

2019 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2325

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2325
1/29/2019
Job #31659

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to new job training for certain businesses.

Minutes:

Att. #1-3

Chairman Klein: Opened the hearing on SB 2325. A quorum was present.

Senator Kreun, District 42: testified in support of the bill. This is a part of our North Dakota job service training program and probably something we haven't seen in our state before. It's used quite often in HR, from the top executive down to each employee. I think it's going to be used more and more in North Dakota but its already quite prevalent in in the US. **(See attachment #1 for context for the bill)**. That gives you the history for the bill. We've been through this with LC three times to refine it, with WSI, and the Commerce department. I think we've come up with a pretty good project, that encompasses and segregates this company out as a sole source provider for all employees of this business that they're in. It will define who gets the credits. And ties that business into just the primary sector business that they're in. the HR business. Ties it only to the primary sector business and that's how we feel it will be incorporated into the training procedures. We wanted to make sure it wasn't opened up to a temporary type service that this is only connected to the primary sector business, that the key component to accessing those training rules.

Senator Burckhard: So the employees are employed by NAES and not by Red River?

Senator Kreun: That's the idea.

Senator Burckhard: So they would be in charge of all the training and all that other stuff too.

Senator Kreun: Correct.

Chairman Klein: And then NAES would just bill Red River for salary totals?

Senator Kreun: Yes, that's why it's so important that they are a sole source provider to get that status. Those two have to be joined at the hip very tightly to make that status as a sole source provider to be a primary sector business.

Keith Lund, President, Grand Forks Region Economic Development Corporation, also board and executive committee member of Economic Development Association of North Dakota (EDND): See attachment #2 for testimony in support of the bill.

Senator Burckhard: Was there economic development incentives Red River Biorefinery to locate this in Grand Forks?

Keith: I wasn't a party to the application but we certainly let them know about the sale and use tax exemption for manufacturing and construction equipment since this is an agribusiness project. We let them know about the five-year income tax exemption for new primary sector companies in the state and the workforce training program. We counseled them on their eligibility for this program. So yes.

Senator Kreun: Quick comment, I did put an emergency clause, simply because they are going to start hiring very soon and we'd like this to be in place before the normal time of August.

Chairman Klein: There might be a couple of other tweaks as well.

Keith: They are looking to hire a plant manager as quickly as possible. The program is set up such that if you hire an employee that particular employee, there withholdings couldn't be considered for workforce training so the emergency clause we think is important for this project in Grand Forks.

Senator Piepkorn: Where are the headquarters of RRB located?

Keith: Wisconsin, the company is Biomass solutions so they are a company that focuses on sustainable energy, and they intend to replicate this and other similar projects across the US. This is their first project, so Red River Biorefinery is a North Dakota LLC.

Senator Piepkorn: How does this affect the workers and their rights and responsibilities, compared to up to now with a normal relationship with their company?

Keith: I'll answer it this way, Red River Biorefinery, Biomass Solutions their parent company, their expertise is in project development and execution so they obviously are understanding of the markets. Negotiating the feedstock in terms of what they're gonna use and convert to ethanol, they're responsible to deploy the technology and their expertise is in negotiating the off sale agreements, the selling of the product, and working to put that entire project together. They feel that holds the most value for their company, and whatever value they provide is not in the operations management, staff, or the facility. Which is why they and at least 160 companies with NAES, have decided that expertise is better served with folks that do that on a day in and day out basis. I don't know that the engagement or how it effects the employee would be much different if Red River Biorefinery or NAES, would operate the plant. I can only assume that there would be very specific agreements in place in terms of expectations so I would think that the employee would be expected to operate in such a matter regardless of who signs the check.

Chairman Klein: I think I got it, we've got a company who is leasing this group of workers from another company, who represents all those workers and that other company is bringing them to work at the Biorefinery. And all the Biorefinery does is say hey NAES we need 50 people who can do XYZ and this is how much we're gonna pay them, so do it?

Keith: The why I look at it simply is, Red River Biorefinery they executed the project that is under construction now and they are responsible for the performance. They are outsourcing the operations management and the employment and NAES will be responsible to all other aspects back at the Biorefinery. There is just this disconnect that we're trying to address with who is the primary certified source, the company and who is the employer, and this legislation connects those dots.

Chairman Klein: So when those employees go on strike who are they striking? NAES? If you're unhappy with who you're working with, and you can't complain to the company, you have to complain to the guy who send your check, but then they're also the management. Part of the NAES team is also the managers, the team leaders are all on the ground running. It's a team, so I can complain to my team leader. I'm still trying to get a handle on what the pecking order would be if you're unhappy.

Keith: I can only speculate, that's a question I hadn't considered. But if you're going to have a labor dispute that would be against your employer, which in this case would be NAES. They would have a contractual relationship to maintain some sense of harmony, with employees to Red River Biorefinery. And ultimately those employment considerations and practices would have to be approved and considered by the ultimate owner of the facility for the betterment of the operations of that facility.

Chairman Klein: This is the first time we've employed this source of model in North Dakota?

Keith: This is the first time it's been a consideration with this program, I learned a short time ago that there is at least one other company that uses this model.

Chairman Klein: But what we need to do is put this in place so we can get the credits for the training?

Keith: Correct.

Senator Burckhard: This discussion makes me think of, the employees of NAES could they organize and form a union?

Keith: I'm really out of my wheel house here but I imagine.

Senator Burckhard: Well this is a pseudo employer type of thing? So I'm just curious if they could or not.

