

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2304

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2304

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2304

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 07, 2001.

Tape Number	Side A	Side B	Meter #
1	x		0 to 23.1
3	x		1.5 to 13.8
Committee Clerk Signature <i>Douglas E. Perry</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2304 relating to unemployment compensation benefit amounts and maximum potential benefits.

SENATOR JOEL HEITKAMP, District 27, main sponsor. This bill will benefit those workers whose irregular earning patterns leave them without benefits. Under this bill they would qualify.

Example: construction workers, they have no control over the weather and get laid off.

MIKE DEISZ, ND Building and Construction Trades Council, in support. Reviewed eligibility determination and how the proposed changes would work. Written testimony attached.

VIRGIL HORST, business agent for the Operating Engineers, in support. Seasonal workers get penalized under current law due to their working excessive hours in uneven quarters, this bill will correct that. Written testimony attached.

REPRESENTATIVE ANDREW MARAGOS, District 3, in favor.

DAVID KEMNITZ, NDAFL-CIO, in favor.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2304

Hearing Date February 07, 2001.

SENATOR MUTCH: How many employees would be affected?

D KEMNITZ: Between 137 and 170.

SENATOR MUTCH: And this would create over a million dollar hit on employers.

SANDIE FERDERER, unemployed construction worker in favor of this legislation. This bill will help employees stay in the state.

RAY GUDAJTES, JSND, neutral, to explain fiscal note. We do not have a true picture because many people do not apply because they know they are not eligible.

SENATOR KLEIN: Would adding individuals lower the reserve and raise premiums for the employers?

R GUDAJTES: Initially no, eventually yes, it will be additional cost to the fund. Employers pay up to a percentile on taxable wage base, anything beyond that is spread out to employers as part of insurance.

SENATOR MUTCH: What percentage would be spread out to employers?

R GUDAJTES: Depends on how much was drawn out by the employer.

SENATOR KLEIN: Did you study what other states have done?

R GUDAJTES: No, there are variations in eligibility criteria and structure among different states.

Hearing concluded.

Committee reconvened. Tape 3-A- 1.5 to 13.8

All committee members, except SENATOR KLEIN, present. Discussion held.

SENATOR KREBSBACH: Motion: send out of committee without recommendation.

SENATOR ESPEGARD: Seconded. Roll call vote: 6 yes; 1 absent not voting. Motion carried.

Floor assignment: SENATOR MUTCH.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/23/2001

Bill/Resolution No.: SB 2304

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$3,100	\$3,100	\$11,500	\$3,500	\$3,500	\$12,800

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill will reduce the monetary requirements to qualify for unemployment insurance benefits. Consequently, more individuals will now be eligible for benefits. Current claimant monetary determination is based on the individual's base period wage ratio (total base period wages/highest quarter wages), of 1.50 or more. This bill changes the qualifying base period wage ratio to 1.0. This will increase the amount of benefits that will be paid from the Unemployment Insurance Trust Fund.

We estimate the increased benefits for the 2001-03 biennium to be \$1,077,000 and \$1,200,000 for the 2003-05 biennium. This estimate only reflects what can be determined from the data we have in our system. Therefore, we expect the full impact of the change to be greater, however, we cannot determine that amount. Our system only has records for those individuals that had completed an application for unemployment insurance. In many cases, when an individual is made aware that they are not monetarily eligible, they choose not to complete the application or in other cases, individuals are familiar with the program requirements and do not attempt to apply.

The projected additional cost to state entities is \$14,600 for the 2001-2003 biennium and \$16,300 for the 2003-2005 biennium. Unemployment insurance records do not differentiate an account's ownership as city or county, they are grouped together as "local government". Consequently, the additional costs can only be projected for "local government". The amounts for City and County in Section 1B are an even split of the projected increase for "local government".

