

SOCIAL SECURITY

CHAPTER 431

HOUSE BILL NO. 1093

(Political Subdivisions Committee)

(At the request of Job Service North Dakota)

JOB SERVICE PROPERTY SALE

AN ACT authorizing the state of North Dakota acting through job service North Dakota to sell or transfer certain property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of property by job service North Dakota. The state of North Dakota acting through job service North Dakota may sell and convey lots 1, 2, 3, 4, and 5, block 60, original plat, city of Bismarck, North Dakota. Job service North Dakota may cause the above-described real property to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2. The provisions of section 54-01-05.5 do not apply to the sale and conveyance authorized by this Act. Net proceeds from the sale must be used as authorized and directed by law.

SECTION 2. Transfer of title to property by job service North Dakota. The state of North Dakota acting through job service North Dakota may transfer title and convey lots 1, 2, 3, 4, and 5, block 60, original plat, city of Bismarck, to the United States department of labor. This title transfer and conveyance may be made in the manner prescribed by section 54-01-05.1. The provisions of sections 54-01-05.2 and 54-01-05.5 do not apply to this title transfer and conveyance.

SECTION 3. LEGISLATIVE INTENT. If the United States department of labor allows job service North Dakota to receive proceeds from the conveyance of lots 1, 2, 3, 4, and 5, block 60, original plat, city of Bismarck, North Dakota, it is the intent of the fifty-sixth legislative assembly that the fifty-seventh legislative assembly appropriate the net proceeds to job service North Dakota to invest in a replacement facility. If job service North Dakota does not convey the property, it is the intent of the fifty-sixth legislative assembly that job service North Dakota take appropriate actions to preserve the equity in this property until the fifty-seventh legislative assembly convenes and considers disposition of this property.

Approved April 9, 1999

Filed April 9, 1999

CHAPTER 432**SENATE BILL NO. 2150**

(Industry, Business and Labor Committee)
(At the request of the Secretary of State)

**ELECTION WORKER UNEMPLOYMENT
COMPENSATION EXEMPTION**

AN ACT to create and enact a new paragraph to subdivision h of subsection 17 of section 52-01-01 of the North Dakota Century Code, relating to exempting services performed by certain election workers for unemployment compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new paragraph to subdivision h of subsection 17 of section 52-01-01 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars.

Approved March 3, 1999
Filed March 4, 1999

CHAPTER 433

HOUSE BILL NO. 1089

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

JOB SERVICE AUDIT AND ADMINISTRATION

AN ACT to amend and reenact section 52-02-18 and subsection 3 of section 52-03-07 of the North Dakota Century Code, relating to an audit of job service North Dakota and the administration of unemployment compensation programs; to provide for an audit of job service North Dakota; to provide an appropriation; to provide a continuing appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-02-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-02-18. Independent audit - Continuing appropriation. The state auditor shall cause a performance audit of job service North Dakota to be conducted. The state auditor shall may appoint on a biennial basis an independent audit firm, with extensive expertise in job service practices and standards, to complete a performance audit of the divisions of job service North Dakota or the state auditor may conduct the performance audit. If the state auditor completes the audit, the state auditor may contract with a consulting firm to aid in the state audit or to complete the audit and shall charge job service North Dakota for the audit, including the services of the consulting firm. The audit must evaluate divisions of job service North Dakota, as determined necessary by the state auditor, to determine whether the divisions are providing quality service in an efficient and cost-effective manner. The audit report must contain recommendations for divisional improvement or an explanation of why no recommendations are being made. The executive director of job service North Dakota and the auditor shall present the audit report and any action taken as a result of the audit to the legislative council's legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative assembly following the audit. The executive director shall also provide a copy of the audit report to the state auditor.

SECTION 2. AMENDMENT. Subsection 3 of section 52-03-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Money credited to the account of this state pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of sections 52-02-09, 52-03-01, 52-03-04, 52-03-07, and 52-03-08 and of public employment offices pursuant to this section. Notwithstanding this subsection, moneys credited with respect to federal fiscal years 2000, 2001, and 2002 must be used solely for the administration of the unemployment compensation program and the moneys are not otherwise subject to the requirements of subsection 1 when appropriated by the legislative assembly. Moneys

are hereby appropriated for the federal fiscal years identified in this subsection for purposes of administration of the unemployment compensation program.

SECTION 3. INDEPENDENT AUDIT DURING 1999-2001 BIENNIUM.

The 1999-2001 biennium independent audit of job service North Dakota required under section 52-02-18 must include:

1. An audit of the unemployment insurance trust fund;
2. A review of the strategic business plan for job service North Dakota;
3. A review of the information technology plan of job service North Dakota which includes:
 - a. Evaluating the telephone registration system, including claimant profiling and claimant consultation;
 - b. Evaluating financial reporting; and
 - c. Evaluating the effect technology may have on future staffing needs;
4. An audit of the average duration of benefits which includes:
 - a. Considering the effect of job service North Dakota policies, procedures, and services on duration of benefits; and
 - b. Evaluating claimant profiling, repeat claimants, job attachment status, and the job bank;
5. An audit of the work force 2000 program; and
6. An audit of the staffing needs of job service North Dakota.

SECTION 4. APPROPRIATION. The unemployment compensation incentive fund is established from all moneys credited to this state under section 2 of this Act for federal fiscal years 2000, 2001, and 2002. The amount of \$327,000 from this unemployment compensation incentive fund, to the extent funds are available in this fund, is hereby appropriated to job service North Dakota every year in which job service North Dakota achieves an average duration of benefits that is at least one-half week less than the average duration of benefits for the preceding program year, excluding every claimant who is on temporary layoff and returning to employment with the former employer within four weeks and excluding every claimant with demonstrated job attachment and a reasonable expectation of returning to a former base period employer once work becomes available for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 5. EXPIRATION DATE. Section 3 of this Act is effective through April 30, 2001, and after that date is ineffective.