Keith: The model is going to be executed. So whatever will be will be with that regard. I think what we're talking about is to make a program that has been very successful and has supported the growth of primary sector related business. Trying to connect the dots to make Red River Biorefinery and the employees themselves eligible for workforce training.

Brian Klipful, Executive Director of Job Services: testified in support of the bill. All I can say is that we've worked with the tax department and commerce and we think this is a good model we can make it work. In fact, I think some of the amendments were at our suggestion. We can talk details if you want, but it's all worked together North Dakota I think it will work very well.

Chairman Klein: I don't know if we need details, we just need the policy to make this work. We know the program has been used throughout the state in the more traditional models and now we're looking to get that same program in a model that we're unfamiliar with but getting there is that what's the problem? That's what we're doing here today? So that this sort of organization can do what you guys do on a regular basis.

Brian: That's correct it's a new model, but even though I'm not real familiar with the program, we have all these experts here in the room that have worked on it and they say it will work.

Chairman Klein: Over the years when we got into the PEO discussion ten years ago, how pseudo dumping, all those concerns. We don't have these with this sort of organization? The blended rates whether it relates to job service or WSI, those were always a concern but in your position and as the leader of both those orgs there's no issues there that you can see that could create problems?

Brian: I don't think so because the employees at Red River Biorefinery would be in the classification for that industry and they would pay, the workers comp would be paid, I assume, by the employment agency.

Senator Kreun: The way I understood it is that NAES would be the actual employer. And they do absolutely everything for this other company, so if there are some disputes working with NAES, as an employee you go to those individuals because they are hired all the management people all the way up to the CEO, CFO. The only real marriage is that they bill RRB for all this service, so you've got an employer, all were doing is making sure they are the sole source employer for this primary sector business. So the employees work for NAES and that's where workers comp would be paid, unemployment would be paid, all of the benefits would be paid NAES and they would just literally bill the other portion of it.

Chairman Klein: I just wanted to confirm and firm up the fact that those ratings are based on what they're doing and not some blended rate that they bring from their wide background, like we saw on some of those other job employer organizations. I know the house is even more concerned about how the blended rates worked.

Brian: This only effects primary sector industries so it's not like every business in the state. I believe primary sector industries have to export 70% of their product so that doesn't include a lot of different agencies in the state.

Chairman Klein: What does this job or training include or provide? What is this credit, does it provide for those employees to get a good jumpstart on what their job is? Or that helps also the company get a foothold in their early months of their enterprise?

Brian: I'm going to speculate that the training they're going to get is the training that they need to operate whatever equipment they have or whatever technology they need to know for this Biomass company but it's just the training that they get would be so that they can go to this company and be able to perform the duties to get the job done.

Chairman Klein: And job service picks up that cost of that training? It's a credit?

Brian: We administer the program; the tax department is the one that withholds the withholding.

John Schneider, Lead Business Developer for Dept. of Commerce: testified in support of the bill. We stand in support of SB 2325 as written and amended, and two point that I wanted to make: we are the agency that certifies companies as primary sector. Primary sector means 75% of their sales must be from outside the state of North Dakota and they must be adding value to a product, good, or service. So we certify that in Commerce. Really our only involvement is that when someone applies for the credit they send it to us to make sure the company is primary sector certified. So with this language, this would then clear that up so that the employment company could be eligible for the credits. We are happy with the way the bill is written because it does not open it up, its only primary sector companies that they have to be providing the employment for. So we think this is a good bill and it certainly as we're out recruiting businesses around the nation, this model is becoming more prevalent. So this is something we're probably gonna have to deal with anyway. So we're happy that Grand Forks is leading the way.

Senator Piepkorn: What's the total investment then, which I would assume is the same number as the savings to the company, to NAES when you're talking about helping pay for the train?

John: I'm going to defer that to people who run the program. The only role that Commerce has is certifying the primary sector, we don't get involved in the details.

Chairman Klein: You've seen a lot of changes as these various models change and we're got, this is something were gonna have to do one of these days regardless.

John: Exactly. As the world changes and employment issues is not just a North Dakota issue, it's a nationwide issue. As people are trying to resolve their employment issues this is one way they do that. It's kind of a sign of the times.

Senator Piepkorn: Why the change? What's the primary motivation of RRB to go this route? Why is this happening around?

John: I'm gonna defer that too. The reason for other companies is it's an easier model they look for people in the industry that have the expertise. So if someone on the outside knows where to get these employees that have a broader base of expertise, that's Bobcat. They hire firms that go out and look, specifically for someone that has the expertise in a specific industry if they can't get them in North Dakota through traditional methods.

Chairman Klein: Employee concerns and models across the country are changing and if this company in Wisconsin, that's the model they're using to stay out of that complex issue of employees which in my years in the grocery business that's the hardest part of any business.

Matt Peyerl, Tax Department: offered neutral testimony for the bill. I haven't seen the amendment either, I think we're all on the same page of trying to get to that goal of connecting this business model with this tax incentive program. Just in general leased employees, or contract employees is fairly common it's just never been a consideration to try to weave it into this tax credit program. That's what this bill is trying to do. Just recognize that there are lots of arrangements out there for how businesses have their organization staffed and this is just one of those options.

Chairman Klein: Am I hearing you say you need more time to look at the amendments and come to a final closure so we can move the bill forward.

