

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2310**

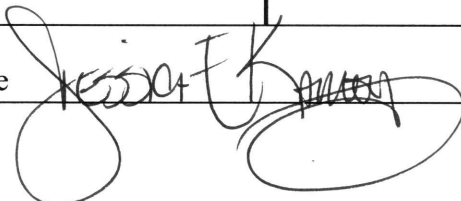
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2310

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
2	x		0-4675
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on SB2310. All senators were present.

Senator Heitkamp introduced the Bill.

Dick Bercksted testified in support of SB2310. His testimony is included.

Virgil Horst, Operating Engineers, testified in support of SB2310. His testimony is included.

Fred Koropatnicki, industry 161 worker, testified in support of SB2310. His testimony is included.

Snady Ferr testified in support of SB2310.

Jennifer Gladden, Job Service of North Dakota, testified neutrally on the bill. Her testimony is included.

Jim Hersh, Job Service of North Dakota, testified neutrally on the bill.

Senator Mutch closed the hearing on SB2310.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb2310

Hearing Date January 27, 1999

Committee discussion took place on February 3, 1999.

Senator Heitkamp introduced a new set of amendments to SB2310.

Senator Heitkamp motioned to pass the amendments to SB2310. Senator Mathern seconded his motion. The motion was successful with a 6-0-1 vote.

Senator Heitkamp motioned for a do pass with amendments recommendation on SB2310.

Senator Mathern seconded his motion. The motion was successful with a 7-0-0 vote.

Senator Thompson will carry the bill.

## FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: \_\_\_\_\_ Amendment to: SB2310

Requested by Legislative Council \_\_\_\_\_ Date of Request: February 5, 1999

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:** This amendment, provides for an (additional) alternative method of monetarily qualifying for unemployment insurance benefits. The Special Fund is the Unemployment Insurance Fund. The impact for the 1999-2001 Biennium is \$181,100 (\$178,000 Special Funds and \$3,100 State Benefit Fund). The impact for the 2001-03 Biennium is \$241,000 (\$237,000 Special Funds and \$4,100 State Benefit Funds). Job Service is unable to breakout separately the impact on Counties, Cities, and School Districts.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	\$181,000	0	\$241,000

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_ 0
- b. For the 1999-2001 biennium: \_\_\_\_\_ 0
- c. For the 2001-03 biennium: \_\_\_\_\_ 0

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
No Impact			\$3,200			\$4,200		

If additional space is needed, attach a supplemental sheet.

Signed Wayne G. Kindem

Typed Name WAYNE G. KINDEM

Date Prepared: 12/8/99

Department JOB SERVICE NORTH DAKOTA

Phone Number 328-3033

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: SB 2310 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-20-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:** Under this Bill, Section 1. deletes the special taxing of employers in industry 161, highway and street construction; Section 2. provides for an (additional) alternative method of monetarily qualifying for unemployment insurance benefits; and Section 3. repeals the special treatment (benefit duration) for workers in industry 161, highway and street construction by providing that a new duration schedule apply to all claimants regardless of industry. (See attached page)

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	(\$637,000)	0	0
Expenditures:	0	0	0	\$3,754,900	0	\$4,333,700

What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_ 0
- b. For the 1999-2001 biennium: \_\_\_\_\_ 0
- c. For the 2001-03 biennium: \_\_\_\_\_ 0

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
No Impact			\$65,700			\$75,800		

If additional space is needed, attach a supplemental sheet.

Signed Wayne G. Kindem

Typed Name WAYNE G. KINDEM

Department JOB SERVICE NORTH DAKOTA

Phone Number 328-3033

Date Prepared: 1-25-99

In developing this fiscal note, industry 161 was assumed to have no impact on benefit duration until January 1, 2000. This is because it is taken away as a special duration schedule and put back as a general duration schedule. It was assumed that contributions from industry 161 employers would not be available for last six quarters 1999-2001 Biennium, since this special assessment is scheduled to sunset on December 31, 2000.

The Special Fund is the State Unemployment Insurance Fund. Based on data from Program Year 1997, Section 1 of the Bill would result in reduced income to the Special Fund of \$637,000 for the 1999-2001 biennium.

Section 2 of the Bill will affect 77 claimants. Section 3 of the Bill will affect 2,780 claimants. The impact of Section 2 and Section 3 of the bill for the 1999-2001 biennium is projected to have an increased benefit payout of \$3,754,900. ( \$3,691,000 Special Funds and \$63,900 State Benefit Fund). The impact of Section 2 and Section 3 of the bill for the 2001-03 biennium is projected to be an increased Benefit payout of \$4,333,700 (\$4,260,000 Special Funds and \$73,700 State Benefit Fund).

Job Service North is unable to separately breakout the impact on Counties, Cities and School Districts.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2310

Page 7, line 28, after the period insert "1."

Page 8, line 10, insert

"2. Any otherwise eligible individual whose total base-period wages are less than one and one-half times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest is entitled during the individual's benefit year to benefits sixteen times the individual's weekly benefit amount."

Renumber accordingly

WRONG

PROPOSED AMENDMENTS TO SENATE BILL NO. 2310

Page 2, line 14, remove the overstrike over "~~An employer identified as belonging to~~"

Page 2, remove the overstrike over lines 15 through 19

Page 2, line 20, remove the overstrike over "~~or before October thirty first of that year.~~"

Page 6, line 30, remove the overstrike over "~~2.29~~" and remove "1.73"

Page 6, line 31, remove the overstrike over "~~2.30~~", remove "1.74", remove the overstrike over "~~2.44~~", and remove "1.97"

Page 7, line 1, remove the overstrike over "~~2.45~~", remove "1.98", remove the overstrike over "~~2.59~~", and remove "2.21"

Page 7, line 2, remove the overstrike over "~~2.60~~", remove "2.22", remove the overstrike over "~~2.74~~", and remove "2.45"

Page 7, line 3, remove the overstrike over "~~2.75~~", remove "2.46", remove the overstrike over "~~2.89~~", and remove "2.69"

Page 7, line 4, remove the overstrike over "~~2.90~~", remove "2.70", remove the overstrike over "~~3.04~~", and remove "2.93"

Page 7, line 5, remove the overstrike over "~~3.05~~", remove "2.94", remove the overstrike over "~~3.19~~", and remove "3.17"

Page 7, line 6, remove the overstrike over "~~3.20~~" and remove "3.18"

Page 7, line 7, remove the overstrike over "~~Any otherwise eligible individual whose entire base period earnings were paid by~~"

Page 7, remove the overstrike over lines 8 through 12

Page 7, line 13, remove the overstrike over "~~wages to highest quarter base period wages~~" and after the overstruck colon insert an underscored period

Page 7, line 17, replace "sixteen" with "twelve"

Page 7, remove the overstrike over lines 18 through 27

Page 8, line 3, remove the overstrike over "~~2.29~~" and remove "1.73"

Page 8, line 4, remove the overstrike over "~~2.30~~", remove "1.74", remove the overstrike over "~~2.44~~", and remove "1.97"

WRONG



Page 8, line 5, remove the overstrike over "~~2.45~~", remove "1.98", remove the overstrike over "~~2.59~~", and remove "2.21"

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Page 8, line 10, remove the overstrike over "~~3.20~~" and remove "3.18"

Page 8, after line 10, insert:

"Any otherwise eligible individual whose total base-period wages are less than one and one-half times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest is entitled during the individual's benefit year to benefits twelve times the individual's weekly benefit amount."

Renumber accordingly

Date: 2/3/99  
 Roll Call Vote #: 230

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken AMEND

Motion Made By NEITLAND Seconded By MATHERN

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein					
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/3/99  
Roll Call Vote #: 2010

SR231896

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AS AMENDED.

Motion Made By HEITKAMP Seconded By MATHERN

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment THOMPSON

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

REPORT OF STANDING COMMITTEE

SB 2310: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2310 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 52-04-05," with "subsection 2 of section", remove the second comma, and after the second "and" insert "section"

Page 1, line 2, replace ", definitions," with "and"

Page 1, line 3, remove ", and rates"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 29

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 12

Page 6, line 30, remove the overstrike over "~~2.29~~" and remove "1.73"

Page 6, line 31, remove the overstrike over "~~2.30~~", remove "1.74", remove the overstrike over "~~2.44~~", and remove "1.97"

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Page 8, after line 10, insert:

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Re-number accordingly

**1999 SENATE APPROPRIATIONS**

**SB 2310**

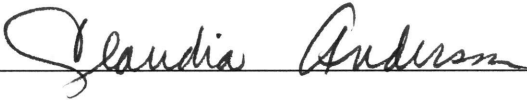
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2310, As Engrossed

Senate Appropriations Committee

Conference Committee

Hearing Date 2/10/99

Tape Number	Side A	Side B	Meter #
1		x	4394-end
2	x		0-800
Committee Clerk Signature 			

Minutes:

**SENATOR NETHING:** Opened the hearing on Engrossed SB 2310; a BILL for an Act to amend and reenact subsection 2 of section 52-06-04 and section 52-06-05 of the North Dakota Century Code, relating to unemployment compensation benefit amounts and maximum potential benefits.

**RENEE FENNING:** ND Building and Construction Trades Council, to testify in support of Engrossed SB 2310. This bill provides an alternative means to qualify for unemployment benefits for seasonal workers. (testimony attached #1) (tape 4394-4585)

**SENATOR NETHING:** I noticed on your testimony, this was testimony to the first engrossment. Could you point out the items that do not apply?