Approved April 17, 1999
Filed April 19, 1999

CHAPTER 434

SENATE BILL NO. 2096

(Senator Grindberg)

(At the request of Job Service North Dakota)

NEW JOBS TRAINING COST REIMBURSEMENT

AN ACT to create and enact a new section to chapter 52-02.1 of the North Dakota Century Code, relating to cost reimbursement for new jobs training; and to amend and reenact subsection 2 of section 52-02.1-03 of the North Dakota Century Code, relating to cost reimbursement for new jobs training.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 52-02.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The North Dakota income tax withholding on wages paid by the employer to each new employee participating in a project must be credited from the withholding payments made by the employer pursuant to section 57-38-60. The tax commissioner shall transmit the equivalent credit payment amount to the state treasurer to be allocated to a special fund for payment to the department, community, or both, as the case may be, of principal and interest on loans issued pursuant to section 52-02.1-04, or for reimbursing employers participating in the cost reimbursement option provided in section 2 of this Act. All moneys deposited in the fund are hereby appropriated for the purposes of this section. When the principal and interest on the loans have been repaid or the employer's self-financed training costs have been reimbursed, the employer credits must cease and any money received after the loans have been repaid must be remitted by the tax commissioner to the general fund of the state.

SECTION 2. A new section to chapter 52-02.1 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Cost reimbursement option. Program services developed and coordinated by job service North Dakota provided to primary sector businesses found eligible for loans or grants under section 52-02.1-02 must also be provided to primary sector businesses that provide self financing as funding for new jobs training programs. Under this option, employers may be reimbursed an amount up to sixty percent of the allowable state income tax withholding generated from the new jobs positions and identified in the final agreement. Reimbursement under this option is to be made over the ten-year period of the project. The agreement requirements set forth in section 52-02.1-02 and the provisions of section 52-02.1-03 apply to this section.

Approved April 1, 1999
Filed April 2, 1999

CHAPTER 435

HOUSE BILL NO. 1135

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION RESERVES, RATES, AND BENEFITS

AN ACT to amend and reenact sections 52-04-05, 52-04-06, 52-04-09, and 52-06-05 of the North Dakota Century Code, relating to the required level of the unemployment compensation trust fund reserve, employer contribution rates, and maximum potential benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-04-05. (Effective through December 31, ~~2000~~ 1999) Determination of rates.

1. For each calendar year, the bureau shall estimate the amount of income needed to pay benefits and maintain a balance in the unemployment compensation fund, that as of October 1, 1989, is equal to twenty-five percent of the average annual amount of benefits paid. On each October first after October 1, 1989, the amount of the trust fund reserve must be sixty percent of the average annual amount of benefits paid. The average annual amount of benefits paid must be computed by dividing the total amount of benefits paid and projected to be paid during the previous thirty-six months by three. On January 1, 2000, the required amount of the trust fund reserve becomes a targeted amount as determined under this subsection. The solvency target is an average high cost multiple of one. The average high cost multiple is the number of years the bureau could pay unemployment compensation, based on the reserve ratio, if the bureau paid the compensation at a rate equivalent to the average benefit cost rate in the one calendar year during the preceding twenty calendar years and the two calendar years during the preceding ten calendar years in which the benefit cost rates were the highest. "Reserve ratio" means the ratio determined by dividing the balance in the trust fund reserve at the end of the calendar year by the total covered wages in the state for that year. "Benefit cost rate" means the rate determined by dividing the unemployment compensation benefits paid during a calendar year by the total covered wages in the state for that year. The computation of the reserve ratio and benefit cost rate must exclude the wages and unemployment compensation paid by employers covered under section 3309 of the Internal Revenue Code of 1986, as amended, [26 U.S.C. 3309]. The trust fund reserve target will be achieved over a seven-year period from January 1, 2000. Progress toward achieving the targeted amount of the trust fund reserve is measured by reducing any difference between one and the average high-cost multiple of the state by an amount that is at least equal to the ratio of the number of years left to reach the targeted amount of the

trust fund reserve to the difference between the trust fund reserve and the targeted amount. If the calendar year annual average insured unemployment rate is above three percent and has increased one hundred ten percent of the average of the preceding two calendar years, a tax rate will be set to provide for fifty percent of the additional revenue needed for the trust fund to be derived from tax rate increases and the remaining fifty percent becomes a drawdown against the trust fund reserve. In setting tax rates, the amount of the trust fund reserve may not be allowed to fall below three hundred percent from a standard margin of error for the targeted amount of the trust fund reserve. The executive director may make reasonable adjustments to the tax rates set for a calendar year to prevent significant rate variations between calendar years. When the trust fund reserve is being rebuilt, rates will not be lowered until the target level is reached. If while achieving the trust fund reserve target the trigger of above three percent insured unemployment rate and an increase of more than one hundred ten percent of the average of the two preceding years has been in effect for two or more consecutive years, the period of time to achieve the trust fund reserve target is extended to seven years from the end date of the last year in which the trigger was in effect. If this trigger has been in effect for one year, the amount of tax increase towards achieving the targeted amount of the trust fund reserve must be determined using the number of years remaining of the seven-year period, excluding the year the trigger is in effect.