Matt: I would just need some time at all. We haven't seen them yet; I just assume we're going to get to an outcome that everybody's happy with because there's no opposition to the concept. It's just a matter of making the mechanics work behind the scenes, because you do have job service as the main administrator basically and maybe I'll defer to them. But basically, they enter into the agreement with the employer, and have the employees that are gonna be part of the program. The employer withholds income tax on those employees and the tax department then refunds the income tax back to the employer and that's how it worked that's the credit part works. Tax department just basically cuts the check because we withhold the hold from the employer, so we cut the check back to the employer.

Senator Piepkorn: Would this investment be just for the 25 startup people or is it ongoing? When one person quits or needs to leave the company does this training program go on to the next person? However long, whatever it might be?

Matt: I believe the agreement is written so they designate positions and position numbers so if specific individual leaves, then another person can be put into that position and they're part of the agreement going forward. And I believe the agreement sets a term. So it's all set out with job service.

Senator Piepkorn: What is the total investment on the state's part and what the cost savings to the company? That this company would be realizing that apparently Bobcat hasn't to this point but if they used a similar type of agency?

Matt: I don't have that information and I don't know if job service has gotten that far in their application process where they've actually set the dollar amount yet but that would be part of the contract, it's essentially a contract that says this is the amount in total it can be up to, it just can't exceed that. I will defer I'm not sure at what point in the process they set that target total.

Senator Burckhard: You made reference that tax credits go to the employer and that is NAES? Is that true? Is that the employer?

Matt: That would be who the dollars go back to. The term credit is misleading, it's basically a refund of the withholding of the tax of the employees' income tax that's withheld it just goes back to the employer. It's just dollars going back to the employer, NAES or whoever you consider the employer.

Chairman Klein: So it's no new money it's just kind of recirculated money?

Matt: The cost to the state is the individual income tax of that amount over that term. I believe last session there was a change to the program that maybe limited the amount of contracts that can be entered into in a biennium to a certain number before that it was I think I higher. So that's the total cost so I don't believe there is a fiscal note on this because it's probably assumed that the total cap on the program would already be considered money spent.

Chairman Klein: Unless we make this project work, there's no future that eventually the income tax sent in would not be refunded and now we have employees working and earning and paying into the state so that's the incentive we have for getting this program up going and this product up and going. tax with be sent back

Matt: That's probably part of the big picture.

Chairman Klein: Kind of like when we give a property tax, no property tax for up to whatever years and then we weren't getting it anyways and now after five years we cash in. But that is something we hear a lot about when we provide some sort of exemption eventually its money we didn't have anyway.

Matt: The requirements are that the operation be a primary sector business and I haven't looked at the other requirements but I think there is some aspect of the employment or the employee's activity, they need to be related to training or it's not just wide open. Every employee just because they are employed, they have to lay that out with job service to identify which employees and what they will be doing and why there is a hard to fill need.

Senator Piepkorn: I see the obvious advantage to NAES, what are the advantages to the workers?

Matt: I don't see that there is any impact on the workers themselves. It used to be just a benefit for the employer but now we're trying to connect the benefit from the employer to the actually organization that owns the assets and owns the operation because now they're not connected. They're gonna have an arrangement that connects them and now we want this bill is trying to get the incentive into the right pockets but because it is an incentive to NAES, the assumption is it's going to cost Red River less to staff it, so I assume the benefit will be flowing through to the owner.

Chairman Klein: What we're doing is training individuals to come online knowing what they're doing and having a comfort level, a safety level, a more productive because they are having some of this background training up front. Which we wouldn't provide if you just dragged someone off of the street and tell them today you're gonna learn how to get meat. You would add training and an opportunity to lean so you would be working safely in what you're doing.

Senator Piepkorn: Are NAES and RRB connected in anyway legally, companywise? Brother in law, something like that? What's the relationship between those two companies?

Matt: It doesn't sound like they are. It just sounds like two third-party companies entering into an agreement for the most beneficial way to staff a facility. Perhaps there are benefits in that if they're employees of NAES, there's economies of scale working by working for an organization as opposed to only having access to certain employment practices if you just employed 55 people. Or if you're NAES and you employ thousands maybe, you maybe have the benefits of working for a larger organization and so forth.

Senator Burckhard: Hypothetical, Godaddy has commercials, they're an employment company. Do you see a day when those kinds of companies will become leased employee kind of companies? Just wondering where this could possibly go.

Matt: In my experience, contract employees exist fairly frequently, like Mr. Lund said its out the happening. And they have arrangements to provide assistance under a contract all the time. The fact that its already happening, the fact that they haven't tried to apply for the new jobs withholding credit program is probably a separate question. But one of the concepts, but if I'm an oil company and I own mineral rights and I own land, I hire somebody else to drill the land and do all the work. There's lots of companies that extract oil that don't have any employees they do it all under contract. That model exists all across the country. Maybe it has gotten more popular with the evolution of employment and all the hazards that go with that.

Chairman Klein: Make sure you work together with Senator Kreun to look at the amendments and then when you come back we will make sure it's good.

Susan Gunsch, Workforce Development Officer at Job Service: I'd like to answer Senator Piepkorn's question. Currently, the first step in this application process is to work with the department of Commerce to ensure that who is applying and interested in the New Jobs training program is a primary sector employer. So when they supplied and they were having interest, that was like the brick wall. It was like well NAES isn't a primary sector employer, so we never went beyond that to receive that to receive all the details for the information for a contract. So at this time we don't have the benefit that NAES would receive, we would be able to provide that to you once we go down the road with getting all that detail and establishing a contract.