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Wayne Kindem	<b>Agency:</b>	Job Service North Dakota
<b>Phone Number:</b>	328-3033	<b>Date Prepared:</b>	01/31/2001



**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2001 8:15 a.m.

Module No: SR-23-2849  
Carrier: Mutch  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2304: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends  
BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (6 YEAS,  
0 NAYS, 1 ABSENT AND NOT VOTING). SB 2304 was placed on the Eleventh order  
on the calendar.**

2001 TESTIMONY

SB 2304

**SB 2304**

**SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

Mr. Chairman, members of the committee. My name is Mike Delsz, I am here to testify on behalf of the North Dakota Building and Construction Trades Council in support of Senate Bill 2304.

Senate Bill 2304 proposes an amendment to Section 52-02-04 subsection 2 and Section 52-06-05. That amendment provides an opportunity for individuals whose total base period wages are less than one and one-half times their high quarter earnings to qualify for 12 weeks of benefits if their base period earnings were at least 20 times the average weekly wage in the state.

Senate Bill 2304 will help people who earn most of their wages during a relatively short period of time, such as in highway construction. The season in industries like highway construction is determined by the weather. People in the industry are required to work long hours when weather permits.

I am going to review with you how eligibility is determined and how the changes proposed in Senate Bill 2304 would work.

(See attachment #1) We assumed the people in our examples would work about two weeks in the April to June quarters, earning \$13 per hour for 60 hours of pay per week, or \$1560 during that quarter. We also assumed these people would be paid for an average of 73 hours per week during the July to September quarters for a total of \$12,237 for that quarter. We then assumed the people would again work 2 weeks at \$13 per hour during the October to December quarter for a total of \$1560 with no employment during the January March quarter. The first two examples are for claims filed on October 15<sup>th</sup>.

Example #1 - A person who has been in the industry for a number of years

Example #2 - A person who started working in the industry in 2000

Example #3 - The same person in example # 2 and what would happen if that person's claim was refilled in January

With the 1.5 times high quarter earnings requirement, benefits for people who become unemployed in October or November are often delayed until new quarters start in January or April (Sometimes they never qualify). This leaves these people without income when they need it most - the holiday season and the months when heating bills are highest.

Attachment # 2 lists the 31 states that provide the ability for unemployed people to qualify for Job Insurance benefits without meeting the 1.5 times the high quarter requirement.

**SB 2304**  
**SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

The 1.5 times high quarter earnings requirement is one more barrier for workers. Highway and other heavy construction projects require people who are skilled, willing to work long hours, usually out of town and during short seasons. The work has to get done. Contractors will continue to find it increasingly difficult to find qualified people.

In North Dakota, we continue to experience out-migration of our workforce. It is easy to understand why people, especially younger workers, would consider locating to Minnesota where they would qualify for a higher weekly benefit amount and only have to earn \$250 outside their high quarter to qualify for benefits.

Unemployment is a fact of life in heavy construction. The pool of people who can and will do this work is shrinking. People who cannot make a living from the combination of wages earned in heavy construction, other off-season work and Job Insurance benefits have two choices - They can leave the industry or leave the state.

Senate Bill 2304 has a Fiscal Note which shows an estimated cost to the Job Insurance Trust Fund of \$1.077 million during the next biennium. We do not know how many people who were included in this estimate filed a claim in October, for example, were found ineligible and then came back in January or April, qualified and then drew their benefits. People who simply become eligible earlier with the 20 weeks earning requirement would not be an increased cost but would only mean moving the cost forward one or two quarters.

We do know that on an individual basis Senate Bill 2304 will have a major impact for workers in heavy construction who want to continue living and working in our state. We urge your favorable consideration of this bill.

Mr. Chairman, thank you for the opportunity to appear before your committee. I am available to answer any questions.