2. Rates must be determined as follows:

- a. The income required for the calendar year must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one one-hundredth of one percent is the average required rate.
- b. ~~The minimum rate for each calendar year is the average required rate, multiplied by one-fourth, rounded to the nearest one-tenth of one percent.~~ If the positive employer maximum rate is at least one percent, the positive employer minimum rate is the positive employer maximum rate minus nine-tenths of one percent. If the positive employer maximum rate is less than one percent, the range for the positive employer minimum rate must be at least one-tenth of one percent and must be less than two-tenths of one percent (the minimum of one-tenth of one percent plus the increment of one-tenth of one percent), with the positive employer minimum rate equal to the positive employer maximum rate minus a multiple of the increment one-tenth of one percent as provided in subsection 2 of section 52-04-06 to fall within the range described above. Within the table of rate schedules for each calendar year, a rate schedule may not be used if it would generate less income than any rate schedule preceding it on the table of rate schedules. The negative employer minimum rate is the positive employer maximum rate plus five and one-tenth percent.
- c. ~~The maximum rate for each calendar year is the average required rate, multiplied by three, rounded to the nearest one-tenth of one percent.~~ The positive employer maximum rate must be set so that all the rates combined generate the average required rate. The negative employer maximum rate is the negative employer

minimum rate plus three and six-tenths percent. However, the maximum rate must be at least five and four-tenths percent.

3. a. Except as otherwise provided in this subsection, an employer's rate may not be less than the ~~maximum~~ negative employer minimum rate for a calendar year unless the employer's account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year. If an employer in construction services has not been subject to the law as required, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. ~~However, an employer in construction services must be assigned the maximum rate of seven percent, whichever is greater, for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.~~ An employer identified as belonging to industry group number 161, highway and street construction, except elevated highways, provided in the standard industrial classification manual, must be assigned a ~~maximum rate of eight and one-half percent, whichever is greater,~~ within the negative employer rate ranges with an additional one and one-half percent added to the rate for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first of that year. If an employer in nonconstruction services has not been subject to the law as required, the employer in nonconstruction services qualifies for a reduced rate if the account has been chargeable with benefits throughout the twelve-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. During the building of the trust fund reserve, the rate assigned to an employer may not exceed one hundred thirty percent of the previous year's rate for that employer and an employer may not receive more than a ten percent decrease in that employer's rate from the previous year's tax rate, for the calendar years 2000, 2001, and 2002. The executive director may provide any negative employer whose contributions paid into the trust fund are greater than the benefit charges against that employer's account, for a minimum of three consecutive years immediately preceding the computation date or subject to the law as required, with up to a thirty percent reduction to that employer's rate for any year if that employer has in place a plan approved by the bureau which addresses substantive changes to that employer's business operation and ensures that any rate reduction provided will not put the employer account back into a negative status.
- b. An employer that does not qualify under subdivision a is subject to a rate determined as follows:
 - (1) For each calendar year new employers must be assigned a rate that is one hundred fifty percent of ~~two and two-tenths percent~~ the positive employer maximum rate or a rate of one percent, whichever is greater, unless the employer is classified

- in construction services. However, an employer must be assigned ~~the maximum rate~~ within the negative employer rate ranges for any year if, as of the computation date, the cumulative benefits charged to that employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.
- (2) New employers in construction services must be assigned a ~~rate of seven percent or the maximum rate, whichever is greater~~ the negative employer maximum rate.
 - (3) Assignment by the bureau of an employer's industrial classification for the purposes of this section must be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual issued by the executive office of the president, office of management and budget.
4. An employer who has ceased to be liable for contributions shall continue its established experience rating account if it again becomes liable within three years from the date that it ceased to be liable. Such employer's rate, however, must be determined in accordance with subsection 3.

(Effective after December 31, ~~2000~~ 1999) Determination of rates.

1. For each calendar year, the bureau shall estimate the amount of income needed to pay benefits and maintain a balance in the unemployment compensation fund, that as of October 1, 1989, is equal to twenty-five percent of the average annual amount of benefits paid. On each October first after October 1, 1989, the amount of the trust fund reserve must be sixty percent of the average annual amount of benefits paid. The average annual amount of benefits paid must be computed by dividing the total amount of benefits paid and projected to be paid during the previous thirty-six months by three. On January 1, 2000, the required amount of the trust fund reserve becomes a targeted amount as determined under this subsection. The solvency target is an average high cost multiple of one. The average high cost multiple is the number of years the bureau could pay unemployment compensation, based on the reserve ratio, if the bureau paid the compensation at a rate equivalent to the average benefit cost rate in the one calendar year during the preceding twenty calendar years and the two calendar years during the preceding ten calendar years in which the benefit cost rates were the highest. "Reserve ratio" means the ratio determined by dividing the balance in the trust fund reserve at the end of the calendar year by the total covered wages in the state for that year. "Benefit cost rate" means the rate determined by dividing the unemployment compensation benefits paid during a calendar year by the total covered wages in the state for that year. The computation of the reserve ratio and benefit cost rate must exclude the wages and unemployment compensation paid by employers covered under section 3309 of the Internal Revenue Code of 1986, as amended, [26 U.S.C. 3309]. The trust fund reserve target will be achieved over a seven-year period from January 1, 2000. Progress toward achieving the targeted amount of the trust fund reserve is measured by reducing any difference between one and the average

