

Fifty-seventh  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1450

Introduced by

Representatives Severson, Dosch

1 A BILL for an Act to create and enact a new subdivision to subsection 15 of section 52-01-01, a  
2 new subdivision to subsection 17 of section 51-01-01, and a new section to chapter 52-04 of  
3 the North Dakota Century Code, relating to definitions for unemployment compensation  
4 purposes and financing of benefits paid to employees of Indian tribes; to provide an effective  
5 date; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new subdivision to subsection 15 of section 52-01-01 of the North  
8 Dakota Century Code is created and enacted as follows:

9 The term "employer" includes an Indian tribe for which service in employment  
10 as defined under the North Dakota unemployment compensation law is  
11 performed.

12 **SECTION 2.** A new subdivision to subsection 17 of section 52-01-01 of the North  
13 Dakota Century Code is created and enacted as follows:

14 The term "employment" includes service performed in the employ of an Indian  
15 tribe, as defined in section 3306(u) of the Federal Unemployment Tax Act,  
16 provided the service is excluded from "employment" as defined in Federal  
17 Unemployment Tax Act solely by reason of section 3306(c)(7) of the Federal  
18 Unemployment Tax Act, and is not otherwise excluded from employment  
19 under the North Dakota unemployment compensation law. For purposes of  
20 this subdivision, the exclusions from employment in subdivision h is applicable  
21 to services performed in the employ of an Indian tribe.

22 **SECTION 3.** A new section to chapter 52-04 of the North Dakota Century Code is  
23 created and enacted as follows:

24 **Financing benefits paid to employees of Indian tribes.**

- 1           1.   Benefits based on service in employment with an Indian tribe are payable in the  
2               same amount, on the same terms, and subject to the same conditions as benefits  
3               payable on the basis of other service subject to the North Dakota unemployment  
4               compensation law.
- 5           2.   a.   Indian tribes or tribal units subdivisions, subsidiaries, or business enterprises  
6               wholly owned by the Indian tribe, subject to the North Dakota unemployment  
7               compensation law, shall pay contributions under the same terms and  
8               conditions as all other subject employers, unless it elects to pay into the state  
9               unemployment fund amounts equal to the amount of benefits attributable to  
10              service in the employ of the Indian tribe.
- 11          b.   Indian tribes electing to make payments in lieu of contributions must make  
12               such election in the same manner and under the same conditions as provided  
13               in sections 52-04-18 and 52-04-19.1. Indian tribes may determine if  
14               reimbursement for benefits paid will be elected by the tribe as a whole, by  
15               individual tribal units, or by combinations of individual tribal units.
- 16          c.   Indian tribes or tribal units must be billed for the full amount of benefits  
17               attributable to service in the employ of the Indian tribe or tribal unit on the  
18               same schedule as other employing units that have elected to make payments  
19               in lieu of contributions.
- 20          d.   At the discretion of the bureau, an Indian tribe or tribal unit that elects to  
21               become liable for payments in lieu of contributions must, within thirty days  
22               after the effective date of its election, execute and file with the bureau a surety  
23               bond approved by the bureau.
- 24          3.   a.   Failure of the Indian tribe or tribal unit to make required payments, including  
25               assessments of interest and penalty, within ninety days of receipt of the bill  
26               causes the Indian tribe to lose the option to make payments in lieu of  
27               contributions, as described in subsection 2, for the following tax year unless  
28               payment in full is received before contribution rates for the next tax year are  
29               computed.
- 30          b.   An Indian tribe that loses the option to make payments in lieu of contributions  
31               due to late payment or nonpayment, as described in subdivision a, is entitled

- 1 to have the option reinstated if, after a period of one year, all contributions  
2 have been made timely, provided no contributions, payments in lieu of  
3 contributions for benefits paid, penalties, or interest remain outstanding.
- 4 c. Failure of the Indian tribe or any tribal unit thereof to make required payments,  
5 including assessments of interest and penalty, after all collection activities  
6 deemed necessary by the bureau have been exhausted, causes services  
7 performed for the tribe to not be treated as employment for purposes of  
8 subsection 17 of section 52-01-01.
- 9 d. The bureau may determine that an Indian tribe that loses coverage under  
10 subdivision c may have services performed for the tribe again included as  
11 employment, for purposes of subsection 17 of section 52-01-01 if all  
12 contributions, payments in lieu of contributions, penalties and interest have  
13 been paid.
- 14 e. The bureau will notify the United States internal revenue service and the  
15 United States department of labor of a termination or reinstatement of  
16 coverage made under subdivisions c and d.
- 17 4. Notices of payment and reporting delinquency to Indian tribes or their tribal units  
18 must include information that failure to make full payment within the prescribed  
19 timeframe:
- 20 a. Will cause the Indian tribe to be liable for taxes under the Federal  
21 Unemployment Tax Act;
- 22 b. Will cause the Indian tribe to lose the option to make payments in lieu of  
23 contributions; and
- 24 c. May cause the Indian tribe to be excepted from the definition of employer, as  
25 provided in subsection 15 of section 52-01-01, and services in the employ of  
26 the Indian tribe, as provided in subsection 17 of section 52-01-01, to be  
27 excepted from employment.
- 28 5. Extended benefits paid that are attributable to service in the employ of an Indian  
29 tribe and not reimbursed by the federal government must be financed in their  
30 entirety by the Indian tribe.

1           **SECTION 4. EFFECTIVE DATE.** This Act is retroactively effective to December 21,  
2 2000.

3           **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.