



Ninety-Ninth Legislature - First Session - 2005
Introducer's Statement of Intent
LB 739

Chairperson: Douglas Cunningham
Committee: Business and Labor
Date of Hearing: January 31, 2005

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The comments herein stated are meant to reflect comments and intent made by the task force which assembled this bill.

Section 1 of LB 739 amends Neb. Rev. Stat. §48-601 to provide that new sections 3 through 5 and 8 of the bill will be included in the Employment Security Law along with all other unemployment program statutes.

Section 2 amends subsection (29) of Neb. Rev. Stat. §48-602 to transfer the cap on taxable wages from 48-602, which is a definitional section, to new section 8 of LB 739. Section 8 is applicable to only the amount of wages which are subject to unemployment taxes.

Sections 3 through 5 of LB 739 create the mechanism for the imposition of an emergency solvency surcharge during the years 2006-2009. The Commissioner would not have authority to assess a solvency surcharge after 2009 as it is anticipated that the Unemployment Trust Fund (UTF) will be sufficiently replenished by then so as to make the imposition of a solvency surcharge unnecessary beyond that point.

Like LB 487, section 3 of LB 739 would require the Commissioner to certify the projected insured unemployment rates for the following year to the Governor each fall. Section 4 authorizes the Commissioner to impose the solvency tax if the actual insured unemployment rate as of September 30 of 2006, 2007, 2008 or 2009 is forty percent or more in excess of the projected rate for that year. Section 5 authorizes the Commissioner to assess an emergency surcharge sufficient to make up the difference between expected regular contributions and the amount of anticipated unemployment benefit payments for that year. The amount of the surcharge assessment for an individual employer would be a percentage of the shortfall. The individual employer's percentage of the surcharge would be determined by dividing the total amount of wages paid in insured employment by that employer during the first three calendar quarters of the year, by the total amount of wages paid in insured employment in the state of Nebraska for the same time period. The following sentence was inadvertently omitted from the bill draft and should be inserted on page 11 of LB 739, following the period in line 25: "The amount of an individual employer's surcharge shall be determined by dividing the total amount

of wages paid in insured employment by that employer during the first three calendar quarters of the year by the total amount of wages paid in insured employment in the state of Nebraska for the same time period and then multiplying the percentage determined by the total surcharge assessed.” The tax would be assessed in December and due on the last day of the following month.

Section 6 of LB 739 merely changes an internal reference in Neb. Rev. Stat. §48-603.01 to conform to changes made later in section 8 of LB 739.

Section 7 of LB 739 amends Neb. Rev. Stat. §48-624 to impose a two-year cap on the maximum weekly unemployment benefit amount at the 2005 rate of \$288 per week. Thereafter the maximum weekly benefit amount would be the lesser of one-half of the state average weekly wage or the previous year’s maximum weekly benefit amount plus ten dollars. Section 7 further provides that beginning in 2007, unemployment benefits will not increase in years when the state’s reserve ratio (UTF plus SUIT Fund divided by total wages paid) is below 0.65% on September 30, 2007, 0.75% on September 30, 2008 and 0.85% on September 30, 2009 or any year thereafter. This would provide for more gradual growth of the maximum weekly benefit amount and limit UTF cost increases in those years when the UTF balance is low. It is projected that the freeze would reduce payments for unemployment benefits by \$2 million per year in 2006 and 2007.

Section 8 of LB 739 increases the maximum amount of wages paid to a worker that are subject to unemployment taxes to \$9000 in 2006 and would increase or decrease in \$500 increments in 2007 and thereafter depending upon the condition of the UTF as reflected by the state’s reserve ratio. As provided in subsection (2) of section 8, if the state’s reserve ratio on September 30, 2006 is 0.65% or less, the maximum taxable wage base for the following year would increase by \$500. The threshold requiring an increase in the taxable wage base for the following year would increase to 0.75% on September 30, 2007 and 0.85% on September 30, 2008. Subsection (3) of section 8 would provide for \$500 decreases in the maximum taxable wage base if the state’s reserve ratio exceeds those benchmark figures in 2006, 2007 and 2008. The maximum taxable wage base could never go below the federally mandated \$7,000 minimum amount. It is projected that the increase of the taxable wage base to \$9,000 would generate an additional \$26 million in contributions for wages paid in 2006. [The fiscal notes will reflect different amounts because the UI system is set up on a calendar year basis rather than the state fiscal year.] The amount generated in 2007 and beyond would be dependent upon the actual tax rate imposed for that year and any increases or decreases in the maximum taxable wage base made in accordance with this section.