high-cost multiple of the state by an amount that is at least equal to the ratio of the number of years left to reach the targeted amount of the trust fund reserve to the difference between the trust fund reserve and the targeted amount. If the calendar year annual average insured unemployment rate is above three percent and has increased one hundred ten percent of the average of the preceding two calendar years, a tax rate will be set to provide for fifty percent of the additional revenue needed for the trust fund to be derived from tax rate increases and the remaining fifty percent becomes a drawdown against the trust fund reserve. In setting tax rates, the amount of the trust fund reserve may not be allowed to fall below three hundred percent from a standard margin of error for the targeted amount of the trust fund reserve. The executive director may make reasonable adjustments to the tax rates set for a calendar year to prevent significant rate variations between calendar years. When the trust fund reserve is being rebuilt, rates will not be lowered until the target level is reached. If while achieving the trust fund reserve target the trigger of above three percent insured unemployment rate and an increase of more than one hundred ten percent of the average of the two preceding years has been in effect for two or more consecutive years, the period of time to achieve the trust fund reserve target is extended to seven years from the end date of the last year in which the trigger was in effect. If this trigger has been in effect for one year, the amount of tax increase towards achieving the targeted amount of the trust fund reserve must be determined using the number of years remaining of the seven-year period, excluding the year the trigger is in effect.

2. Rates must be determined as follows:

- a. The income required for the calendar year must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one one-hundredth of one percent is the average required rate.
- b. ~~The minimum rate for each calendar year is the average required rate, multiplied by one-fourth, rounded to the nearest one-tenth of one percent.~~ If the positive employer maximum rate is at least one percent, the positive employer minimum rate is the positive employer maximum rate minus nine-tenths of one percent. If the positive employer maximum rate is less than one percent, the range for the positive employer minimum rate must be at least one-tenth of one percent and must be less than two-tenths of one percent (the minimum of one-tenth of one percent plus the increment of one-tenth of one percent), with the positive employer minimum rate equal to the positive employer maximum rate minus a multiple of the increment one-tenth of one percent as provided in subsection 2 of section 52-04-06 to fall within the range described above. Within the table of rate schedules for each calendar year, a rate schedule may not be used if it would generate less income than any rate schedule preceding it on the table of rate schedules. The negative employer minimum rate is the positive employer maximum rate plus five and one-tenth percent.
- c. ~~The maximum rate for each calendar year is the average required rate, multiplied by three, rounded to the nearest one-tenth of one percent.~~ The positive employer maximum rate must be set so that

all the rates combined generate the average required rate. The negative employer maximum rate is the negative employer minimum rate plus three and six-tenths percent. However, the maximum rate must be at least five and four-tenths percent.

3. a. Except as otherwise provided in this subsection, an employer's rate may not be less than the ~~maximum~~ negative employer minimum rate for a calendar year unless the employer's account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year. If an employer in construction services has not been subject to the law as required, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. However, an employer in construction services must be assigned the maximum rate of seven percent, whichever is greater, for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year. If an employer in nonconstruction services has not been subject to the law as required, the employer in nonconstruction services qualifies for a reduced rate if the account has been chargeable with benefits throughout the twelve-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. During the building of the trust fund reserve, the rate assigned to an employer may not exceed one hundred thirty percent of the previous year's rate for that employer and an employer may not receive more than a ten percent decrease in that employer's rate from the previous year's rate, for the calendar years 2000, 2001, and 2002. The executive director may provide any negative employer whose contributions paid into the trust fund are greater than the benefit charges against that employer's account, for a minimum of three consecutive years immediately preceding the computation date or subject to the law as required, with up to a thirty percent reduction to that employer's rate for any year if that employer has in place a plan approved by the bureau which addresses substantive changes to that employer's business operation and ensures that any rate reduction provided will not put the employer account back into a negative status.
- b. An employer that does not qualify under subdivision a is subject to a rate determined as follows:
 - (1) For each calendar year new employers must be assigned a rate that is one hundred fifty percent of ~~two and two-tenths percent~~ the positive employer maximum rate or a rate of one percent, whichever is greater, unless the employer is classified in construction services. However, an employer must be assigned the maximum rate within the negative employer rate ranges for any year if, as of the computation date, the cumulative benefits charged to that employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.

- (2) New employers in construction services must be assigned a rate of seven percent of the maximum rate, whichever is greater the negative employer maximum rate.
 - (3) Assignment by the bureau of an employer's industrial classification for the purposes of this section must be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual issued by the executive office of the president, office of management and budget.
4. An employer who has ceased to be liable for contributions shall continue its established experience rating account if it again becomes liable within three years from the date that it ceased to be liable. Such employer's rate, however, must be determined in accordance with subsection 3.

SECTION 2. AMENDMENT. Section 52-04-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-04-06. Variations in standard rate of contributions - How determined.

1. ~~All employers eligible for an experience rate computation must be ranked in descending order by their reserve ratios. An employer's reserve ratio is the percentage of the average annual payroll by which difference between the cumulative six-year contributions paid by that employer on or before October thirty-first of any year, with respect to wages paid by that employer before October first of that same year, exceeds and the cumulative six-year benefits charged to that employer's account before October first of that year, divided by the average annual payroll. Employers whose cumulative contributions exceed cumulative benefits must be assigned within the positive employer rate groups. Employers whose cumulative contributions are equal to or less than cumulative benefits must be assigned within the negative employer rate groups.~~
2. ~~For each calendar year the bureau shall establish a schedule of rates, with the minimum rate determined under section 52-04-05 assigned to the first rate group. Each successive rate group must be assigned a rate equal to the previous group's rate plus two-tenths of one percent. The number of rate groups in the schedule must be the number required to provide for a rate group at each two-tenths of one percent interval between the minimum rate and two and one-fourth times the average required rate determined under section 52-04-05. For each calendar year the bureau shall establish a schedule of positive employer rate groups within the positive employer minimum rate and the positive employer maximum rate determined under section 52-04-05. Each successive rate group for positive employer rate groups must be assigned a rate equal to the previous group's rate plus one-tenth of one percent. The number of rate groups in the positive employer schedule must be the number required to provide for a rate group at each one-tenth of one percent interval between the positive employer minimum rate and the positive employer maximum rate determined under section 52-04-05. For each calendar year the bureau shall establish a schedule of negative employer rate groups with the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05.~~

Each successive rate group for negative employer rate groups must be assigned a rate equal to the previous group's rate plus four-tenths of one percent. The number of rate groups in the negative employer schedule must be the number required to provide for a rate group at each four-tenths of one percent interval between the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05.