Senator Piepkorn: I think it's a common question to want to know what the investment is.

Susan: And we would be able to produce that. It would be absolutely public information. But we just didn't have the employer go through the process unless we knew there was a reason for them to complete the process, Working with Keith Lund and the department of Commerce.

Keith: Senator Burckhard's question about Godaddy, this proposed legislation is exclusive to staffing organizations that are working on behalf of primary sector companies. As Mr. Peyerl indicated, this business is growing across the nation but this legislation only applies to staffing companies that operate things like Biorefineries or manufacturing plants, or

software development companies so it's very isolated in terms of its applicability. A question about why hire an organization like NAES, I kind of compare it to an organization hiring a general manager, and then they do all the hiring beyond that point. They're just a separate legal entity. There are no cross familial relationships, they are professional operations and management company that contract with over 160 plants across the US to do this very thing. So it's very much a professional and contractual relationship. Another value of hiring a firm like NAES is that they have network of staffing so two or three people Biomass Solutions in Wisconsin have less ability to recruit for this, then does a company that operates 160 plants and a network of professionals in that industry. If you're hired by a firm, and you're working at Red River Biorefinery in Grand Forks, you have opportunities for advancement in the plant but also in within the entire network of plants, so it's a valued proposition.

Senator Piepkorn: Thank you for the good answers.

Senator Burckhard: is NAES an acronym for something?

Keith: Nope, that is just their company name.

Senator Kreun: If we want to help clear this up with amendments, if you go to the last page of the bill then we will take the amendments and plug them in where they go. **(See attachment #3 for amendments).**

Chairman Klein: So we could move the amendments, and then we could get a marked up version, I think if this helps clear up some of that. Closed the hearing on 2325.

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2325
1/30/2019
Job #31779

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to new job training for certain businesses.

Minutes:

Att. #1

Chairman Klein: Opened a committee work session on SB 2325.

Senator Kreun: Explained the amendments proposed to the committee. **(See attachment #1 for amendments submitted to the committee).**

Senator Kreun: Move to adopt amendment.

Senator Burckhard: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Kreun: Moved a Do Pass as Amended.

Senator Burckhard: Seconded.

Chairman Klein: Any discussion?

Senator Piepkorn: So we understand Bobcat is probably the primary user of this? But that agency is not a recipient of the program. So would the employment service similar to what BBP is using, would they be eligible for future job training?

Senator Kreun: I do believe that would be in concert but I don't think it would go back in retroactive.

Chairman Klein: They would be listed as a primary sector employer, because they are creating something and shipping it also.

Senator Kreun: As long as they meet this criterion they would be eligible.

Chairman Klein: I think it's exciting for Grand Forks certainly, and whoever may be using it in the future. Because as time has gone and we've sat in this room and seen when the advent of the PEOs, professional employment organization. We said who would do that? And now we've got companies that are doing everything and companies are understanding that this helps streamline and they can focus on what they do and not the employment issues.

Senator Kreun: They are looking at another production plant maybe closer to Wahpeton, and they'll use the same format. And I'm assuming something of these other larger companies may go to that as well, down the road. We aren't inventing the wheel; we're just changing the law because there's 100 some companies that do this already in the US.

Chairman Klein: The wheel has been invented we just haven't let them roll it in our state.

Senator Piepkorn: Checking with friends in the labor world, there weren't any objections to it. It will just be new to our state. So I'm open to it and there really are no objections that I can come up with.

Chairman Klein: I think it would be good for the employees because if you're one company representing the employees in North Dakota, but you also represent 160 other companies, where you would be able to move wherever and have a job there.

Senator Kreun: When you get into labor relations, it's very difficult to keep up doing your business and keep up with all those regulations. As these more technical companies come into play that need higher tech people to do the jobs, it's probably a benefit to the employee to have a HR or employment agency that does nothing but that. So when you go to get your questions answered, they probably have an answer for you a lot quicker than I do.

Vice Chairman Vedaa: From my grocery store years an example, I posted on Facebook that I had the perfect job for a mother with kids in school. And it turns out that's illegal to do. Somebody sent me a copy of the law. But these bigger companies know how to handle that.

Chairman Klein: Last night visiting with the long-term care people, and they were telling me that they have two nurses employed just to sort through the federal regulations. Instead of working, they just sift through legalities. And the feds are coming out with even more stuff now which is creating another burden.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Kreun will carry the bill.

January 30, 2019

86
1501

PROPOSED AMENDMENTS TO SENATE BILL NO. 2325

Page 1, line 2, after "businesses" insert "; and to declare an emergency"

Page 2, line 12, remove ", a business that otherwise qualifies as a primary sector"

Page 2, replace lines 13 through 18 with: "and section 52-02.1-04, an employer that is not a primary sector business, but contracts to provide employees to a primary sector business, may qualify for program services if:

- a. The employer and the primary sector business are parties to the same agreement under this section; and
- b. The agreement under this section designates the employer as the recipient of the program services.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1/30
Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2325**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Kreun Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers					

Total (Yes) 5 No 0

Absent 1

Floor Assignment Kreun

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

REPORT OF STANDING COMMITTEE

SB 2325: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2325 was placed on the Sixth order on the calendar.

