seek work. The unemployment trust fund is paying for approximately 12,000 claimants annually without a requirement to follow both state and federal law.

We acknowledge the need for the return-to-employer option as a method of keeping our workforce available in the state; in fact of the 496 claimants our industry has, 335 have return to employer status. The question is at whose cost should these employees be given this protected status. We are asking for two things: first that there is accountability by the employers to closely monitor which employees are utilizing the return to employer status and second that those employers who utilize the return to employer status do not unduly burden the system financially. We believe that implementing a fee that is commensurate with use would accomplish both of these objectives.

We understand that in its current form SB 2034 does not conform to Federal law and that an amendment to bring the bill into conformity has been brought forth. We are asking consideration of the amendment so an equitable solution is found in order to protect the integrity of the unemployment compensation fund and all employers of the state of North Dakota.

I have with me today Marv Skar, president of E.W. Wylie in Fargo and Dick Johnsen, president of Johnsen Trailer Sales in Bismarck and Fargo to give you a perspective of how this affects their business.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee may have, before Mr. Skar and Mr. Johnsen address you.

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2007 Unemployment Insurance Tax Rate Schedules

2007 Taxable Wage Base is \$21,300

(This amount is set annually and is 70% of a statewide average wage)

New Employer Rate	Positive Balance	Negative Balance
Non-Construction	1.60%	5.18%
Construction	8.09%	8.09%

New Employers are

Non-construction covered after June 30, 2005.

Construction covered after June 30, 2004.

Actual tax rates may differ from those shown on the tables due to the application of NDCC 52-04-05(6)(a) (rate reduction).

Positive Tax Rate Table

Reserve Ratio	Rate
+1.69% and less	1.07%
+1.70% to +2.70%	0.98%
+2.71% to +3.18%	0.90%
+3.19% to +3.40%	0.82%
+3.41% to +3.54%	0.74%
+3.55% to +3.70%	0.66%
+3.71% to +3.81%	0.58%
+3.82% to +3.94%	0.50%
+3.95% to +4.33%	0.42%
+4.34% and over	0.34%

Negative Tax Rate Table

Reserve Ratio	Rate
-20.64% and less	8.09%
-20.63% to -14.53%	7.76%
-14.52% to -12.99%	7.44%
-12.98% to -9.58%	7.12%
-9.57% to -4.59%	6.79%
-4.58% to -2.90%	6.47%
-2.89% to -1.70%	6.15%
-1.69% to -0.03%	5.83%
-0.02% to +6.12%	5.50%
+6.13% and over	5.18%

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Maximum Liability to Positive Balance Employers

	2007
Taxable Wage Base	\$21,300
Maximum Rate	0.089
Total Maximum Premium	\$1,895.70
Approx Max Weekly Benefit	\$400
Maximum Number of Weeks	26
Total Claim for Maximum Period	\$10,400

Total Maximum Shortage Passed on to Positive Balance Employers	Claim Max	\$10,400.00
Negative Balance Maximum Contribution	Tax Max	\$1,895.70
Total Passed on To Positive Balance Employers	Difference	\$8,504.30

Proposed Legislation \$100.00

Revised Total Passed on to Positive Balance Employer \$8,404.30

	Weeks	Amount	Total Ave Claim
Average Length of Job Attached Claimant	13	\$400	\$5,200.00
Maximum Contribution			\$1,895.70
Average Liability to Positive Balance Employers for Ave Job Attached Claim			\$3,304.30

Total Average Number of Job Attached Claimants 12000

Hypothetical Cost to Positive Balance Employers for Job Attached Policy \$39,651,600.00

Tota Claimants 17,000

Total Job Attached Claimants 12,000

Total Number of Positive Balance Employers 16000

Total Number of Negative Balance Employers 1300

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2007 UNEMPLOYMENT INSURANCE TAX RATE
AND TAXABLE WAGE BASE NOTICE

ACCOUNT [REDACTED]

T

DATE: 12-05-06

E W WYLIE CORPORATION
PO BOX 1188
FARGO ND 58107

YOUR 2007 UNEMPLOYMENT INSURANCE TAX RATE IS 0.66%

IN 2007 THE FIRST \$21,300 PAID EACH WORKER IS TAXABLE.

Your rate is determined in two steps. Step 1: It is determined if your Total All Years Reserve is positive or negative. Because your TOTAL ALL YEARS RESERVE is positive, your rate is from the enclosed POSITIVE ACCOUNT TAX RATE SCHEDULE.

Step 2: Your Reserve Ratio is determined by dividing the Last 6-Year Reserve by the Average Taxable Payroll. The Reserve Ratio determines your rate within the Positive Account Tax Rate Schedule.

YOUR RESERVE RATIO IS 3.61 (LAST 6-YEAR RESERVE DIVIDED BY AVERAGE PAYROLL.)

	TOTAL ALL YEARS*	LAST 6 YEARS**	YEAR ENDING	TAXABLE PAYROLL
TAXES PAID	645,573	150,205	9/06	3,001,046
BENEFIT CHARGES	133,798	40,983	9/05	3,142,286
			9/04	2,909,307
RESERVE =	<u>511,775</u>	<u>109,222</u>	AVERAGE =	<u>3,017,547</u>

Information Purposes Only: YEAR ENDING 9/06 TAXES PAID 29,527
BENEFIT CHARGES 4,614

Additional payments may be made to lower your rate. To figure the amount needed to place you in a lower rate within the schedule, multiply your average payroll by the reserve ratio needed for the desired rate, and subtract the present 6-year reserve. Such payment must be made by April 30, 2007, in addition to taxes due.