3. Employers must be assigned to the groups in the rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio employers assigned to the first rate group. Each successively ranked employer must be assigned to the groups in the rate schedule so that those employers reporting seventy-eight percent of the eligible employer's prior year's taxable wages are equally distributed in these rate groups at or below the average rate required of employers eligible for experience rating or the minimum rate group, whichever is greater, and twenty-two percent of those wages are equally distributed in the remaining rate groups. Positive employers must be assigned to the rate in the positive employer rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio positive employers assigned to the first positive employer rate. Each successively ranked positive employer must be assigned to a rate within the positive employer rate schedule so that each rate within the rate schedule is assigned the same proportion of the positive employers prior year's taxable wages. Negative employers must be assigned to the rate in the negative employer rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio negative employers assigned to the first negative employer rate. Each successively ranked negative employer must be assigned to a rate within the negative employer rate schedule so that each rate within the rate schedule is assigned the same proportion of the negative employer's prior year's taxable wages.
4. The average rate of employers eligible for experience rating is determined as follows:
 - a. The estimated amount of taxes to be paid each year by employers not eligible for experience rating must be subtracted from the total required income for the year determined under section 52-04-05.
 - b. The remainder must be divided by the estimated taxable wages of those employers eligible for experience rating, with the result rounded to the nearest one-tenth of one percent.
5. After each year's rate schedule has been established, an employer may pay into the fund an amount in excess of the contributions required to be paid under this section. That amount must be credited to the employer's separate account. The employer's rate must be recomputed with the amount included in the calculation only if that amount was paid by April thirtieth of that year. Payments may not be refunded or used as credit in the payment of contributions.
6. 5. In the bureau's determination of the projected income requirements for computing contribution rates and taxable wage base, only the wages paid by, and the cost of benefits attributable to, tax-rated employers may be taken into account.

7. 6. If an employer has a quarterly taxable payroll in excess of fifty thousand dollars and at least three times its established average annual payroll, the tax rate for that employer is the negative employer maximum rate of contribution in effect that year, beginning the first day of the calendar quarter in which it occurred and for the remainder of the calendar year.

SECTION 3. AMENDMENT. Section 52-04-09 of the North Dakota Century Code is amended and reenacted as follows:

52-04-09. Classification of employers to determine contributions - Regulations governing. An employer's rate for a calendar year must be determined on the basis of the employer's experience with contribution payments and benefit charges as of October first of the preceding year. If when such determination is to be made an employer has failed to file a required report or filed an insufficient report, the bureau shall notify the employer thereof by certified mail addressed to the employer's last known address. Unless the employer files the report or a sufficient report within fifteen days after mailing of the notice, the employer's rate for the following calendar year may not be less than the negative employer maximum rate. For employers identified as belonging to industry group number 161, highway and street construction, except elevated highways, for the effective period set forth in section 52-04-05, the employer's rate for the following calendar year may not be less than the negative employer maximum rate plus one and one-half percent. If, at any time, an employer has failed to file a required report or filed an insufficient report, the bureau may, at any time, estimate the wage information required by the report on the basis of reasonably available evidence. The bureau shall notify the employer of the estimate by certified mail addressed to the employer's last known address. Unless the employer files the report or a sufficient report within fifteen days after the mailing of the notice, the estimate becomes final for all purposes, except that if the amount of estimated wages is less than the actual wages, the bureau may reconsider the estimate.

SECTION 4. AMENDMENT. Section 52-06-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-06-05. (Effective through December 31, 1999) Maximum potential benefits.

1. Except as provided in subsection 2, any otherwise eligible individual is entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line that includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
1.50 to 2.29	12
2.30 to 2.44	14
2.45 to 2.59	16
2.60 to 2.74	18
2.75 to 2.89	20
2.90 to 3.04	22
3.05 to 3.19	24
3.20 or more	26

2. Any otherwise eligible individual ~~whose entire~~ with at least sixty percent of that individual's base-period earnings ~~were~~ paid by an employer belonging to industry group number 161, highway and street construction, except elevated highways, pursuant to the standard industrial classification manual is entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line that includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
1.50 to 1.73	12
1.74 to 1.97	14
1.98 to 2.21	16
2.22 to 2.45	18
2.46 to 2.69	20
2.70 to 2.93	22
2.94 to 3.17	24
3.18 or more	26

(Effective after December 31, 1999) Maximum potential benefits. Any otherwise eligible individual is entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
1.50 to 2.29	12
2.30 to 2.44	14
2.45 to 2.59	16
2.60 to 2.74	18
2.75 to 2.89	20
2.90 to 3.04	22
3.05 to 3.19	24
3.20 or more	26

SECTION 5. JOB SERVICE NORTH DAKOTA - REPORT TO LEGISLATIVE COUNCIL - LEGISLATIVE COUNCIL RECOMMENDATIONS.