Page 1, line 2, after "businesses" insert "; and to declare an emergency"

Page 2, line 12, remove ", a business that otherwise qualifies as a primary sector"

Page 2, replace lines 13 through 18 with: "and section 52-02.1-04, an employer that is not a primary sector business, but contracts to provide employees to a primary sector business, may qualify for program services if:

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- b. The agreement under this section designates the employer as the recipient of the program services.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2325

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2325
3/6/2019
33346

- Subcommittee
 Conference Committee

Committee Clerk : Ellen LeTang By :Elaine Stromme

Explanation or reason for introduction of bill/resolution:

Relating to new job training for certain businesses; and to declare an emergency.

Minutes:

Attachments: 1, 2, 3

Chairman Keiser: Opens the hearing on SB 2325.

Sen Kreun~District 42: Introduces SB 2325. Reads the bill. (Attachment 1)
3:35 in support.

Rep Adams: Explain the difference between a primary sector business and a primary sector contractor.

Sen Kreun: You have two business; you have business & a contractor business. In order to do that in legislation is to be one. Making one contract for the two. So they will have the ability to have funding for the training facilities.

Keith Lund~President & CEO Grand Forks Region Economic Development Corporation: (Attachment 2) in support. More companies in North Dakota will benefit from this.

8:30

John Schneider: (Lead Business Developer in the Department of Commerce): The definition of the primary sector is. To clarify we are the agency that certifies Companies primary sector. To be certified you need to add value to a product to a service in North Dakota and 75% of your sales have to come from outside of your state. We see this as a need & stand in support.

Rep Schauer: Can you explain to me what the contractor gets when he has access to the North Dakota new jobs program?

John Schneider: I will defer that question to Job Service.

Rep Richter: What is the difference between this program and Trade ND?

John Schneider: Job Service can answer that also.

Chairman Keiser: What is the difference between a subcontractor who is exclusive, and this other type of structure for this business?

John Schneider: There is a contractual agreement between the two.

Keith Lund: The intent of the legislation is, it is exclusive to operation and management of a primary sector business. What we have here is a Manufacturing plant, which is processing waste to fuel. Never the less it is a manufacturing activity. The company is not going to hire anybody, they are going to hire a company to run and staff the plant. This is not a bill that's intended to provide any benefit for a company who is doing temporary labor or just short term contract labor. This is for a company who is taking the place of an exclusive relationship. The primary sector is 75% of sales comes from outside the state.

John Schneider: Your question was; Does this create an unfair advantage to another company who is doing the exact same thing. The other company would be eligible too.

Chairman Keiser: Would Seventy-Five percent of their sales have to come from out of state?

John Schneider: Yes.

Phil Davis of Job Service of ND: In Support; Explains his job in Job Service. About the taxes, the company can apply on line & once the contract is written, the taxes from the employees that were hired, go to the tax department, then to the treasury then a check is cut back to the company for training. In order to qualify to get those taxes back, a company can apply for a loan for that amount and we set that up through the Bank of North Dakota, or they could self-finance too at 6%. Then the 6% tax would be turned back to the employee. To explain what training D does with this bill. Training D has nothing to do with this program, other than the fact that a company can go to training D. They are located in four of our community colleges.

Rep Richter: Training D would be employer funded, and this program would be tax reimbursement.

Phil Davis: That is correct, but the employer would be using those tax dollars to pay for the training.

Phil Davis: That is basically correct. This contract over a ten-year period is where that company collects those state income taxes.

Rep Kasper: What is the annual budget for the tax reimbursement?

Phil Davis: It's capped at 2.5 million biennium. We have only used nine hundred and twenty seven thousand dollars of that in the current biennium. We have written out fourteen contracts.

Chairman Keiser: Why don't we offer this to the small businesses?

Phil Davis: I don't believe we are excluding any small business as long as they are primary sector certified through the Department of Commerce.

Chairman Keiser: Small businesses don't subcontract. So good for them, we may be going in the wrong direction.

Phil Davis: I don't have an answer to that.

John Schneider: A lot of the primary companies certified in the state are small businesses. The legislature was bringing in new wealth into the state.

Rep Kasper: Can we get a list of small business that qualify for the program?

Rep Bosch: Why don't we do a deep dive, we have time.

Rep P Anderson: I would like to know about the on the job training in the private sector.

Rep Bosch: I would like to know the wages, sales & see some numbers.

John Schneider: We will work with Job Service.

Rep Kasper: How do we know if it's effective or are we throwing the money away?

John Schneider: We don't administer the program; we make sure that they qualify.

Chairman Keiser: We need to know any measures that impact the program to give us comfort with the program.

Rep Bosch: I would like to know of a business that benefited from this?

Rep Richter: I would like to know how many that are in the job training take advantage of this?

(attachment 3 no oral testimony)

Chairman Keiser: We need more information on how this works and some data we will meet again on Wednesday. Anyone else here to testify on SB2325
Closes the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2325
3/13/2019
33610

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

New job training for certain businesses.

Minutes:

Attachment 1

Chairman Keiser: Reopens the hearing on SB 2325. Thank you for coming back & I hope you can give us a comprehensive update on the programs & how they are working.

Phil Davis~Job Service ND: Attachment 1.

Chairman Keiser: We do not have data for 2016, 2017 or 2018?

Phil Davis: The next sheet will do 2017, 2018 & current. We went to an online program in 2016, so we do not have data for that. The questions that were asked was "what position that were filled", 603. Another question was "where did we start with the annual salary?" & that was \$32,808. Where did the average annual salary in a year timeframe which was \$47,695. Another question was the average annual ND income tax paid per participant & it was \$603.81 for that year.