* Total All Years Reserve is the Taxes Paid through October 31, 2006, minus the Benefit Charges to your account through September 30, 2006.

**Last 6-Year Reserve is the Taxes Paid for the last six years through October 31, 2006, minus the Benefit Charges to your account for the last six years through September 30, 2006.

If you disagree with this determination,
YOU HAVE 15 DAYS FROM THE DATE OF THIS NOTICE TO FILE AN APPEAL.

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Since
1927



2720 34th St. NW • Box 86
Mandan, North Dakota 58554
(701) 663-3196 • Fax: (701) 663-0027

Jamestown, ND
701-252-6654

Dickinson, ND
701-483-7663

Chairman Klein and Members of the Committee:

My name is Marvin Miller. I am a partner in and Vice President of Twin City Roofing Inc. located in Mandan. Our company is a commercial roofing contractor doing work in about half of the state of North Dakota. I am opposed to S.B. 2034.

We are a seasonal employer. We vary from approximately 12 to 15 employees in the winter months to 40 to 45 employees at our peak. Since all of our work is outside we are very much at the mercy of the weather. We will work whatever hours we can during the winter months however temperatures and snow or ice have a direct impact on the quality of our finished product. As a result there are times every winter when we are not able to work. We recall our employees whenever weather allows us to work.

We have been able to have our employees be considered as job attached by Job Service. Obviously they are not out seeking other employment during this time when Twin City Roofing is not able to work.

I am opposed to S.B. 2034 for several reasons.

Our work requires a considerable amount of on-the-job training. The first few months we have an employee those people are not very productive for us. That is not to say they are not working hard, but it takes time for them to learn the many facets of our industry. When we start a new hire in April that person has become fairly skilled worker by fall. Many years that is just about the time the weather turns and we are not able to work on a consistent basis. If this worker is not able to file as job attached he must seek other employment. If another employer hires this worker our training dollars have been wasted.

The second season this worker is with us he is getting pretty good. Probably after 4 or 5 years he will have the skills needed to be a foreman. Yet each year, if he is not allowed to file as job attached, we risk losing him. I realize

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O.L. "Hoot" Harr
President

Marv Miller
General Manager

Scott Harr
Sales Representative

John "J.R." Market
Sales Representative



we could lose any worker at any time but if these people enjoy their work enough to return season after season why do we have to constantly be concerned that we may not be able to retain them?

The roofing trade, as well as the entire construction industry, is getting older. Within the next 15 years a huge percentage of the current workers will be retired. We are not able to replace these workers nearly fast enough to sustain the industry. We need the ability to job attach workers, especially in the seasonal trades.

Now along comes this proposal to have to pay a fee to job attach an employee. This fee is nothing more than a tax increase. I don't know what the fee will be but to job protect 20 employees will likely be thousands of dollars. This additional expenditure will increase the cost of doing business.

The fiscal note attached to the S.B. 2034 indicates an anticipated 10% annual decline. Can this be interpreted to say the fee will be high enough that those of us who wish to job attach employees will not be able to afford it after a few years?

I respectfully request this committee to give S.B. 2034 a "DO NOT PASS" recommendation.

Marvin Miller

Marvin Miller
Vice President
Twin City Roofing, Inc.

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Chair Klein and members of the Committee, my name is Susan Shearer and I am the President and co-owner of Harvey Sand & Gravel, Inc., from Harvey. Harvey Sand & Gravel is a negative balance employer, which means my employees withdraw more money from the UI fund than I pay in to it.

I am also a current member of the UI Advisory Council.

I am here today to testify in opposition to Senate Bill 2034.

While I believe this legislation is well intentioned, I also believe that it will have a negative impact on my business, my employees and Job Service ND.

During the past construction season, my company employed 65 people. Of these, 55 are considered seasonal employees, which means, they have signed up for and are receiving unemployment benefits. Of these 55, I consider 27 of them core employees and essential to the operation and success of my company. These are also the employees, which I would what to consider as job attached. Doing this gives me some assurance that these people will be returning to my employment in the spring.

Under this proposed legislation, I would be required to pay an additional fee, in order to assure that I would have an adequate workforce to continue my business in the spring. If I choose not to pay this fee, my employees would be required to look for other work and accept other employment if offered to them. This could potentially

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leave me with an inadequate and inexperienced workforce in the spring.

While the additional fee is of some concern to me, I am more worried about the impact this will have on my employees. Most, if not all of my workforce live in rural ND, in communities like Drake, Anamoose, New Rockford, Maddock & Harvey. Try as they may, these communities lack job opportunities. Where will these individuals seek work? Will they be required to drive to Minot or Bismarck? Will they be refused unemployment benefits because they have turned down a \$7/hour job 100 miles from home? These are all issues that should be discussed when considering Senate Bill 2034.

In addition, we must also look at the impact that this legislation will have on Job Service ND. As you are aware, Job Serviced ND took a substantial reduction in funding from the Feds earlier this year, which resulted in cost saving measures, which included a reduction in Job Service Staff.

We now have fewer Job Service Employees and more unemployed workers needing help finding a job. Since unemployment premiums paid by the employer can only be used to fund unemployment benefits, the State would need to find a way to finance additional staff to provide services to the increased number of job seekers.

I believe that this Bill ^{does not serve anyone well} ~~is a poor piece of legislation~~ and encourage you to ~~Vote NO on~~ 2034.

defeat

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