During the 1999-2000 interim, job service North Dakota shall review possible incentives to encourage an employee to decrease the length of time that employee receives unemployment compensation benefits and to encourage a negative employer to become a positive employer and job service North Dakota shall report the results of this review to the legislative council. The legislative council shall report its recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

Approved April 22, 1999
Filed April 22, 1999

CHAPTER 436**HOUSE BILL NO. 1269**
(Representative Keiser)**UNEMPLOYMENT COMPENSATION BENEFIT
DISQUALIFICATION**

AN ACT to amend and reenact subsection 1 of section 52-06-02 of the North Dakota Century Code, relating to disqualification from unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. For the week in which ~~he~~ the individual has left ~~his~~ the individual's most recent employment voluntarily without good cause attributable to the employer, and thereafter until such time as ~~he~~ the individual:
 - a. Can demonstrate that ~~he~~ the individual has earned remuneration for personal services in employment equivalent to at least eight times ~~his~~ the individual's weekly benefit amount as determined under section 52-06-04; and
 - b. Has not left ~~his~~ the individual's most recent employment under disqualifying circumstances.

A temporary employee of a temporary help firm is deemed to have left employment voluntarily if the employee does not contact the temporary help firm for reassignment before filing for benefits. Failure to contact the temporary help firm is not deemed a voluntary leaving of employment unless the claimant was advised of the obligation to contact the temporary help firm upon completion of an assignment and advised that unemployment benefits may be denied for failure to contact the temporary help firm. As used in this subsection, "temporary employee" means an employee assigned to work for a client of a temporary help firm; and "temporary help firm" means a firm that hires that firm's own employees and assigns these employees to a client to support or supplement the client's work force in a work situation such as employee absence, temporary skill shortage, seasonal workload, a special assignment, and a special project.

This subsection does not apply if the bureau determines that the individual in an active claim filing status accepted work which the individual could have refused with good cause under section 52-06-36 and terminated such employment with the same good cause and within the first ten weeks after starting work.

This subsection does not apply if the individual left employment or remains away from employment following illness or injury upon a

physician's written notice or order; no benefits may be paid under this exception unless the employee has notified the employer of the physician's requirement and has offered service for suitable work to the employer upon the individual's capability of returning to employment. This exception does not apply unless the individual's capability of returning to employment and offer of service for suitable work to the employer occurs within sixty days of the last day of work. However, the cost of any benefits paid under this exception may not be charged against the account of the employer from whom the individual became separated as a result of the illness or injury. The bureau may request and designate a licensed physician to provide a second opinion regarding the claimant's qualification; however, no individual may be charged fees of any kind for the cost of such second opinion.

This subsection does not apply if the individual left the most recent employment because of an injury or illness caused or aggravated by the employment; no benefits may be paid under this exception unless the individual leaves employment upon a physician's written notice or order, the individual has notified the employer of the physician's requirement, and there is no reasonable alternative but to leave employment.

For the purpose of this subsection, an individual who left the most recent employment in anticipation of discharge or layoff must be deemed to have left employment voluntarily and without good cause attributable to the employer.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and voluntarily quit without good cause attributable to the employer or with any employer, in insured work, for whom the claimant last worked and earned wages equal to or exceeding eight times ~~his~~ the individual's weekly benefit amount.

This subsection does not apply if the individual leaves work which is two hundred road miles [321.87 kilometers] or more, as measured on a one-way basis, from the individual's home to accept work which is less than two hundred road miles [321.87 kilometers] from the individual's home provided the work is a bona fide job offer with a reasonable expectation of continued employment.

Approved March 11, 1999

Filed March 11, 1999

CHAPTER 437

HOUSE BILL NO. 1091

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION BENEFIT DETERMINATION

AN ACT to amend and reenact subsection 1 of section 52-06-04 of the North Dakota Century Code, relating to determination of weekly benefit amount for unemployment compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The procedures, provisions, and conditions of this section must determine the "weekly benefit amount" of those individuals who establish a benefit year ~~on and after July 1, 1973:~~
 - a. For the purpose of this section, the bureau shall each year, on or before the first day of June, determine the average annual wage paid to insured workers and, from that determination, an "average weekly wage", by the following computation:

The total wages reported on contribution reports for the preceding calendar year must be divided by the average monthly number of covered workers, whose number must be determined by dividing by twelve the total covered employment reported on contribution reports for the preceding calendar year, and the quotient obtained by dividing the total wages by the average monthly number of covered workers is the average annual wage; and such quotient must be divided by fifty-two and the amount thus obtained, rounded to the nearest cent, is the "average weekly wage".
 - b. An individual's "weekly benefit amount" is one sixty-fifth (if not a multiple of one dollar, to be computed to the next lower multiple of one dollar) of the sum of:
 - (1) The individual's total wages for insured work paid during the two quarters of the individual's base period in which the individual's wages were the highest; and
 - (2) One-half of the individual's total wages for insured work paid during the third highest quarter in the individual's base period.