**RENEE FENNING:** On page 5, lines 19-25 in the original bill would be where we're adding the language to put in the definition of insured workers; and on page 7, lines 13-17 of the original bill is where you would establish the 12 weeks of potential benefits eligibility. The rest of the original bill goes back to the statute on the book.

**VIRGIL HORST:** Business Agent for the Operating Engineers, to testify in support of SB 2310, as Engrossed. I have a lot of people who are basically faced with this problem where they have the high and low quarters and are unable to qualify for unemployment benefits when they are laid off. The majority of our workers are seasonal employees of construction companies that employ people who work in excess of 100 or more hours per week. Unemployment was basically a tool put in place to keep the seasonal worker in the labor force. In states like ND, where we experience harsh weather conditions, our contractors who build or repair roads, pipelines, or whatever, are forced to complete the job as quickly as possible before the ground freezes. These conditions often require a large labor force working beyond the normal 40 hour week, but for a shorter period of time. It is these seasonal workers that are often penalized by not qualifying for jobless benefits due to the excessive hours they work. Weather as well as load restrictions also

affect early spring work. July through August and sometimes September, the seasonal workers puts in 60-80 hours per week. The big push may involve working 80-100 hours per week from September-November. The problems posed is 2 individuals earning the same annual income - one working all of his earnings in 4 even quarters and the other working excessive hours in uneven quarters. It is sad when the seasonal worker does not qualify for jobless benefits because his total earnings are less than 1.5 times his high quarter due to the fact he worked a lot of overtime. It gets more difficult each year trying to keep young people in our industry due to the way of life we live - with hardly any income during the winter months, always away from our family during the summer months, and the excessive hours accumulate while working away from home. For these reasons we are losing our work force. Let's keep our men and women working in the state. I urge your support of the passage of SB 2310. (tape 4584-4990)

**SENATOR BOWMAN:** Are you saying that a worker working 6 months and earning \$24,000 as compared to a worker earning that amount of 12 months should receive full benefits?

**VIRGIL HORST:** Yes. Our seasonal workers live away from home, so when you subtract those costs, their income is less.

**SENATOR BOWMAN:** Can't they find a second job?

**VIRGIL HORST:** It is not a luxury to be away from your home and family during the summertime and working long hours. The construction months also make it such that a lot of workers don't qualify for unemployment until April.

**SENATOR SOLBERG:** How many workers would be eligible to receive this benefit? (tape 5366)

**VIRGIL HORST:** Two-thirds of our workforce would have a hard time qualifying for unemployment benefits due to uneven quarters.

**SENATOR SOLBERG:** Could you give me a number?

**VIRGIL HORST:** That might be hard to do.

**SENATOR SOLBERG:** If you have 2/3 of your workers, how many workers do you have? (tape 5458)

**VIRGIL HORST:** Let's say we have 400 workers. I think this is an easier question Job Service could answer. They would have statistics on that.

**SENATOR SOLBERG:** How many are in your union in Bismarck?

**VIRGIL HORST:** Let's say Burleigh County has 100 members.

**SENATOR SOLBERG:** And, 2/3 of them would be eligible under this?



**VIRGIL HORST:** Under the present law, probably not 2/3 of them. But, if this law passed, it would make it easier for them to qualify.

**LEO JABLONSKI:** Job Service ND, to provide information on what the impact of SB 2310 would have on the unemployment insurance trust fund. The bill provides for an alternate method of monetarily qualifying for unemployment insurance benefits. This will would affect 77 claimants, and impact the unemployment insurance fund pay outs by \$181,000 for the 1999-2001 biennium. (testimony attached #2) (tape 5700-6000)

**SENATOR SOLBERG:** The numbers your have presented don't match with those presented by Virgil.

**LEO JABLONSKI:** The 77 is based on our figures of people who actually filed for claims and were ineligible because of the 1.5 times break in place now.

**SENATOR ANDRIST:** How many different employers would be involved in these 77 claims?

**LEO JABLONSKI:** I would have no idea. (end of tape)

**SENATOR ANDRIST:** Will the rates for the employers of these 77 employees go up? (tape 2, side A, 30)

**LEO JABLONSKI:** There is another bill in the House addressing the issue of raising the average tax rate on employers. In figuring in that formula of how much that is going to be raised is based on the pay out. To tell you how much that would affect a particular employer or how many employers, I can't at this time.

**SENATOR ANDRIST:** Hundreds of employers pay into the fund and have never filed a claim. Someone should be able to tell us what the impact of this bill will be on them.

**LEO JABLONSKI:** If this potential pay out means we are going to have to change the rate structure for everyone, then potentially it could. I can find out.

**SENATOR ST. AUBYN:** Isn't there a pool where when the rates drops down to a certain level, then the rates automatically have to be increased?

**LEO JABLONSKI:** No. There is a provision in the law that the trust fund is supposed to be at a certain level. Every year we set rates based on where that level is. That is only done once a year, there is no automatic trigger during the year to reflect changes.

**SENATOR ST. AUBYN:** I thought there was a benchmark where at that point, you would have to raise more revenues to get above that.

**LEO JABLONSKI:** Yes, there is a target that is in law that the Trust Fund should be at, I believe \$40M. That's what we're striving for. That's why the other bill in the House is aimed at adjusting rates to get the fund to that \$40M level.

**SENATOR ST. AUBYN:** Have we dropped below that?

**LEO JABLONSKI:** Yes.

**SENATOR NETHING:** Closed the hearing on SB 2310 (tape 285)

=====  
2/10/99

**SENATOR NETHING:** Reopened the hearing on SB 2310 and called for the motion on SB 2310. (tape 300)

**SENATOR SOLBERG:** Moved do not pass SB 2310 as engrossed.

**SENATOR BOWMAN:** Seconded the motion.

**ROLL CALL: 3 YEAS; 9 NAYS**

**MOTION CARRIED TO DO NOT PASS SB 2310 AS ENGROSSED.**

Yeas: Naaden; Solberg; Bowman

Nays: Nething; Lindaas; Tallackson; Tomac; Robinson; Krauter; St. Aubyn; Grindberg;  
Holmberg; Kringstad; Andrist

**SENATOR TALLACKSON:** Moved do pass SB 2310 as engrossed.

**SENATOR KRAUTER:** Seconded the motion.

**DISCUSSION:** Senator Solberg expressed concern about voting for a bill that had so much conflicting testimony presented and the possibility of having a huge impact on the fund; Senator Bowman was concerned about the fund being actuarially sound; Senator Andrist was disappointed with the testimony of Job Service in not providing reliable data.

**ROLL CALL: 10 YEAS; 4 NAYS**

**MOTION CARRIED DO PASS SB 2310 AS ENGROSSED**

**CARRIER: SENATOR THOMPSON**

Yeas: Nething; Lindaas; Tallackson; Tomac; Robinson; Krauter; St. Aubyn; Grindberg;  
Holmberg; Kringstad

Nays: Naaden; Solberg; Bowman; Andrist

**SENATOR NETHING:** Closed the rehearing on SB 2310. (tape 800)

Date: 2/10/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2310

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO NOT PASS

Motion Made By Sen. Solberg Seconded By Sen. Bowman

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman		✓			
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson		✓			
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn		✓			
Senator Grindberg		✓			
Senator Holmberg		✓			
Senator Kringstad		✓			
Senator Bowman	✓				
Senator Andrist		✓			

Total (Yes) 3 No 9

Absent \_\_\_\_\_

Floor Assignment H/H/H

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

Date: 2/10/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2310

Senate APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Sen. Tallackson Seconded By Sen. Krauter

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman		✓			
Senator Solberg		✓			
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 10 No 4

Absent \_\_\_\_\_

Floor Assignment SENATOR THOMPSON

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

REPORT OF STANDING COMMITTEE (410)  
February 10, 1999 2:17 p.m.

Module No: SR-27-2485  
Carrier: Thompson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2310, as engrossed: Appropriations Committee (Sen. Thompson, Chairman)**  
recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2310 was placed on the Eleventh order on the calendar.

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2310**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2310

House Industry, Business, and Labor

Conference Committee

Hearing Date 2-24-99

Tape Number	Side A	Side B	Meter #
1	x		25.3 - 60
1		x	0 - 13.3
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

SB 2310 Relating to unemployment compensation benefit amounts, definitions, maximum potential benefits, and rates.

Rep. Joel Heitkamp, introduced and testified in support of the bill.

(see attached written testimony)

Dick Bergstad, President ND Building Trades Council, testified in support of the bill.

(see written testimony)

Keiser asked how much a worker can make before they lose benefits.

Bergstad said the amount is 60%.

Virgil Horst, Business Agent for Operating Engineers, Local 49, testified in support of the bill.

(see attached written testimony)

Keiser asked what per cent of the 77 people will be affected.

Horst said he would estimate about 50% of them.

Thorpe asked about information relating to employers losing employees out of state because of the lose of benefits.

Horst said yes, some employees go to other states.

Thorpe asked if the out migrating people are highly skilled.

Horst said yes, many of those out migrating were highly skilled type people.

Terry Curl, Boilermakers Local union, testified in support of the bill. His employees move around to keep working. Young employees do not want to move around and work.