Section 9 would increase the earnings disregard provisions in Neb. Rev. Stat. §48-625. Under the present system, wages earned by an employee that are less than one-half of his or her weekly benefit amount (WBA) are ignored, and if the person earns more than one-half of his/her WBA, but less than the amount of his/her WBA, then the individual receives a half-benefit check. This change would disregard only earnings equal to the first one-fourth of the individual’s WBA, and then offset on a dollar for dollar basis, any earnings in excess of one-fourth of his/her WBA. Although in theory it would seem like this provision would reduce the amount expended for unemployment benefits, as drafted, it appears that it will not. Generally, those earning less than

one-half their WBA will receive less unemployment benefits under LB 739 than they do now and those earning wages of more than one-half of their WBA will receive more in unemployment benefits under LB 739 than they do now. The net result is a projected change of less than \$1000 in reduced payments.

Section 10 would amend Neb. Rev. Stat. §48-627 to increase the minimum amount of wages earned in covered employment that an individual would have to earn in his or her base period in order to qualify for unemployment benefits from \$1,600 to \$2,500 effective January 1, 2006. Commencing in 2007, that minimum earnings test would be adjusted annually in accordance with changes in the Consumer Price Index. This change would have minimal impact on benefit expenditures.

Section 10 would also change the amount of earnings that an individual would have to earn in order to file two consecutive claims. Presently the individual has to have earnings in insured employment in four different weeks subsequent to filing the initial claim, but there is not a minimum earnings threshold. Section 10 would impose an earnings test that would require the worker to have earnings in insured employment subsequent to filing his or her initial claim of not less than six times his or her weekly benefit amount as established for the initial claim. It is projected that these changes would result in decreased expenditures for unemployment benefits of approximately \$87,000 per year.

Section 11 would increase the disqualification assessed for those who voluntarily quit their employment without good cause, are discharged from their employment for misconduct, or refuse suitable work from the current seven-to-ten week disqualification period to a flat thirteen weeks. Section 11 would also statutorily provide that some voluntary quits, which now result in benefit disqualification, would be categorized as good cause quits. The net effect of these changes would be to reduce unemployment benefit payments by approximately \$4.4 million dollars per year.

Section 12 would amend Neb. Rev. Stat. §48-649 to transition Nebraska from its current annual rate-setting process to the use of an array system beginning in 2007. The array system set forth in LB 739 is most like the array system used in Maine, but is also similar to that used in Vermont. Iowa also uses a variation of the array system. Nebraska is the only state that does not base its tax rates around state reserve ratio or base-line UTF funding levels established in statute. The array system proposed would utilize two primary factors in determining Nebraska tax rates. One would be the state's reserve ratio (UTF plus SUIT Fund divided by total wages paid in employment) on September 30 of each year and the second would be the amount of benefits paid in the four calendar quarters ending on that September 30. Once the state's reserve ratio is determined, it is matched up with the yield factors on the second table to determine the amount of combined tax that the system needs to generate for the following year. The series of yield factors would automatically work to adjust revenue levels up or down to try and maintain an adequate state reserve ratio. There would no longer be a need for an annual rate-setting hearing. The yield factor table establishes as a goal that the state reserve ratio should be 0.85% – 1.00% by September 30, 2011. If the actual reserve ratio is greater than 1.00%, the yield factor would work to reduce the UTF by providing that the state would only generate 95% of the most recent year's benefit expenditures. If the September 30, 2011 reserve ratio is less than 0.85%, the yield

factor would provide that taxes would be generated which would be 110% of the previous year's expenditures. From that figure, an "average tax rate" would be determined and then used to calculate taxes applicable to each individual employer.

Employers would be divided into 20 categories with each category comprised of employers with comparable reserve ratios comprising five percent of the total taxable wages paid in covered employment in Nebraska. Category 13 employers would pay taxes at the state average tax rate for the coming year. Employers above and below category 13 would pay a multiple of the state average tax rate. For example, an employer in category 1 would pay 30% of the state average tax rate and an employer in category 20 would pay 260% of the state average tax rate. The projected average tax rate for 2005 has been projected at 2.29%. If there was an average tax rate of 2.29% in 2011, a category 13 employer would pay a tax rate of 2.29%, a category 1 employer's tax rate would be 0.69% (30% of 2.29%), and a category 20 employer's tax rate would be 5.96% (260% of 2.29%).

Principal Introducer:

Senator Douglas Cunningham