However, if that amount is less than the "minimum weekly benefit amount" the individual is monetarily ineligible for benefits. The "minimum weekly benefit amount" is forty-three dollars. ~~For benefit years beginning after August 8, 1987, the~~ The "maximum weekly benefit amount" is ~~sixty~~ sixty-two percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar. However, if on October first of any calendar year ~~beginning with the calendar year 1989, the trust fund reserve is equal to or greater than the required amount, then as of July first of the next year, the maximum weekly benefit amount is sixty-two percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar. Further, if on October first of any calendar year beginning with the calendar year 1989, the trust fund reserve is equal to or greater than the required amount, and if this state's average contribution rate is below the nationwide average for the preceding calendar year, then the maximum weekly benefit amount is sixty-five percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar. The average contribution rate is determined on the basis of total contributions divided by total wages.~~

Approved April 8, 1999
Filed April 8, 1999

CHAPTER 438**HOUSE BILL NO. 1090**

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

**UNEMPLOYMENT COMPENSATION BENEFIT
ASSIGNMENT**

AN ACT to amend and reenact subsection 1 of section 52-06-30 of the North Dakota Century Code, relating to assignment of unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-30 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under the North Dakota Unemployment Compensation Law is valid. Such rights to benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of a debt. Benefits received by any individual, as long as they are not mingled with other funds of the recipient, are exempt from any remedy for the collection of all debts except debts incurred for necessities furnished to the individual, that person's spouse, or dependents during the time when the individual was unemployed. No waiver of any exemption provided for in this subsection is valid. However, this subsection does not impair the operation of subsection 2 or section 52-06-06.1 or the continuous levy authorized under Public Law No. 105-34, Section 1024 [111 Stat. 923-924; 26 U.S.C. 6331(h)].

Approved March 8, 1999
Filed March 8, 1999

CHAPTER 439

HOUSE BILL NO. 1443

(Representatives Dorso, Byerly, Koppang)
(Senators Kringstad, Robinson, Traynor)

WORK FORCE TRAINING

AN ACT to create and enact five new sections to chapter 52-08 of the North Dakota Century Code, relating to work force training; to amend and reenact subsection 6 of section 15-10-01 and subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to name changes of institutions of higher education; to repeal section 15-11-02.1 of the North Dakota Century Code, relating to supervision of the college at Devils Lake; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 15-10-01 of the North Dakota Century Code is amended and reenacted as follows:

6. The following ~~junior colleges and off-campus educational center:~~ Bismarck state college, ~~university of North Dakota - Lake Region state college,~~ and ~~the university of North Dakota - Williston center state college.~~

²⁸⁰ **SECTION 2. AMENDMENT.** Subsection 13 of section 15-10-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

13. To establish a retirement program as an alternative to chapter 15-39.1 for employees of institutions under its control, subject to the following guidelines:
 - a. Benefits under the program ~~shall~~ must be provided through annuity contracts purchased by the board but which ~~shall~~ become the property of the participants;
 - b. The cost of the annuity contracts ~~shall~~ must be defrayed by contributions made pursuant to rules of the state board of higher education;
 - c. Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota

²⁸⁰ Section 15-10-17 was also amended by section 2 of House Bill No. 1186, chapter 157.

~~shall~~ must be transferred to the employee's account in the alternate program. ~~Such~~ The election ~~shall~~ must be made ~~prior to~~ before July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2;

- d. Employees of Bismarck state college and ~~university of North Dakota~~ - Lake Region state college coming under the jurisdiction of the board who are members of the teachers' fund for retirement may elect ~~prior to~~ before July 1, 1985, to continue membership in the teachers' fund for retirement in lieu of the alternate retirement program. If an employee does not elect to continue membership in the teachers' fund for retirement, membership in that fund will terminate and the employee will become a member of the alternate retirement program established by the board effective July 1, 1985. An employee of ~~the above-named these~~ colleges who becomes a member of the alternate retirement program may elect ~~prior to~~ before July 1, 1985, to have the employee's assessments and employer's contributions in the teachers' fund for retirement with interest transferred by the board of trustees of the teachers' fund for retirement to the employee's account in the alternate retirement program. If an employee elects to transfer the employee's assessment and employer's contributions together with interest to the alternate retirement program, the employee relinquishes all rights the employee or the employee's beneficiary may have to benefits provided in chapters 15-39, 15-39.1, and 15-39.2; and
- e. Employees of institutions under the control of the state board of higher education who are members of the public employees retirement system and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system ~~prior to~~ before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.

The board shall provide for the administration of the alternate retirement program and establish rules ~~therefor~~ for the program consistent with the foregoing guidelines this subsection. ~~Nothing in this~~ This subsection shall be construed in derogation of ~~does not derogate~~ any existing retirement programs approved by the board.

SECTION 3. A new section to chapter 52-08 of the North Dakota Century Code is created and enacted as follows:

Institution to serve work force needs. Subject to state board of higher education policies, the president of an institution of higher education that is assigned primary responsibility for work force training shall establish a division or other unit within the institution to serve the work force needs of business and industry and to serve as a broker in arranging the delivery of training.

SECTION 4. A new section to chapter 52-08 of the North Dakota Century Code is created and enacted as follows:

Work force training board - Formation. Subject to state board of higher education policies, the president of an institution of higher education that is assigned primary responsibility for work force training shall appoint a work force training board consisting of representatives from businesses, labor, and industries located within the institution's delivery area. The work force training board must consist of at least seven but no more than fifteen members and must include at least one representative from either an Indian-owned business, the tribal government, or the tribal colleges within the designated region.

SECTION 5. A new section to chapter 52-08 of the North Dakota Century Code is created and enacted as follows:

Preparation of business plan - Revolving loans. Subject to state board of higher education policies, the president of an institution of higher education that is assigned primary responsibility for work force training shall prepare an annual business plan that must include provisions for use of the training capacity of the tribal colleges within the designated region, in consultation with the work force training board. The work force training board shall approve the business plan and make recommendations for funding of the business plan to the state board of higher education. The state board of higher education may establish for each institution of higher education assigned primary responsibility for work force training a revolving loan fund for work force training program startups using the borrowing authority provided in section 15-10-16.1.