Froseth asked if employees are reimbursed for expenses.

Curl said some expenses are paid.

Curt Peterson, Associated General Contractors of ND, testified in support of the bill. They have a wider concern for finding employees. There is competition for finding workers with other states. The contractors pay high wage taxes for employees and to find out that employees are not getting a fair return for those taxes creates a unfavorable situation.

Sandie Ferderer, self, testified in support of the bill. She said additional benefits are needed because in ND job layoff can be longer, partially, because of longer winters.

Berg said there was a concern about employers paying in and employees not getting enough return of benefits. Berg went on to say that in the past years a report indicates that employees in ND received greater benefits than employers paid in.

Dennis Denill, self, testified in support of the bill. He showed receipts that other states pay greater benefits to laid off workers. This shows that there is no reason to stay in this state.



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House Industry, Business, and Labor

Bill/Resolution Number Sb 2310

Hearing Date 2-24-99

Chairman Berg closed the hearing on the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2310

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-9-99

Tape Number	Side A	Side B	Meter #
1	x		0 - 3719
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: SB ~~3210~~ <sup>2310</sup>

Chairman Berg: Explains the bill, as the changed benefits for temporary employees. Basically what the bill does is for an employee to work one quarter out of four, would entitle them to receive benefits that do not now receive. One of the fundamental philosophies of unemployment insurance is that it helps people out who are in the work force and have lost their job. Most states around the country use this 1.5 combination because they're saying that a person only works three months out of the year are really not in the work force, as compared to a person who has worked two, three or four quarters.

Leo Jablonski from Job Service came in to give information to the committee. Presently an individual must have wages in at least two calendar quarters of their base period and must have at least one and one half times, or half of their high quarter spread out in some of the other quarters. If not, they do not meet the level to qualify. What this bill does is changes if they don't

qualify under that method, if they have wages in at least two quarters they still have to have some wages in more than one quarter. If they have at least 20 times the average weekly wage in that high quarter they would qualify for 12 weeks of benefits. It is an alternative way of monetarily qualifying for benefits. ND to my knowledge has always used the one and one half times since the beginning of time as far as I know. This would be a new way of doing things.

Chairman Berg: One of the things that I'm confused about is the fiscal note. Could you explain how that is.

Leo Jablonski: The fiscal note is based on people during a years period of time that actually came in and filed claims for benefits and were found ineligible based on the present one and one half times. There were 77 of them in a one year period of time. That is the only number we have to base any estimates on what the impact would be. There are probably more out there. People stop in the office to see if they made enough money to be eligible. It's very easy for us to access their social security # and tell them no, because they do not have enough wages in their base period. We encourage them to file, but they say well there is no sense in going through the procedure if they are not eligible. We feel there are a lot of people that have done that, or know through experience that they do not have wages efficient to qualify, so they will not file. We don't really know what the total impact is if this bill as amended passes. All we really have to use as a basis is the people who have filed and found ineligible under this provision. The impact could be higher. We really have no way of predicting that.

Rep. Froseth: The majority of these seasonal workers are state employees, is that right?

Leo Jablonski: No, they could come from anywhere. The fiscal note projects that the first year of the biennium 178 thousand of the impact would come from the unemployment insurance fund

that the employers pay in throughout the year, with 31 hundred coming from state benefit fund, and that is the state employees.

Chairman Berg: So on the fiscal note we are talking about increased premium dollars that would go into the fund. That is how this is going to be offset.

Rep. Glassheim: It's an increased payout of the funds, is there a mechanism to offset it?

Chairman Berg: It has increased the rates because we plugged in where we want the trust fund to be, and so if there is additional payout, then rates will have to cover the benefits paid out plus move us towards that trust fund balance. So if there is one half million dollars additional payout then rates would have to go up to offset that.

Rep. Stefonowicz: Then within the formula that we adopted then that would automatically done?

Chairman Berg: Yes. On that array system, based on how many dollars we need, that would reflect in to what the rates would be for the positive balance and negative balance employers.

Rep. Glassheim: What is the reason to have this one and one half % threshold?

Leo Jablonski: The basic reason is to demonstrate a job attachment to the work force. If you have only worked three months out of the year, are you really in the work force, and really deserving of these benefits? So it's more of a philosophical thing to show that you really are out there in the labor force, and so by saying you need to have wages in more than three months out of the year.

Rep. Glassheim: That is the number of quarters you have to have earnings in plus the one and one half % of the high quarter. They may be working in three quarters but they have small amounts in two of the three quarters. Is that right?

Leo Jablonski: Yes, if they have one high quarter they have to have at least half of that somewhere in the other three quarters. If they don't have at least half of that throughout the other

nine months of the year, then we question if they are really out there the other nine months of the year looking for work, and are they really in the labor market? There are a vast majority of the states have that same type of legislation, to demonstrate an attachment to the work force.

Chairman Berg: What would happen to college students that work from June to August and also have a part time job during the school year, could they qualify for unemployment benefits?

Leo Jablonski: They could qualify monetarily, but would not be allowed them, because full time students are not allowed to receive benefits.

Rep. Ekstrom: My concern is that we have a situation where someone makes an attempt of going to work, and for a single period of time, make more money per hour than they do any other time of the year. The reality of the job market in ND prove that to be true. In other words, if you run heavy equipment and make \$ 30/hr then in the off season you have a job making \$ 7/hr or less. What I'm thinking is that this would address that inequity that is inherent to the sec session.

Chairman Berg: If someone is making \$ 30/hr for one quarter, then they need to make \$15 spread over three quarters, or \$ 5/hr in the other three quarters. What you are saying is correct, but the threshold is a lot lower than what you are saying. It's the people for some reason that got into the job or quit in mid season that are not qualified.

Rep. Ekstrom: I think we are talking about a very limited amount of people here. I feel that they are falling through the cracks so to speak. These people can't be sitting at home not working at all.

Chairman Berg: If we could look back to the sheet with the examples. Looking at #1, this individual has worked every quarter and that business shuts down. That person receives \$150 in unemployment benefits. With #3, this person receives \$270. This person has had a very busy

three months, worked part time for two quarters and didn't work at all for one quarter.

Philosophically we need to decide where do we want to shift the benefits to. This would shift dollars to that individual and is going to shift away from the others.

Rep. Glassheim: This is a question of fairness. You have person #1 earning \$15,600 and is paying unemployment insurance. Person #3 is earning \$15,600 and is presumably paying at the higher rate and is not covered. So that person's unemployment is subsidizing someone else who is more of a full time lower wage worker.

Rep. Thorpe: I'm not going to say I understand all these formulas, but what I think this bill is attempting to do is creat better equity for construction workers. Their dilemma is that when they close down for the winter season, they want to be able to hang on to these workers until the next season. What they are experiencing is that without some additional help, they feel these people are leaving to the bigger towns or out of state and are not returning. Then they have to recruit and train others, and with a short work season they are having difficulties. If this bill helps the situation, then I'm all for it.

Vice Chairman Kempenich: My concern is that we are taking away the incentive to go out and find a job. The person that doesn't want to work creates an inequity for someone who does want to work.

Rep. Klein: One of the things that you need to recognize is that the system takes care of itself. You talk about the person that makes \$ 30/hr, but he recognizes that that is a high paying job but that it doesn't last all year. He could probably have a job at \$ 15/hr but is giving it up for the higher pay and overtime. If they can't find employees, then they have to raise the pay to get them on the job.

Rep. Ekstrom: I had asked JSND to give me a reading on how many people are we really talking about that don't work or go back to a job. The number, depending on attached and unattached, is between 75-85% during the off season are working, so we are worrying about the lazy guy sitting there not working. This is a small percentage of people. We shouldn't subsidize the people that are not working.

Rep. Glassheim: We are talking about a maximum of 12 weeks of unemployment. It looks like from the example that the person would be off almost seven months. What I'm saying is that you are not paying them to sit at home perpetually. They have three or four months where they are not covered. They would be much better off earning six or seven dollars than nothing.

Chairman Berg: To carry this forward, if it's good to work one month and receive benefits, why would it not be good to work one whole quarter and receive benefits? If they earn that \$15 thousand in two weeks should they receive the benefits?

Rep. Glassheim: If they are paying in I don't see why not.

Rep. Stefonowicz: To reverse the logic, about the person earning the high wages and should set aside something for when they are not working. The idea is that they do pay in to the system, even at a lower rate. They are putting something into the system so I don't think they should be left out.

Chairman Berg: There are two things that happen here. First, the seasonal worker, all of their legislation through the last decade relates to the seasonal employers and employees. The reason is because unemployment insurance is used as a benefit for that job. What the worker does is to balance that out and figures what the benefits are, and the employer does the same. Those employers have been deficit employers, so they've paid in 7 million dollars last year less than

their employees have received in benefits. It's a win/win for the employer. The other thing is that what unemployment insurance was intended for in the thirty's and is today is when in fact companies shut down, people who have worked their whole lives at a job and no longer have that job. The true purpose for unemployment insurance would be if you have those seasonal workers and you no longer have that job, the fact that it's been used as a stop gap to keep those employees in the work place is purely economical. That's what we are being asked to do with this bill is to increase the economics, not for the person who is working the full season, but for the person who can pick up in the middle of the season to finish the season.