Chairman Keiser: How much was spent in 2014-2015?

Phil Davis: I have the number of projects/contracts since 1996-2018 & that was 388.

Chairman Keiser: The data is impressive, 630 new positions filled. What happened with the average salary but if we spent 10 million to do that, is that really worth it?

Phil Davis: There is no appropriation for that.

Chairman Keiser: Is it paid by the employer?

Phil Davis: It's the income tax that is captured from the individuals that are paid into the tax department, back to the treasury department, back to the company to pay for this loan & grant.

Chairman Keiser: They are getting attached tax credit?

Phil Davis: Correct, individual tax credit.

Chairman Keiser: That is lost revenue for the state?

Phil Davis: Correct. There was no dollar amount appropriated.

Chairman Keiser: The general fund?

Phil Davis: Right.

Chairman Keiser: Do you have an idea how much those dollars are in tax credit?

Phil Davis: The next page will identify the 2017-2019. The far left is the businesses that have used this program, 14 total. The amount of tax credit & the number of positions to that. We have a cap of 2.5 million & we have 1.752 remaining.

Chairman Keiser: If I understand you right, these businesses would receive 927 thousand in tax credit & they were able to impact 435 jobs?

Phil Davis: Correct, through different training.

Chairman Keiser: That comes out to be \$2,131 per trainee investment.

Vice Chairman Lefor: What this bill is attempting to do is that these are primary sector positions. It's just moving the category over & qualify for the same tax credit?

Phil Davis: Correct.

Rep Bosch: The 14 companies listed, the employees are in ND, the revenue comes from outside the state.

Phil Davis: Correct, 75% of the revenue is made outside the state of ND.

Rep Bosch: Someone on this list must outsource their management operations to somebody else. They are not managing this out here. Do you know who on this list & what their business is?

Phil Davis: No business on the list is asking for that or in the past. We have a couple of businesses that we are working with in the Grand Forks area.

Rep D Ruby: The cap is 2.5 million, is that reset every biennium or a onetime cap? If it is a reset, is there any carryover?

Phil Davis: This is one time 2.5 million per biennium.

Chairman Keiser: These numbers are based on the current law. With the amended version, where we can fund & outsource positions, are the outsource positions within ND?

Phil Davis: They will all be located in ND

Vice Chairman Lefor: The average annual income tax, \$603.31. I multiplied that by the 435 positions, that comes out to 262 thousand dollars in a year of income tax paid. Now you're talking about 927 thousand tax credits, it looks like a 4-year payback?

Phil Davis: Actually the new job's training contract that a business signs, is actually a 10-year program. However, we see the grants or loans paid back way before that.

Vice Chairman Lefor: My point is we are giving tax credits & the income tax paid, the revenue is paid by the individual.

Phil Davis: They have to establish them in ND as an incentive.

Rep Richter: If this bill goes through, the subcontractors building the pads, would be eligible for job training under this bill?

Phil Davis: No, they have to be certified or primary business. Building the pad will not be qualified.

Rep Bosch: Have we ever hit the cap in the years of the program?

Phil Davis: This is the first biennium where we had that count but it looks like we won't hit the cap.

Rep Bosch: Seems like we should have more than 14 businesses.

Phil Davis: We are invited to the table with the chamber of commerce to bring in more businesses.

Phil Davis: For another question, 2 million was captured in income tax in 2014 & 2015 was 1.5 million.

16:20

Sen Kreun~District 42: What industry are we looking at in this particular case? This is the Red River Bio-refinery project. It's a value added project that has been brought to us by the BBC. There is Simplot & Philadelphia Macaroni. This is what is value added product where we use the resources from the ag.

Continues to explain.

This can only be a primary sector business. What we say if they want to be a primary sector business that they have to be joined at the hip with a very tight contract. This is a good model for ND & it may bring in other primary sector businesses.

Chairman Keiser: Phil, will you come back up? I understand the concept of job training. Help me understand, who needs training within that second firm & how do the dollars work for training? Does this have to relate to training?

Phil Davis: That is correct.

Chairman Keiser: What training do they need if they are a viable certified HR firm?

Phil Davis: You have the business opening; they contract out to hire to the HR firm & they own those trainees for that 10-year contract. They can use any type of training for those individual tax credits.

Vice Chairman Lefor: We are putting people tied to the hip to cover the primary portion of the sector?

Phil Davis: Correct.

Rep Bosch: Are there any evaluations of their training programs?

Phil Davis: No, we don't monitor during that 10-year period.

Rep M Nelson: Sounds like bio refinery is in ND & now after the fact, talking about a credit to them, when the business is already located here. Leadership training, it sounds like they want to get there so they hire their executive to this firm, send them to a week lone retreat, so they all can learn leadership. Then we are going to give them a tax credit. It doesn't sound like you are bringing the business to ND, sounds like the business is in ND?

Phil Davis: Yes, the business is in ND, but in this instance, they are bringing in the employees through this contracted firm to the bio mass refinery. It's not the CEO, it's the general manager that is ultimately responsible for the operation.

Rep M Nelson: The company hiring the people, are they ND people or can it be anyone?

Phil Davis: This company is essentially US wide & they have been doing this for 20 to 30 years. This is what they specialize in.

Chairman Keiser: The company doing the training is not necessarily from ND?

Phil Davis: They are located here under the umbrella of the bio mass refinery.

Rep P Anderson: Discovery Benefits started in ND. Can you explain that to me?