# 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, 2000

Current quarter	Lag Quarter	First four of the last five completed calendar quarters				Base period earnings
		Apr-Jun 2000	Jan-Mar 2000	Oct-Dec 1999	Jul-Sep 1999	
Oct-Dec 2000	Jul-Sep 2000	Apr-Jun 2000	Jan-Mar 2000	Oct-Dec 1999	Jul-Sep 1999	
#1	\$12,337	\$1560	\$0	\$1560	12,337	\$15457
#2 & #3	\$12,337	\$1560	\$0	\$0	\$0	\$1560

### Example #1

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$15,457} \\ &= \underline{12,337} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$15,457}{12,337} \\ &= 1.25 \end{aligned}$$

Not eligible - Not 1.5 times

\* Eligible for 12 Weeks

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High } 2\frac{1}{2} \text{ Quarters}}{65} \\ &= \frac{\$14,677}{65} \\ &= \underline{\$226} \end{aligned}$$

### Example #2

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$1560} \\ \text{High Quarter Earnings} &= \underline{\$1560} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$1560}{\$1560} \\ &= 1.0 = \text{Weeks} \end{aligned}$$

Not eligible - Not 1.5 times

Average Weekly Wage = \$451 x 20 = \$9020\*

\* Not eligible

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High } 2\frac{1}{2} \text{ Quarters}}{65} \\ &= \frac{1560}{65} \\ &= \underline{\$24} \end{aligned}$$

### Example #3

$$\begin{aligned} \text{Base Period Earnings} &= \underline{\$13,897} \\ \text{High Quarter Earnings} &= \underline{\$12,337} \\ \text{Weeks of Eligibility} &= \frac{\text{Base Period Earnings}}{\text{High Quarter Earnings}} \\ &= \frac{\$13,897}{12,337} \\ &= 1.13 \end{aligned}$$

Must be at least 1.5 times

Eligible for 12 weeks

$$\begin{aligned} \text{Weekly Benefit Amount} &= \frac{\text{High } 2\frac{1}{2} \text{ Quarters}}{65} \\ &= \frac{\$13,897}{65} \\ &= \underline{\$214} \end{aligned}$$

Prepared by the North Dakota Building and  
Construction Trades Council. Source: Highlights of State  
Unemployment Compensation Laws - January, 2000

**Senate Bill 2304**

**Comparison of States whose minimum qualifying requirement is less than 1.5 times the  
high quarter earnings during the base period**

1. Alaska: \_\_\_\_\_ \$1,000 with wages in 2 quarters
2. Arizona: \_\_\_\_\_ \*Wages in 2 quarters and either 1.5 times high quarter wages or high quarter wages sufficient to qualify for maximum Weekly Benefit Amount
3. Arkansas: \_\_\_\_\_ Wages in 2 quarters and Base Period earnings of 27 times the claimant's weekly benefit amount
4. California: \_\_\_\_\_ \$1300 in high quarter or \$900 in high quarter and 1.25 times high quarter earnings in the Base period
5. Colorado: \_\_\_\_\_ \*40 times the claimant's weekly benefit amount
6. Connecticut: \_\_\_\_\_ \*40 times the claimant's weekly benefit amount
7. Delaware: \_\_\_\_\_ 36 times the claimant's weekly benefit amount
8. Hawaii: \_\_\_\_\_ 26 times the claimant's weekly benefit amount
9. Idaho: \_\_\_\_\_ 1.25 times the high quarter with wages in 2 quarters
10. Illinois: \_\_\_\_\_ \$1600 with \$440 in a quarter outside the high quarter
11. Indiana: \_\_\_\_\_ 1.25 times the high quarter with \$1650 in last 2 quarters and \$2750 in base period wages
12. Iowa: \_\_\_\_\_ 1.25 times high quarter wages and the individual's wages in the high quarter must be at least 3.5% and 1.75% respectively, of the state's average annual wage
13. Kansas: \_\_\_\_\_ 30 times the claimant's weekly benefit amount with wages in 2 quarters
14. Maine: \_\_\_\_\_ 2 times Annual Average Weekly Wage in each of the last 2 quarters and base period earnings of 6 times the Average Weekly Wage

## Senate Bill 2304

**Comparison of States whose minimum qualifying requirement is less than 1.5 times the high quarter earnings during the base period**