Leo Jablonski: Listening to your discussion, it seems to concentrate on the construction workers. It could easily be someone who hasn't worked who starts at a new business that is hiring for three months to stock shelves. When that job is over, under this bill, they can be eligible for benefits. This affects the whole gamut of workers, not just construction.

Rep. Ekstrom: I'm curious to know what Senate thought about this. I know we look at things in a different way, but somehow I don't think they were afraid to step up to this.

Chairman Berg: What we need to focus on is to restore the trust fund. We are not trying to reduce any benefits in trying to restore the fund. The last time the fund was in jeopardy the benefits were reduced. This bill could have a negative impact on the trust fund.

Rep. Stefonowicz: I thought you said there would be an automatic adjustment in the rate. When does that rate change, and when would that be triggered?

Chairman Berg: The rates would have to increase beyond what we're intending if there was a cost to the fund. The rates are set in December of every year. This affects people other than the seasonal employers. I have no problem with those employers wanting to increase benefits to



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House Industry, Business and Labor Committee

Bill/Resolution Number Sb ~~3210~~ 2310

Hearing Date 3-9-99

their employees if they are willing to pay a higher tax to pay for the benefits for the employees.

We don't have a system now that can attach those increased benefits to those employers.

There was no further discussion.

Rep. Klein moved for a Do Not Pass.

Rep. Koppang seconded the motion.

The vote was 9 yea, 5 nay, 1 absent.

The motion carried.

Rep. Keiser will carry the bill.

Date: 3-9-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2310

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do not pass

Motion Made By Klein Seconded By Koppang

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe		/
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom		/			
Rep. Froseth	/				
Rep. Glassheim		/			
Rep. Johnson	/				
Rep. Keiser					
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux		/			
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz		/			

Total (Yes) 9 No 5

Absent 1

Floor Assignment Keiser

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

REPORT OF STANDING COMMITTEE (410)  
March 10, 1999 10:06 a.m.

Module No: HR-43-4414  
Carrier: Keiser  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2310: Industry, Business and Labor Committee (Rep. Berg, Chairman)** recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). SB 2310 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2310

**TESTIMONY ON SENATE BILL 2310**  
**Dick Bergstad**

Mr. Chairman, my name is Dick Bergstad. I am here to speak in support of Senate Bill 2310.

Senate Bill 2310 will:

**Delete the provision in law that provides a special maximum tax rate of 8.5% for employers in industry 161, highway and street construction, except elevated highways, who have a deficit balance in their job insurance experience rating account. (This change is on page 2, lines 14 to 20.)**

The special rate was added two years ago when the legislature approved a more favorable schedule for determining weeks of potential benefits for people who had been employed in industry 161.

We believe all unemployed persons who apply for job insurance benefits should have the opportunity to use the same schedule for determining their potential number of weeks of benefit eligibility. We will speak more to that later. However, if the method for determining weeks of potential benefit eligibility is the same as everyone, as we propose, then the tax rate should also be the same for all employers.

Senate Bill 2310 also includes three changes to the law section that establishes the way the number of weeks of potential eligibility is determined.

- 1. Eliminates the special provision for determining weeks of benefit eligibility for people who worked in industry 161. (This change is on page 7, lines 7 through 13 and 18 through 27.) This part of the law is scheduled to expire after December 31, 1999.**
- 2. Revises the standard method for determining weeks of potential eligibility. The revised method for determining weeks of potential eligibility is the same as the method previously made available only to people who worked in industry 161. (This change is found on page 6, lines 30 to 31, page 7, lines 1 through 6 and page 8, lines 3 through 10.)**
- 3. Adds a provision which provides 16 weeks of potential benefit eligibility for people filing for benefits who do not meet the requirement that base period earnings must be at least 1.5 times their high quarter earnings in order to qualify for any benefits. Those people will be eligible for 16 weeks of benefits if they earn 20 times the average weekly wage during their base period. (The change on page 5, lines 19 through 25 adds those people to the definition of insured workers. The change on page 7, lines 13 through 17 establishes 16 weeks of potential benefit eligibility for them.)**

Mr. Chairman, I going to start by reviewing how the number of weeks of potential benefit eligibility are calculated and then explain why we are requesting consideration for changing those requirements. Attachment #1 gives three examples of how the method for determining weeks of eligibility works in different circumstances.

Benefit eligibility is based on the first four of the last five completed calendar quarters prior to the date the individual filed his or her claim. We are using examples where somebody filed a claim on October 15, 1998 to show you how the weeks of potential eligibility are calculated in several different situations.

**Example #1.** The person earned \$3,900 each calendar quarter. This is a weekly salary of \$300. We determine the number of weeks of benefits the person qualifies for by dividing the earnings in the base period, which is the first four of the last five completed calendar quarters, by the earnings in the highest quarter. In this example, base period earnings are \$15,600. That total is divided by the high quarter earnings of \$3,900. This gives us a ratio of 4.0. That ratio qualifies this person for 26 weeks of potential benefit eligibility.

There is a second requirement. The ratio of base period earnings to high quarter earnings must be at least 1.5 for the person to qualify for any benefits. Individuals must earn at least half again as much during their base period year as they earned during their high quarter. This method for determining a person's attachment to the work force works well in most situations. This requirement also creates significant problems in other situations for people who have a strong and ongoing attachment to the work force.

The last step in the process for our example is to calculate the individual's weekly benefit amount. That is determined by dividing the high quarter earnings, \$3,900, by the 26. This gives the person in our example a weekly benefit amount of \$150.00.

**Example #2.** This person works in a seasonal industry, like highway construction, where earnings vary a great deal during the year. When we look at this person's base period we see first of all the earnings from the highway construction industry. This amounts to \$1,560 in the April to June quarter, nothing in the January to March quarter, \$1,560 in the December 98 quarter and \$12,480 in the July to September 1988 quarter.

We assumed this person worked about two weeks in the April to June quarter earning \$13 an hour for 60 hours per week. We also assumed that the person would be paid for about 73 hours of work, including overtime, each of the weeks during the July to September quarter. This may seem a little bit extreme. However Mr. Horst will follow my testimony and will show you this is not unusual in highway construction.

We are also going to assume this person, once he left his employment in highway construction, was able to obtain work with a telemarketing firm. We are going to assume the person earned \$7 an hour and worked 25 hours per week. That gives this person the additional earnings for the October to December quarter, the January to March quarter, and the April to June quarter. The persons total base period earnings in this example are \$21,375.

When we compute the potential weeks of eligibility we take the base period earnings \$21,375 and divide by the high quarter earnings of \$12,480. This gives us a ratio of 1.71. This meets the minimum requirement that the ratio be at least 1.5 and qualifies the person for 12 weeks of benefits under our present law. The person would qualify for the same number of weeks under the changes proposed changes in Senate Bill 2310.

Example # 2 shows that when a seasonal worker has off season work available, additional earnings will sometimes help him or her qualify for a minimum number of weeks of benefits.

The final step here is to compute the person's weekly benefit amount. This is done by dividing the high quarter earning of \$12,480 by 26. The result is \$480. This means the person in our example would have been eligible for the maximum benefit of \$271.

**Example #3.** This person shows the same construction industry earnings as the person in example #2. However, this person is in an area where no other work is available and his income is limited to the earnings from street and highway construction. When we compute his potential eligibility, the first step is to divide the base period earnings of \$15,600 by the high quarter earnings of \$12,480. This gives us a ratio of 1.25. The person does not meet the minimum requirement of earning 1.5 times his high quarter earnings during his base period. In this case the person was available for work and worked all of the hours that were made available to him. He did have a good quarter of earnings during July to September, but that's it, and now he's confronted with no benefit eligibility.

We compute the weekly benefit amount the person would have been eligible for by dividing the high quarter earnings of \$15,600 by the base period earnings of \$12,480 and again arrive at \$480 which means the person would have been eligible for the maximum benefit amount of \$271 if he had met the 1.5 times earning requirement.

This person would not be eligible for benefits under our present law. However, Senate Bill 2310 would make it possible to establish eligibility by earning 20 times the average weekly wage during the base period. The average weekly wage in 1997 was \$417. Twenty times this amount is \$8,340. The change we are recommending to you would make it possible for this person to qualify for 16 weeks of benefits based on his earnings which are more than 20 times the weekly wage even though he did not earn 1.5 times his high quarter wages during his base period.

The proposed changes in Senate Bill 2310 affect highway construction workers more than any other group. However, there are other groups whose pattern of employment is also irregular that will be affected by this proposed change as well.

When you look at the variable earnings of highway construction workers, please keep in mind this is not something they choose. The length of the season is determined by the weather. Significant activity does not start until after load restrictions are lifted. As you are aware this occurs at different times each year, sometimes as late as June. On the other end of the scale contractors try to finish up before winter weather is expected to hit. Sometimes they shut down when the weather is still fairly mild. However, they must complete their requirements before the winter season starts. They have to stop working by a certain time because they cannot rely on the weather continuing to be favorable.

When we have a dry season or some other disaster for farmers there is usually some form of federal assistance. There is no comparable relief for outside workers in industries such as highway construction when their work is affected. There is an extended benefits program available. However, that has not been in effect for years. In addition it has no affect and no advantage for someone who was not eligible in the first place as is the case for many of our workers.

In the construction industry, just as in other industries, higher skilled workers earn more money. In addition they have a better opportunity to find work in other states. The people working at the lower end of the skill levels, especially those who are just entering that trade, are much more dependent on Job Insurance benefits being available when work is shut down.