Phil Davis: Discovery Benefits is a brand new contract with us. They brought in 115 positions, they were here & opened another business. That's where they qualified for this program.

Rep P Anderson: What happened to that business which was sold to a national company. What does that have to do with the job training?

Phil Davis: They fall under the umbrella & qualify for that.

Rep Richter: The bio refinery, does the Tesoro qualify as a primary sector business?

Phil Davis: I would assume they are and they would qualify, but they haven't applied.

Chairman Keiser: Why is this business model so desirable? Is it because of no sick leave, vacation, health & retirement benefits.

Phil Davis: This is a new model & ND has a workforce shortage.

Keith Lund~President & CEO of the Grand Forks Economics Development Corporation: Describe the HR company & references from his testimony from last week for SB 2325, March 6 hearing.

Chairman Keiser: It sounds like privatizing prison systems, is it similar to that?

Keith Lund: They are looking for people in the expertize in this area. They will be employees & residents of ND for your question. Explains projects occurring in Grand Forks.

Rep Schauer: There are Fargo companies, can you compare this tax credit what these companies are bringing to ND & what it would mean to add your company to this state?

Keith Lund: These are new jobs & new companies to ND. The benefit is the encouragement of new jobs for the state & brings in new wealth.

Chairman Keiser: These are new jobs with expansion to this state. I see it as driving the economy.

Chairman Keiser: Anyone else here to testify on SB 2325 in support, opposition, neutral position? Closes the hearing. What are the wishes of the committee?

Vice Chairman Lefor: Moves a Do Pass.

Rep Schauer: Second.

Chairman Keiser: Further discussion?

Rep P Anderson: I see this as a new business model where you outsource. I think it makes sense.

Chairman Keiser: What this model does is give that producer a fix price & you are sharing the risk of production. If both sides make a profit, they are sharing the profit. If you don't know what you are doing to get someone to help you with the job. This is new to us, especially in the primary sector.

House Industry, Business and Labor Committee

SB 2325

Mar 13, 2019

Page 6

Roll call was taken on SB 2325 for a Do Pass with 10 yes, 1 no, 3 absent & Rep Schauer is the carrier.

Date: Mar 13, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2325

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions Reconsider _____

Motion Made by Rep Lefor Seconded By Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Rep O'Brien	Ab	
Vice Chairman Lefor	x		Rep Richter	x	
Rep Bosch	x		Rep D Ruby	x	
Rep C Johnson	x		Rep Schauer	x	
Rep Kasper	Ab		Rep Adams	x	
Rep Laning	x		Rep P Anderson	x	
Rep Louser	Ab		Rep M Nelson		x

Total (Yes) 10 No 1

Absent 3

Floor Assignment Rep Schauer

REPORT OF STANDING COMMITTEE

SB 2325, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (10 YEAS, 1 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2325 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2325

SB2325 1/29/19 Att #1

12. "Primary sector contract operator" has the meaning of a sole source, exclusive operator and employer of a primary sector business. For purposes of this subsection, the North Dakota Department of Commerce shall certify a primary sector contract operator as a primary sector business.

Context

Red River BioRefinery (RRB) is a value-added agriculture project the EDC has been working on for over four years. The company will use as feedstock agricultural byproducts from the region's largest ag processors, convert it to fuel-grade ethanol and sell the final product into California markets. Specifically, RRB will use as feedstock sugar beet tailings from American Crystal Sugar plants in Drayton (ND), Hillsboro (ND), Crookston (MN) and Moorhead (MN), processed potato waste from JR Simplot Company in Grand Forks, and processed pasta waste from Philadelphia Macaroni in Grand Forks. We were very fortunate the company broke ground on the \$80MM facility in August 2018. They anticipate the refinery will be operational either Q4-2019 or Q1-2020 and will require 25 employees to operate and manage the plant. The average salary of employees is estimated \$55,000.

RRB will staff the plant through a relationship with NAES, a company that specializes in the operation and management of facilities in the power generation, oil & gas and petrochemical industries through a number of services including direct employment. (<https://www.naes.com/locations/red-river-biorefinery/>). Simply put, NAES will be the sole-source employer of employees that will operate and manage the biorefinery in Grand Forks. NAES will incur direct and indirect employee costs and invoice RRB for these costs as well as an administrative fee for their services. RRB will also be responsible to reimburse NAES for all employee training costs.

RRB seeks to secure an North Dakota New Jobs Training grant to support the training needs of the 25 new employees that will be hired at the plant in Grand Forks. RRB has been certified as a Primary Sector company by the ND Department of Commerce. However, since NAES does not own the refinery or sell the product they are not currently eligible for this designation according to our conversations with ND Commerce.

If NAES can be recognized as primary sector for the sole purpose of the ND New Job Training program (the purpose of the language addition above), they would be able to access the program and support the training of the newly created positions.

Brandon Baumbach

Business Development Manager
701.746.2724 | 218.791.0909

Grand Forks Region Economic Development Corporation

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is Keith

218-779-1878

Testimony of Keith Lund
Grand Forks Region Economic Development Corporation
In Support of SB 2325
January 29, 2019

Chairman Klein and members of the Senate Industry, Business and Labor Committee:

My name is Keith Lund and I am president & CEO of the Grand Forks Region Economic Development Corporation. I am also a board and executive committee member of the Economic Development Association of North Dakota (EDND). I am speaking on behalf of both organizations in support of SB 2325.