15. Massachusetts: \_\_\_30 times the claimant's weekly benefit amount
16. Minnesota: \_\_\_Base period wages in 2 or more quarters and \$250 in the second highest quarter
17. Mississippi: \_\_\_\*40 times WBA with wages in 2 quarters and high quarter wages equal to 26 times the minimum weekly benefit amount
18. Nebraska: \_\_\_\$1600 with \$800 in each of 2 quarters
19. Nevada: \_\_\_1.5 times high quarter wages or wages in at least 3 of 4 base period quarters
20. New Hampshire: \_\_\_\$2800 with \$1400 in each of 2 quarters
21. New Mexico: \_\_\_Earnings in at least 2 quarters with at least the minimum qualifying wage in the high quarter
22. North Carolina: \_\_\_6 times the State Average Weekly Wage and paid wages in at least 2 quarters of the Base Period
23. Rhode Island: \_\_\_1.5 times High Quarter wages or \$6,780 in the Base Period
24. Texas: \_\_\_37 times the weekly benefit amount and wages in 2 quarters
25. Vermont: \_\_\_\$1435 in a quarter and additional Base Period Wages of at least 40 percent (1.4 times) of high quarter wages
26. West Virginia: \_\_\_\$2,200 with wages in 2 quarters
27. Wisconsin: \_\_\_30 times the weekly benefit amount with wages of 4 times the weekly benefit amount outside the high quarter
28. Wyoming: \_\_\_1.4 times high quarter wages - 8 percent of State Average Weekly Wage in Base Period rounded to the lower \$50

\* In four of these states, only those qualifying for the maximum weekly benefit amount escape the 1.5 times high quarter qualifying requirement.

**Senate Bill 2304**

**Comparison of States whose minimum qualifying requirement is less than 1.5 times the high quarter earnings during the base period**

(New York, \*North Carolina, Ohio, \*Rhode Island, Washington, \*Wisconsin: Individuals who fail to qualify using the first four of the last five completed quarters may qualify on wages paid during the last four completed quarters. \*Massachusetts uses the last four completed quarters for all claims. New Jersey and \*Vermont provide two options for individuals who do not qualify using the first four of the last five completed calendar quarters: The claimant may use the last four completed quarters or use the last three quarters plus any wages paid during the quarter in which the claim is filed-- \*Indicates states that also provide other relief from the 1.5 times high quarter earnings requirement.)

**A total of 31 of the 50 states provide some relief from the 1.5 times high quarter qualifying requirement.**

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

**Subject: SB 2304 - Unemployment Compensation**

**My name is Virgil Horst. I am a business agent for the Operating Engineers. On behalf of the employees in the construction industry, I would ask for your support of SB 2304.**

**The majority of our workers are seasonal employees of construction companies that employ residents of North Dakota. 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, water line projects, dikes, and dams are forced to complete the work as quickly as possible before the ground freezes. These conditions often require the labor force to work beyond the normal 40-hour week. It is these particular seasonal workers that are often penalized by not qualifying for unemployment benefits due to excessive hours they work. We know January, February, March, and most often April produce no work for the seasonal worker. Often with rainy, wet springs or late load restrictions some work is delayed until May or June. In July, August, and September the average seasonal worker puts in 60-80 hours per week. Weather permitting October and November seasonal workers may work as many as 80-100 hours per week so contractors can complete projects and meet deadlines. Usually in late November and December Mother Nature sets in. This creates a problem for two individuals earning the same annual income. One may not even qualify for unemployment benefits and it may affect the number of weeks he receives because of working excessive hours in uneven quarters. Why is this individual who worked in uneven quarters penalized through no fault of his own because his total annual earnings are less than one and one half times his high quarters due to the fact he worked a lot of overtime.**

**In closing it gets more difficult each year to keep people in our industry or even our state due to the way of life we live with hardly any income during the winter months. In the summer months we have the added burden of accumulating expenses while working away from home. It is for these reasons we are losing our work force. Good economic development helps keep our work force here in North Dakota. I ask for your support on the passage of SB 2304.**

**Thank you.**

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)