Work force requirements in the construction industry have changed a great deal and continue to change. Technology such as computers and other sophisticated equipment is becoming the norm. This means that people need to bring more skills and more training to the job and need to continue the training and development to stay current with what's happening in the field.



What we see happening in our industry is that people, especially younger people are leaving the state for higher wages. Older people in the trades are encouraging young people in their families to stay out of the trade because of low wages and low or unavailable Job Insurance benefits. It is difficult to break into this trade. A young person with a family is least able to go without Job Insurance benefits during the off season.

All of this has a long term impact on contractors who are faced with not meeting completion schedules because of worker shortages or because of shortages of workers with the skills contractors need.

The irony is that contractors pay higher unemployment taxes than any other industry. Yet, the manner of calculating the weeks of potential eligibility and the basic threshold for eligibility, based on the ratio of earnings during the base period year to the earnings for the high quarter. This makes establishing eligibility for benefits very difficult for many workers in this industry and in those cases where they do qualify the number of weeks are very limited.

The fiscal note for the bill shows an impact of about \$3.3 million for the next biennium or about \$1.6 million per year. Almost all of that cost is associated with the improvements we are recommending to the number of weeks of potential eligibility that workers qualify for. Estimates are that only a very small number, approximately 77 people, would be affected by the provision which would provide 16 weeks eligibility for those workers who do not meet the 1.5 times requirement, but who have earned 20 times the average weekly wage during their base period.

Mr. Chairman, in 1987 Job Insurance benefits for our state's unemployed workers were severely cut back. At that time the trust fund was broke. Tax rates were at an all time high and we were in a significant recession. Since that time the trust fund balance has been restored and tax rates are now at an all time low.

Our proposal to you will restore some of those cuts and will have a positive effect on our state's workers and on the availability of skilled workers in the future. The request we are making is reasonable and is needed. Mr. Chairman and members of the committee I request your favorable consideration of this legislation.

I would like to call on Mr. Virgil Horst to add to my comments. We will be happy to answer any questions that you have for us.

**SENATE BILL 2310**  
**SENATE**  
**INDUSTRY, BUSINESS & LABOR COMMITTEE**  
**SENATOR DUANE MUTCH, CHAIRMAN**  
**JANUARY 27, 1999**

Mr. Chairman, members of the committee. My name is Jennifer Gladden, Executive Director, Job Service North Dakota. I am not here to support or oppose Senate Bill. I do want to provide you with information on what the impact of this bill would be on the unemployment insurance trust fund.

This Amendment does three things:

1. Deletes the special taxing of employers in industry 161, highway and street construction.
2. Provides for an alternative method of monetarily qualifying for unemployment insurance benefits.
3. Repeals the special duration schedule for industry 161 claimants and by providing a new duration schedule for all claimants regardless of industry.

This Bill would impact the unemployment insurance fund by reducing income to the fund and increasing benefit payments. Income to the fund would decrease by \$637,000, while benefit pay outs are projected to increase by \$3,691,000 for the 1999-2001 biennium. The benefit pay outs are projected to increase by \$4,260,000 for the 2001-03 biennium.

Relating the impact of Senate Bill 2310 to tax rates, for 1999, the employer average tax rate is 1.14%. Under the current tax schedule, to reach a \$40 million Trust Fund Reserve by September 30, 2001, the employer average tax rate would be 1.26%. If Senate Bill 2310 were enacted, the employer average tax rate needed would be 1.35% to reach a \$40 million Trust Fund Reserve by September 30, 2001.

Under the current legislation, 100% of the tax increase would be on Positive Balance Account Employers. Employees of Positive Balance Account Employers would not be the primary beneficiaries of Senate Bill 2310.

Mr. Chairman, this concludes my testimony. I would try to answer any questions from the committee. Thank you.

# DETERMINING WEEKS OF BENEFIT ELIGIBILITY

Benefit eligibility is based on earnings during the first 4 of the last 5 completed calendar quarters

Examples are for a Job Insurance claim filed October 15, 1998

Current quarter	Lag Quarter	First four of the last five completed calendar quarters				Base period earnings
		Apr-Jun '98	Jan-Mar'98	Oct-Dec '97	Jul-Sep '97	
#1	\$3900	\$3900	\$3900	\$3900	\$3900	\$15,600
#2	\$12,480	(\$1750) \$1560	(\$2275) \$0	(\$1750) \$1560	\$12,480	\$21,375
#3	\$12,480	\$1560	\$0	\$1560	\$12,480	\$15,600

### Example #1

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$15,600} \\ \text{High Quarter Earnings} &= \underline{\$3900} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$15,600}{\$3900} \\ &= 4.0 = \underline{26} \text{ Weeks} \end{aligned}$$

**Must be at least 1.5 times**

### Example #2

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$21,375} \\ \text{High Quarter Earnings} &= \underline{\$12,450} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$21,375}{\$12,480} \\ &= 1.71 = \underline{12} \text{ Weeks} \end{aligned}$$

**Must be at least 1.5 times**

### Example #3

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$15,600} \\ \text{High Quarter Earnings} &= \underline{\$12,480} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$15,600}{\$12,480} \\ &= 1.25 \end{aligned}$$

**Not eligible - Must be at least 1.5 times**

Average Weekly Wage = \$417 x 20 = \$8340\*

\* Eligible for 16 Weeks

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High Quarter Earnings}}{26} \\ &= \frac{\$3900}{26} \\ &= \underline{\$150} \end{aligned}$$

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High Quarter Earnings}}{26} \\ &= \frac{\$12,480}{26} \\ &= \underline{\$480 (\$271 \text{ Max})} \end{aligned}$$

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High Quarter Earnings}}{26} \\ &= \frac{\$12,480}{26} \\ &= \underline{\$480 (\$271 \text{ Max})} \end{aligned}$$

**Claimants with Effective Dates from 7-1-1996 to 6-30-1997**

Not Flood Related - Not Special 1611

Potential Duration (Current Law)	Potential Duration (Proposed Law)									Total
	0	12	14	16	18	20	22	24	26	
0	1,936			69						2,005
12		815	1,203	1,384	484					3,886
14					1,061					1,061
16					82	1,083				1,165
18						844	435			1,279
20							1,382			1,382
22							332	989		1,321
24								1,084	184	1,268
26									7,014	7,014
<b>Total</b>	<b>1,936</b>	<b>815</b>	<b>1,203</b>	<b>1,453</b>	<b>1,627</b>	<b>1,927</b>	<b>2,149</b>	<b>2,073</b>	<b>7,198</b>	<b>20,381</b>

Not Flood Related - Special 1611

Potential Duration (Current Law)	Potential Duration (Proposed Law)									Total
	0	12	14	16	18	20	22	24	26	
0	24			8						32
12		83	147	180	47					457
14					80					80
16					2	73				75
18						54	19			73
20							56			56
22							13	24		37
24								35	5	40
26									80	80
<b>Total</b>	<b>24</b>	<b>83</b>	<b>147</b>	<b>188</b>	<b>129</b>	<b>127</b>	<b>88</b>	<b>59</b>	<b>85</b>	<b>930</b>

Not Flood Related

Potential Duration (Current Law)	Potential Duration (Proposed Law)									Total
	0	12	14	16	18	20	22	24	26	
0	1,960			77						2,037
12		898	1,350	1,564	531					4,343
14			0		1,141					1,141
16				0	84	1,156				1,240
18					0	898	454			1,352
20						0	1,438			1,438
22							345	1,013		1,358
24								1,119	189	1,308
26									7,094	7,094
<b>Total</b>	<b>1,960</b>	<b>898</b>	<b>1,350</b>	<b>1,641</b>	<b>1,756</b>	<b>2,054</b>	<b>2,237</b>	<b>2,132</b>	<b>7,283</b>	<b>21,311</b>

The impact of the duration schedule currently applicable to only SIC 1611 claimants.  
and if certain currently ineligible claimants are given a potential duration of 16 weeks.



Edward T. Schafer, Governor • Jennifer L. Gladden, Executive Director

1000 E Divide Ave • PO Box 5507 • Bismarck ND 58506-5507

January 29, 1999

Mr. Richard Bergstad  
Electrical Workers Union Local 714  
1925 North Broadway  
Minot, ND 58701

Dear Richard,

Following the hearing on SB2310 you requested we provide you with the fiscal impact of just that part of the bill that provides for an alternative method of monetarily qualifying for unemployment insurance benefits.

You asked for two scenarios. One scenario would give claimants a potential duration of 16 weeks who have a base period wage ratio less than 1.50, but who have base period wages not less than 20 times the average weekly wage. The second scenario would give claimants a potential duration of 12 weeks for the same criteria.

Under the first scenario (16 week duration) the impact of the bill for the 1999-2001 biennium is projected to have an increased payout of \$241,100 (\$237,000 Special Funds and \$4,100 State Benefit Fund) and an impact of \$4,200 to local government. The impact of the bill for the 2001-2003 biennium is projected to have an increased payout of \$321,500 (\$316,000 Special Funds and \$5,500 State Benefit Fund) and an impact of \$5,600 to local government.