The North Dakota New Jobs Training Program was created to support critical workforce training needs of new and expanding primary sector companies in North Dakota. The program captures state income tax withholdings of new employees and repurposes them to fund a portion of company training needs. The program's eligibility and administrative requirements were established many years ago and did not consider an operation and staffing model that is growing more common across the United States.

Increasingly, primary sector companies outsource the operation and management (O&M) of their industrial plants to include staffing. In these cases, the primary sector company (plant owner) and O&M contractor (employer) are separate companies, which impedes access to the North Dakota New Jobs Training Program. Simply put, the primary sector company cannot apply for the program because it is not the employer, and the O&M contractor cannot apply for the program because it does not meet the criteria as a primary sector company.

The intent of SB 2325 is to remove this impediment and allow contractors that operate, manage and staff primary sector industrial facilities to be a party to an application for the North Dakota New Jobs Training Program.

I encourage your support SB 2325 and ask that the committee provide a DO PASS recommendation on the legislation.

19.1127.01003
Title.

SB2325 1/29/19 AH #3
Prepared by the Legislative Council staff for
Senator Kreun
January 29, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2325

Page 1, line 2, after "businesses" insert "; and to declare an emergency"

Page 2, line 12, after "section" insert "and section 52-02.1-04"

Page 2, line 12, after the underscored comma insert "if"

Page 2, line 14, after the underscored comma insert "the agreement"

Page 2, line 15, replace "qualify" with "designate the business or the employment agency"

Page 2, line 15, after the second "business" insert "or employment agency"

Page 2, line 15, replace "job training" with "program services"

Page 2, line 16, replace "the employment agency" with "both parties"

Page 2, line 17, replace "job training" with "program"

Page 2, after line 18, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2325

Page 1, line 2, after "businesses" insert "; and to declare an emergency"

Page 2, replace lines 12 through 18 with:

- "3. For purposes of this section and section 52-02.1-04, an employer that contracts to provide employees to a primary sector business may qualify for program services even though the employer is not a primary sector business. Both the employer and the primary sector business must be a party to the agreement, which must designate the employer as the recipient of the program."

Page 2, after line 18, insert:

"**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure".

Renumber accordingly

Chairman

#1

Pg 1

SB 2325

3-6-19

Thank you Mr. President

SB 2325 is to add section 3 to C.C. 52-02.1-02.

This would allow for exclusive, sole-source employers, operating facilities on behalf of primary sector companies to be eligible for primary sector certification and therefore, the New Jobs Training program.

The program captures state income Tax withholdings of new employees and repurposes them to fund a portion of Company Training needs. The program's eligibility and administrative requirements were established many years ago and did not consider an operation and staffing model that is growing more common across the United States.

Increasingly, primary sector companies outsource the operation and management (O+M) of their industrial plants to include staffing. In these cases, the primary sector Company (owner) and Contractor (employer)

#1

#2 SB 2325
3-6-19

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The intent of SB 2325 is to remove this impediment and allow contractors that operate, manage and staff primary sector industrial facilities to be a party to an application for the North Dakota New Jobs Training Program.

Referring to the amendment which is the crux of the whole bill, ^{the amendment and} Section 52-62.1-04 SB 2325 defines the services the qualifications and how the credits are administered. It also ties the primary sector and the contractor together. This is important so as not to open the door to a temporary agency which is not the intent of this Bill.

Mr. President

The Commerce Dept - Worker Comp - and Tax Dept all were involved in the development of this bill. The IBL Committee Voted 5-0 for a due pass and would ask this body to concur.

Testimony of Keith Lund
Grand Forks Region Economic Development Corporation
In Support of SB 2325
March 6, 2019

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#3 SB2325
3-6-19

pg 1

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North Dakota New Jobs Training Program Biennium Performance

The most recent time for which North Dakota Century Code Section 54-60-19 accountability measures are available are the years of 2014 and 2015. During 2014 and 2015, Employers hired 630 employees into the newly created positions listed in ND New Jobs Training open agreements.

ND New Jobs Training Program Accountability Measures (2014 & 2015)			
	Pre-Training	1 Year After Training	
New Positions Filled in ND	Average Annual Salary	Average Annual Salary	Average Annual ND Income Tax Paid Per Participant
630	\$32,808	\$47,695	\$603.81

After one year of being hired into a newly created position, employees showed an average wage increase of 45%. North Dakota's unemployment wage records for these individuals generated an aggregate annual payroll of \$30 million.

Mar 13, 2019

SB 2325

Attachment 1



New Jobs Training 2017 – 2019 Biennium

Business	Amount	Positions
Thyssenkrupp Materials NA	\$23,442.09	8
Golden Valley Ingredients (Anchor)	\$11,918.33	10
Cognizant Technology Solutions	\$120,446.23	100
Discovery Benefits	\$185,209.96	115
Solid Comfort Inc	\$6,641.58	10
ALDEVRON LLC	\$109,551.57	30
Sheyenne Forming	\$15,048.75	7
Korber Medipak Systems NA Inc	\$122,582.65	40
Project Phoenix, LLC	\$28,539.57	10
SunGold Foods Inc.	\$44,567.72	43
The Koble Group	\$25,586.76	6
Degelman Industries USA, Ltd	\$14,956.99	10
CLEAN REPUBLIC	\$4,892.04	6
BNG Holdings, Inc.	\$213,944.00	40
14 Total	\$927,328.24	435

2017-2019 Biennium
4 months

Cap \$2,500,000.00
Remaining \$1,572,671.76