Under the second scenario (12 week duration) the impact of the bill for the 1999-2001 biennium is projected to have an increased payout of \$181,100 (\$178,000 Special Funds and \$3,100 State Benefit Fund) and an impact of \$3,200 to local government. The impact of the bill for the 2001-2003 biennium is projected to have an increased payout of \$241,100 (\$237,000 Special Funds and \$4,100 State Benefit Fund) and an impact of \$4,200 to local government.

Dick, these projections are provided with a big *caveat*. The projections are based on a history of individuals who have actually filed claims and been found ineligible because of a ratio less than 1.50. We feel there are many people who have only inquired in the past, found that it appeared they were ineligible because of the ratio and did not apply. We do not know how many of these cases there are and so the projections could be understated.

Sincerely,

Leo W. Jablonski  
Chief of Benefits

OUT OF TOWN EXPENSES

MOTELS:                     \$20-\$35 PER NIGHT  
  
                                  \$20.00 x 6 = \$120.00 PER WEEK X 4 =                     \$480.00 PER MONTH

MEALS:                     \$5.00 = BREAKFAST  
                                  \$6.00 = LUNCH  
                                  10.00 = SUPPER  
  
                                  21.00 PER DAY FOOD EXPENSES X 6 =  
  \$126.00 x 4   =                     \$504.00 PER MONTH

**ROOM AND BOARD TOTAL                     \$984.00 PER MONTH**

GAS:                         32.5 CENTS PER MILE  
                                  (AS IRS CALCULATION)

To: Chairman Mutch  
Members of the Industry, Business and Labor Committee

Subject: SB 2310 - Unemployment Compensation

My name is Virgil Horst. I am a business agent for the Operating Engineers. On behalf of the employees working in the construction industry in North Dakota, I would ask that you support SB 2310.

The majority of our workers are seasonal employees of construction companies that employ people who work in excess of 100 or more hours per week. Unemployment was basically a tool put in place to keep the seasonal worker in the labor force. In states like North Dakota where we experience harsh weather conditions our contractors who build or repair roads, pipe lines, power plants, etc. are forced to complete the job as quickly as possible before the ground freezes. These conditions often require a large labor force working well beyond the normal 40 hour week but, for a shorter period of time. It is these particular seasonal workers that are often penalized by not qualifying for jobless benefits due to the excessive hours they worked. As we know January, February, March and most often April produce no work for the seasonal worker. As early as March-April road restrictions are in place and in May or early June road restrictions are removed and work usually begins. July, August, and sometimes September the seasonal worker puts in 60-80 hours per week. Weather permitting, the big push is on, as often referred to by the contractors trying to complete projects and meet dead lines while working 80-100 hours per week in the months of September, October, and November. In late November and December mother nature sets in.

This poses a problem. Two individuals earning the same annual income, one working all his earnings in four even quarters and the other working excessive hours in uneven quarters. It is sad when a seasonal worker does not qualify for any jobless benefits because his total annual earnings are less than one and one-half times his high quarter due to the fact he worked a lot of overtime.

The 1997 legislative session provided special benefits for those workers in industry 161, highway and street construction. This was good for the people who worked in this special category, but unfair to those who did not. This special provision penalized the worker that was employed by multiple employers, by reducing the number of weeks they would qualify for unemployment benefits. Why should someone be penalized for trying to feed his family when through no fault of his own he is laid off due to lack of work or inclement weather conditions, forcing him to find additional employment?

In closing, it gets more difficult each year trying to keep young people in our industry due to the way of life we live with hardly any income during the winter months, always away from our family during the summer months, and the expenses we accumulate while working away from home. It is for these reasons we are losing our work force. Let's keep our men and women working in the state. I urge you to support the passage of SB 2310.

Thank you.

To: Chairman Mutch and members of the I, B, & L  
Committee

Hi, my name is Fred Koropatnicki, I am  
a heavy equipment operator and  
would like your support of SB 2310.  
I guess a lot of things that I  
was going to say, have already  
been very well said. In my line  
of work I work out of town a majority  
of the time and expenses get very  
costly. I would like to give you  
an example of last year, 1998

Last year I had an income of:

\$24,791.21

\$3,388.<sup>00</sup> was unemployment

Fed tax 3,954.59

Soc. Sec. 1,637.39

State tax 553.66

6,145.62 total

1400. - back from IRS

4,745 - IRS will keep



Then I had my road expenses for five months, I was lucky enough to work in town for one month last year.

It cost me at least \$1,000 a month for motels, food, gas and wear and tear on a vehicle. So by the time you deduct \$4,745 for taxes and \$5,000. out of town expenses, it left me with a net income of approximately \$15,000 for the year and still had my regular expense at home for the five months I was out of town.

I ran out of unemployment the 15<sup>th</sup> of Feb 1998 and didn't go to work until May 1<sup>st</sup> 1998.

Last fall I got laid off at the end of October 1998 and couldn't sign up until Nov 20, 1998 and will run out March 10, 1999 this year and will not qualify for a new claim until Nov 20<sup>th</sup> 1999. This leaves at least three months out of the year with absolutely no income.

I along with other seasonal workers cannot survive on a minimum of 12 week unemploy

## TESTIMONY FOR SB 2310

Prepared by Senator Heitkamp

Some workers, by the nature of their craft, profession or the industries in which they work, experience a great deal of variation in their earnings during different times of the year. This is dictated by factors such as the economy and the weather. It is beyond the control of the individual worker.

Roads must be built or repaired quickly. The same applies to buildings, power plants, and pipelines. Contractors do not have the luxury of using a small crew to work on a project over an extended period of time. Usually, contracts mandate that a project be completed in a minimum amount of time. This requires a large labor force to work long hours for short periods of time. The schedule is not controlled by the worker.

Our law under which people qualify for Job Insurance benefits penalizes unemployed workers from these industries. The irregular earnings patterns result in these people qualifying for a very limited number of weeks of benefits. In many cases they do not qualify at all. That's not fair and it's not right.

Senate Bill 2310 addresses these issues and makes our Job Insurance program more fair and equitable.

**SENATE BILL 2310  
SENATE APPROPRIATIONS COMMITTEE  
SENATOR DAVID NETHING, CHAIRMAN  
FEBRUARY 10, 1999**

Mr. Chairman, members of the committee. My name is Leo Jablonski, Chief of Benefits, Job Service North Dakota.

Mr. Chairman, members of the committee, I am not here to support or oppose the bill. I do want to provide you with information on what the impact of this bill would be on the unemployment insurance trust fund.

Section 2, Amendment, section 52-06-04, provides for an alternative method of monetarily qualifying for unemployment insurance benefits. Individuals now need wages in at least two calendar quarters of their base period and their total base period wages must be at least one and one-half times the wages in their high quarter. Under this amendment, individuals who have base period wages less than one and one-half times the high quarter wages would qualify if their base period wages are at least twenty times the average weekly wage. The Average Weekly Wage for Calendar Year 1997 was \$416.99. Twenty times the Average Weekly Wage would be \$8,339.80. 1998 data will not be available for several weeks,

The alternative method of monetarily qualifying for unemployment insurance benefits is projected to affect 77 claimants.

This Bill would impact the unemployment insurance fund by increasing benefit pay outs by \$181,000 for the 1999-2001 biennium (\$178,000 Unemployment Insurance Funds and \$3,100 State Benefit Funds. The increased pay outs for the 2001-03 biennium are projected to be \$241,000 (\$237,000 Unemployment Insurance Funds and \$4,100 Special Benefit Funds.

Mr. Chairman, this concludes my testimony. I would try to answer any questions from the committee. Thank you.

SB 2310 #1  
2/10/99

Rene Rfenning

## North Dakota Building and Construction Trades Council

### TESTIMONY ON SENATE BILL 2310 First Engrossment

Senate Bill 2310 as amended will:

Add a provision which provides 12 weeks of potential benefit eligibility for people filing for benefits who do not meet the requirement that base period earnings must be at least 1.5 times their high quarter earnings in order to qualify for any benefits. Those people will be eligible for 12 weeks of benefits if they earn 20 times the average weekly wage during their base period. (The change on page 1, lines 11 through 17 adds those people to the definition of insured workers. The change on page 4, lines 11 through 14 establishes 12 weeks of potential benefit eligibility for them.)

Mr. Chairman, I am going to start by reviewing how the number of weeks of potential benefit eligibility are calculated and then explain why we are requesting consideration for changing those requirements. Attachment #1 gives three examples of how the method for determining weeks of eligibility works in different circumstances.

Benefit eligibility is based on the first four of the last five completed calendar quarters prior to the date the individual filed his or her claim. We are using examples where somebody filed a claim on October 15, 1998 to show you how the weeks of potential eligibility are calculated in several different situations.

**Example #1.** The person earned \$3,900 each calendar quarter. This is a weekly salary of \$300. We determine the number of weeks of benefits the person qualifies for by dividing the earnings in the base period, which is the first four of the last five completed calendar quarters, by the earnings in the highest quarter. In this example, base period earnings are \$15,600. That total is divided by the high quarter earnings of \$3,900. This gives us a ratio of 4.0. That ratio qualifies this person for 26 weeks of potential benefit eligibility.

There is a second requirement. The ratio of base period earnings to high quarter earnings must be at least 1.5 for the person to qualify for any benefits. Individuals must earn at least half again as much during their base period year as they earned during their high quarter. This method for determining a person's attachment to the work force works well in most situations. This requirement also creates significant problems in other situations for people who have a strong and ongoing attachment to the work force.

The last step in the process for our example is to calculate the individual's weekly benefit amount. That is determined by dividing the high quarter earnings, \$3,900, by the 26. This gives the person in our example a weekly benefit amount of \$150.00.

**Example #2.** This person works in a seasonal industry, like highway construction, where earnings vary a great deal during the year. When we look at this person's base period we see first of all the earnings from the highway construction industry. This amounts to \$1,560 in the April to June quarter, nothing in the January to March quarter, \$1,560 in the December 98 quarter and \$12,480 in the July to September 1988 quarter.

We assumed this person worked about two weeks in the April to June quarter earning \$13 an hour for 60 hours per week. We also assumed that the person would be paid for about 73 hours of work, including overtime, each of the weeks during the July to September quarter. This may seem a little bit extreme. However, this is not unusual in highway construction.

We are also going to assume this person, once he left his employment in highway construction was able to obtain work with a telemarketing firm. We are going to assume the person earned \$7 an hour and worked 25 hours per week. That gives this person the additional earnings for the October to December quarter, the January to March quarter, and the April to June quarter. The persons total base period earnings in this example are \$21,375.

When we compute the potential weeks of eligibility we take the base period earnings \$21,375 and divide by the high quarter earnings of \$12,480. This gives us a ratio of 1.71. This meets the minimum requirement that the ratio be at least 1.5 and qualifies the person for 12 weeks of benefits under our present law. The person would qualify for the same number of weeks under the changes proposed in Senate Bill 2310.

Example # 2 shows that when a seasonal worker has off-season work available, additional earnings will sometimes help him or her qualify for a minimum number of weeks of benefits.

The final step here is to compute the person's weekly benefit amount. This is done by dividing the high quarter earning of \$12,480 by 26. The result is \$480. This means the person in our example would have been eligible for the maximum benefit of \$271.

**Example #3.** This person shows the same construction industry earnings as the person in example #2. However, this person is in an area where no other work is available and his income is limited to the earnings from street and highway construction. When we compute his potential eligibility, the first step is to divide the base period earnings of \$15,600 by the high quarter earnings of \$12,480. This gives us a ratio of 1.25. The person does not meet the minimum requirement of earning 1.5 times his high quarter earnings during his base period. In this case the person was available for work and worked all of the hours that were made available to him. He did have a good quarter of earnings during July to September, but that's it, and now he's confronted with no benefit eligibility.

We compute the weekly benefit amount the person would have been eligible for by dividing the high quarter earnings of \$15,600 by the base period earnings of \$12,480 and again arrive at \$480 which means the person would have been eligible for the maximum benefit amount of \$271 if he had met the 1.5 times earning requirement.

This person would not be eligible for benefits under our present law. However, Senate Bill 2310 would make it possible to establish eligibility by earning 20 times the average weekly wage during the base period. The average weekly wage in 1997 was \$417. Twenty times this amount is \$8,340. The change we are recommending to you would make it possible for this person to qualify for 12 weeks of benefits based on his earnings which are more than 20 times the weekly wage even though he did not earn 1.5 times his high quarter wages during his base period.

The proposed changes in Senate Bill 2310 affect highway construction workers more than any other group. However, there are other groups whose pattern of employment is also irregular that will be affected by this proposed change as well.

When you look at the variable earnings of highway construction workers, please keep in mind this is not something they choose. The length of the season is determined by the weather. Significant activity does not start until after load restrictions are lifted. As you are aware this occurs at different times each year, sometimes as late as June. On the other end of the scale contractors try to finish up before winter weather is expected to hit. Sometimes they shut down when the weather is still fairly mild. However, they must complete their requirements before the winter season starts. They have to stop working by a certain time because they cannot rely on the weather continuing to be favorable.

When we have a dry season or some other disaster for farmers there is usually some form of federal assistance. There is no comparable relief for outside workers in industries such as highway construction when their work is affected. There is an extended benefits program available. However, that has not been in effect for years. In addition it has no affect and no advantage for someone who was not eligible in the first place as is the case for many of our workers.

In the construction industry, just as in other industries, higher skilled workers earn more money. In addition they have a better opportunity to find work in other states. The people working at the lower end of the skill levels, especially those who are just entering that trade, are much more dependent on Job Insurance benefits being available when work is shut down.

Work force requirements in the construction industry have changed a great deal and continue to change. Technology such as computers and other sophisticated equipment is becoming the norm. This means that people need to bring more skills and more training to the job and need to continue the training and development to stay current with what's happening in the field.

What we see happening in our industry is that people, especially younger people are leaving the state for higher wages. Older people in the trades are encouraging young people and their families to stay out of the trade because of low wages and low or unavailable Job Insurance benefits. It is difficult to break into this trade. A young person with a family is least able to go without Job Insurance benefits during the off season.

All of this has a long term impact on contractors who are faced with not meeting completion schedules because of worker shortages or because of shortages of workers with the skills contractors need.

The irony is that contractors pay higher unemployment taxes than any other industry. Yet, the manner of calculating the weeks of potential eligibility and the basic threshold for eligibility, are based on the ratio of earnings during the base period year to the earnings for the high quarter. This makes establishing eligibility for benefits very difficult for many workers in this industry and in those cases where they do qualify the number of weeks are very limited.

Estimates are that only a very small number, approximately 77 people, would be affected by the provision which would provide 12 weeks eligibility for those workers who do not meet the 1.5 times requirement, but who have earned 20 times the average weekly wage during their base period.

Mr. Chairman, in 1987 Job Insurance benefits for our state's unemployed workers were severely cut back. At that time the trust fund was broke. Tax rates were at an all time high and we were in a significant recession. Since that time the trust fund balance has been restored and tax rates are now at an all time low.

Our proposal to you will restore some of those cuts and will have a positive effect on our state's workers and on the availability of skilled workers in the future. The request we are making is reasonable and is needed. Mr. Chairman and members of the committee I request your favorable consideration of this legislation.

SB 2310

To whom it may concern

Hi my name is Fred Koropatnicki, I am a seasonal construction worker. I would like to give you just one of the many examples of a seasonal workers life style. Last year my income was

↓  
21,403.61 - total wages  
3,388.00 - unemployment  
24,791.61

of that 24,791.61 here are the Withholding

↓  
3,955.00 - Fed tax  
1,327.02 - Soc Sec  
310.35 - ~~State~~ medicare  
553.56 State  
6,145.93

Then when you subtract the total deductions your left with an income of 18,645.68



Last year I went to work 4-27-98 and was ~~very~~ lucky enough to work in town for one month of the construction season.

The rest of the season I worked out of town.

For out of town expenses which include motel rooms, gas and meals, it costs me at least a \$1000.00 a month, for five months. When you subtract that from the 18,645.68 you end up with \$13,645.68 and still have all my home expense for those five months.

~~There~~ There are also many times in a season when mother nature doesn't work with you, but you're still away from home because it's too far to drive home for a day or two.

Last fall I was laid off in Oct because of the bad weather we had. I couldn't sign up for unemployment until the end of Nov and don't even get maximum and will be out the 10th of March...

If we would happen to get a late ~~spring~~ spring this year the way unemployment is set up now, there is a good chance because of the early fall we had I would not be able to draw at all next year. Like I said ~~for~~ this is just one of many examples of a

I doubt if anyone in this room can live on these wages, and I feel we need some major changes in unemployment compensation, if we expect to keep a ~~stable~~ reliable work force in this state.

I like the majority of other seasonal workers, were born and raised in N. Dak. and would love to stay in N. Dak. but because of our short construction season and the way unemployment compensation is set up, will end up elsewhere, because we can't afford to stay here much longer.

I hope and trust that you people can help us accomplish that goal.

Thank you  
Very much

To: Chairman Berg  
Members of the Industry, Business and Labor Committee

Subject: SB 2310 - Unemployment Compensation

My name is Virgil Horst. I am a business agent for the Operating Engineers. On behalf of the employees working in the construction industry in North Dakota, I would ask that you support SB 2310.

The majority of our workers are seasonal employees of construction companies that employ people who work in excess of 100 or more hours per week. Unemployment was basically a tool put in place to keep the seasonal worker in the labor force. In states like North Dakota where we experience harsh weather conditions our contractors who build or repair roads, pipe lines, power plants, etc. are forced to complete the job as quickly as possible before the ground freezes. These conditions often require a large labor force working well beyond the normal 40 hour week but, for a shorter period of time. It is these particular seasonal workers that are often penalized by not qualifying for jobless benefits due to the excessive hours they worked. As we know January, February, March and most often April produce no work for the seasonal worker. As early as March-April road restrictions are in place and in May or early June road restrictions are removed and work usually begins. July, August, and sometimes September the seasonal worker puts in 60-80 hours per week. Weather permitting, the big push is on, as often referred to by the contractors trying to complete projects and meet dead lines while working 80-100 hours per week in the months of September, October, and November. In late November and December mother nature sets in.

This poses a problem. Two individuals earning the same annual income, one working all his earnings in four even quarters and the other working excessive hours in uneven quarters. It is sad when a seasonal worker does not qualify for any jobless benefits because his total annual earnings are less than one and one-half times his high quarter due to the fact he worked a lot of overtime.

In closing, it gets more difficult each year trying to keep young people in our industry due to the way of life we live with hardly any income during the winter months, always away from our family during the summer months, and the expenses we accumulate while working away from home. It is for these reasons we are losing our work force. Let's keep our men and women working in the state. I urge you to support the passage of SB 2310.

Thank you.

**SENATE BILL 2310**  
**HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE**  
**RICK BERG, CHAIRMAN**  
**FEBRUARY 24, 1999**

Mr. Chairman, members of the committee. My name is Leo Jablonski, Chief of Benefits, Job Service North Dakota.

Mr. Chairman, members of the committee. I am not here to support or oppose the bill. I do want to provide you with information on what the impact of this bill would be on the unemployment insurance trust fund.

Section 1, Amendment, section 52-06-04, provides for an alternative method of monetarily qualifying for unemployment insurance benefits. Individuals now need wages in a least two calendar quarters of their base period and their total base period wages must be a least one and one-half times the wages in their high quarter. Under this amendment, individuals who have base period wages less than one and one-half times the high quarter wages would qualify for benefits (12 weeks) if their base period wages are at least twenty times the average weekly wage. The average weekly wage for calendar year 1997 was \$416.99. Twenty times the average weekly wage would be \$8,339.80. 1998 data will not be available for several weeks.

The alternative method of monetarily qualifying for unemployment insurance benefits is projected to affect 77 claimants.

This bill would impact the unemployment insurance trust fund by increasing benefit pay outs by \$181,100 for the 1999-2001 biennium (\$178,000 unemployment insurance funds and \$3,100 state benefit funds.) The increased pay outs for the 2001-2003 biennium are projected to be \$241,100 (\$237,000 unemployment insurance funds and \$4,100 state benefit funds.)

Mr. Chairman, this concludes my testimony. I would try to answer any questions from the committee. Thank you.

# North Dakota Building and Construction Trades Council

## TESTIMONY ON SENATE BILL 2310 First Engrossment

Engrossed Senate Bill 2310 will:

Add a provision which provides 12 weeks of potential benefit eligibility for people filing for benefits who do not meet the requirement that base period earnings must be at least 1.5 times their high quarter earnings in order to qualify for any benefits. Those people will be eligible for 12 weeks of benefits if they earn 20 times the average weekly wage during their base period. (The change on page 1, lines 11 through 17 adds those people to the definition of insured workers. The change on page 4, lines 11 through 14 establishes 12 weeks of potential benefit eligibility for them.)

Mr. Chairman, I am going to start by reviewing how the number of weeks of potential benefit eligibility are calculated and then explain why we are requesting consideration for changing those requirements. Attachment #1 gives three examples of how the method for determining weeks of eligibility works in different circumstances.

Benefit eligibility is based on the first four of the last five completed calendar quarters prior to the date the individual filed his or her claim. We are using examples where somebody filed a claim on October 15, 1998 to show you how the weeks of potential eligibility are calculated in several different situations.

**Example #1.** The person earned \$3,900 each calendar quarter. This is a weekly salary of \$300. We determine the number of weeks of benefits the person qualifies for by dividing the earnings in the base period, which is the first four of the last five completed calendar quarters, by the earnings in the highest quarter. In this example, base period earnings are \$15,600. That total is divided by the high quarter earnings of \$3,900. This gives us a ratio of 4.0. That ratio qualifies this person for 26 weeks of potential benefit eligibility.

There is a second requirement. The ratio of base period earnings to high quarter earnings must be at least 1.5 for the person to qualify for any benefits. Individuals must earn at least half again as much during their base period year as they earned during their high quarter. This method for determining a person's attachment to the work force works well in most situations. This requirement also creates significant problems in other situations for people who have a strong and ongoing attachment to the work force.

The last step in the process for our example is to calculate the individual's weekly benefit amount. That is determined by dividing the high quarter earnings, \$3,900, by the 26. This gives the person in our example a weekly benefit amount of \$150.00.

**Example #2.** This person works in a seasonal industry, like highway construction, where earnings vary a great deal during the year. When we look at this person's base period we see first of all the earnings from the highway construction industry. This amounts to \$1,560 in the April to June quarter, nothing in the January to March quarter, \$1,560 in the December 98 quarter and \$12,480 in the July to September 1988 quarter.

We assumed this person worked about two weeks in the April to June quarter earning \$13 an hour for 60 hours per week. We also assumed that the person would be paid for about 73 hours of work, including overtime, each of the weeks during the July to September quarter. This may seem a little bit extreme. However, this is not unusual in highway construction.

We are also going to assume this person, once he left his employment in highway construction was able to obtain work with a telemarketing firm. We are going to assume the person earned \$7 an hour and worked 25 hours per week. That gives this person the additional earnings for the October to December quarter, the January to March quarter, and the April to June quarter. The persons total base period earnings in this example are \$21,375.

When we compute the potential weeks of eligibility we take the base period earnings \$21,375 and divide by the high quarter earnings of \$12,480. This gives us a ratio of 1.71. This meets the minimum requirement that the ratio be at least 1.5 and qualifies the person for 12 weeks of benefits under our present law. The person would qualify for the same number of weeks under the changes proposed in Senate Bill 2310.

Example # 2 shows that when a seasonal worker has off-season work available, additional earnings will sometimes help him or her qualify for a minimum number of weeks of benefits.

The final step here is to compute the person's weekly benefit amount. This is done by dividing the high quarter earning of \$12,480 by 26. The result is \$480. This means the person in our example would have been eligible for the maximum benefit of \$271.

**Example #3.** This person shows the same construction industry earnings as the person in example #2. However, this person is in an area where no other work is available and his income is limited to the earnings from street and highway construction. When we compute his potential eligibility, the first step is to divide the base period earnings of \$15,600 by the high quarter earnings of \$12,480. This gives us a ratio of 1.25. The person does not meet the minimum requirement of earning 1.5 times his high quarter earnings during his base period. In this case the person was available for work and worked all of the hours that were made available to him. He did have a good quarter of earnings during July to September, but that's it, and now he's confronted with no benefit eligibility.

We compute the weekly benefit amount the person would have been eligible for by dividing the high quarter earnings of \$15,600 by the base period earnings of \$12,480 and again arrive at \$480 which means the person would have been eligible for the maximum benefit amount of \$271 if he had met the 1.5 times earning requirement.

This person would not be eligible for benefits under our present law. However, Senate Bill 2310 would make it possible to establish eligibility by earning 20 times the average weekly wage during the base period. The average weekly wage in 1997 was \$417. Twenty times this amount is \$8,340. The change we are recommending to you would make it possible for this person to qualify for 12 weeks of benefits based on his earnings which are more than 20 times the weekly wage even though he did not earn 1.5 times his high quarter wages during his base period.

The proposed changes in Senate Bill 2310 affect highway construction workers more than any other group. However, there are other groups whose pattern of employment is also irregular that will be affected by this proposed change as well.

When you look at the variable earnings of highway construction workers, please keep in mind this is not something they choose. The length of the season is determined by the weather. Significant activity does not start until after load restrictions are lifted. As you are aware this occurs at different times each year, sometimes as late as June. On the other end of the scale contractors try to finish up before winter weather is expected to hit. Sometimes they shut down when the weather is still fairly mild. However, they must complete their requirements before the winter season starts. They have to stop working by a certain time because they cannot rely on the weather continuing to be favorable.

When we have a dry season or some other disaster for farmers there is usually some form of federal assistance. There is no comparable relief for outside workers in industries such as highway construction when their work is affected. There is an extended benefits program available. However, that has not been in effect for years. In addition it has no affect and no advantage for someone who was not eligible in the first place as is the case for many of our workers.

In the construction industry, just as in other industries, higher skilled workers earn more money. In addition they have a better opportunity to find work in other states. The people working at the lower end of the skill levels, especially those who are just entering that trade, are much more dependent on Job Insurance benefits being available when work is shut down.

Work force requirements in the construction industry have changed a great deal and continue to change. Technology such as computers and other sophisticated equipment is becoming the norm. This means that people need to bring more skills and more training to the job and need to continue the training and development to stay current with what's happening in the field.

What we see happening in our industry is that people, especially younger people are leaving the state for higher wages. Older people in the trades are encouraging young people and their families to stay out of the trade because of low wages and low or unavailable Job Insurance benefits. It is difficult to break into this trade. A young person with a family is least able to go without Job Insurance benefits during the off season.

All of this has a long term impact on contractors who are faced with not meeting completion schedules because of worker shortages or because of shortages of workers with the skills contractors need.

The irony is that contractors pay higher unemployment taxes than any other industry. Yet, the manner of calculating the weeks of potential eligibility and the basic threshold for eligibility, are based on the ratio of earnings during the base period year to the earnings for the high quarter. This makes establishing eligibility for benefits very difficult for many workers in this industry and in those cases where they do qualify the number of weeks are very limited.

Estimates are that only a very small number, approximately 77 people, would be affected by the provision which would provide 12 weeks eligibility for those workers who do not meet the 1.5 times requirement, but who have earned 20 times the average weekly wage during their base period.

Mr. Chairman, in 1987 Job Insurance benefits for our state's unemployed workers were drastically cut back. Since then this group of workers has suffered severely.

Our proposal to you will restore some of those cuts and will have a positive effect on our state's workers and on the availability of skilled workers in the future. The request we are making is reasonable and is needed. Mr. Chairman and members of the committee I request your favorable consideration of this legislation.