SECTION 6. A new section to chapter 52-08 of the North Dakota Century Code is created and enacted as follows:

Performance measurements for work force training. Subject to state board of higher education policies, the president of an institution of higher education that is assigned primary responsibility for work force training shall develop, in consultation with the work force training board, performance measurements for work force training. The measurements must include requirements for being time sensitive and results oriented and must determine how well the training needs of business and industry are being met.

SECTION 7. A new section to chapter 52-08 of the North Dakota Century Code is created and enacted as follows:

Work force training - Investment fee.

1. Except for employers with fewer than twenty-five employees and public and private elementary and secondary schools, job service North Dakota shall assess each employer a work force training investment fee of three one-hundredths of one percent of taxable wages paid by the employer to employees during each calendar year. The work force training investment fee is a fee separate from contributions made under chapter 52-04 and may not be deposited in the unemployment compensation fund. Job service shall assess the fee on an annual basis and may assess the fee in the same manner as it collects contributions and taxable wages reported by reimbursing employers under chapter 52-04. The work force training investment fee payments may not be included in computing unemployment compensation rates assigned to employers and may not be deducted by an employer from the wages of the employer's employees.
2. Funds collected under this section must be deposited in a work force training investment account and used to provide work force training programs at institutions of higher education that are assigned primary responsibility for work force training as defined by the state board of higher education. Administrative costs incurred by job service for collection of the work force training investment fee and for costs related to the establishment and maintenance of the work force training investment account must be paid from the work force training investment account. The funds may not be used by institutions of higher education for capital construction projects. The funds must be used to provide work force training, including operation and administration of a training division, acquisition of equipment, marketing, and program development. The institutions of higher education, job service, the work force 2000 advisory board and the tribal colleges in the state shall cooperate in addressing work force training needs in the state.
3. The state board of higher education shall establish up to four regions reflecting the geographical areas of work force training responsibility for the institutions of higher education eligible for funds under this section. Funds collected under this section must be allocated for use in the region of the state in which the funds were collected based upon covered employment, as defined by job service, in that region of the state.
4. Each institution of higher education providing a work force training program shall submit a report annually to the legislative council, the governor, the state board of higher education, the state board for vocational and technical education, and the North Dakota work force development council regarding the work force training programs receiving funds under this section.

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$875,000, or so much of the sum as may be necessary, to the state board for vocational and technical education for the purpose of contracting with institutions of higher education assigned primary responsibility for work force training in this state for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 9. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum

of \$71,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of creating the collection structure and administering collection of the work force training investment fee for providing work force training programs under this Act, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 10. APPROPRIATION. There is hereby appropriated out of any moneys in the work force training investment account, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the state board for vocational and technical education for the purpose of contracting with institutions of higher education assigned primary responsibility for providing work force training programs under this Act, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 11. APPROPRIATION. There is hereby appropriated out of any moneys in the work force training investment account, not otherwise appropriated, the sum of \$40,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of administering the collection of the work force training investment fee for providing work force training programs under this Act, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 12. REPEAL. Section 15-11-02.1 of the North Dakota Century Code is repealed.

Disapproved April 19, 1999
Filed April 19, 1999

NOTE: Sections 7, 9, 10, and 11 were vetoed by the Governor, see chapter 562.

CHAPTER 440

HOUSE BILL NO. 1070

(Government and Veterans Affairs Committee)
(At the request of Job Service North Dakota)

OASIS BENEFITS

AN ACT to amend and reenact sections 52-09-07, 52-09-08, and subsection 9 of section 52-09-20 of the North Dakota Century Code, relating to contributions to and primary insurance benefits under the old-age and survivor insurance system; and to repeal sections 52-09-09, 52-09-10, 52-09-11, 52-09-12, and 52-09-13 of the North Dakota Century Code, relating to old-age and survivor insurance taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-09-07 of the North Dakota Century Code is amended and reenacted as follows:

52-09-07. Purposes for which fund may be used - Appropriation. All moneys ~~which~~ that are paid or deposited into the old-age survivors' fund are hereby appropriated and made available to the bureau to be used only for the purposes herein provided.

1. To be used by the bureau for the payment of claims for benefits under this chapter. From and after the execution date of the agreement with the United States pursuant to chapter 306 of the 1955 Session Laws extending social security coverage to services covered by this chapter, no benefits may be paid under this chapter except to:
 - a. Persons who are receiving benefit payments or are entitled to benefit payments, under section 52-09-14, by virtue of death or retirement occurring before ~~such~~ the agreement execution date, and to dependents and survivors of ~~such~~ fully insured persons whenever entitled and eligible. After ~~such~~ the agreement execution date, ~~no~~ quarters of coverage within the meaning of subsection 7 of section 52-09-20 may not be accrued.
 - b. Persons not entitled to benefits from any other public retirement plan but who would have been eligible under section 52-09-14 before 1960, and dependents and survivors of such fully insured persons whenever entitled and eligible.
 - c. Persons who had terminated covered employment, as defined in subsection 6 of section 52-09-20, before ~~such~~ the agreement execution date because of physical disability and who are not entitled to benefits from any other public retirement or disability plan but who would have been eligible under section 52-09-14, and dependents and survivors of such fully insured persons whenever entitled and eligible. The insured, or ~~his~~ that person's survivors, shall submit a medical diagnostic opinion establishing that ~~his~~ the insured's employment was terminated because of physical disability and that ~~such~~ the disability has prevented reemployment.

Notwithstanding subsection 1 ~~and subdivision a of subsection 4 of this section~~, the effective date referred to for policeman's and ~~fireman's~~ firefighter's positions shall be is on and after the day preceding the execution date of the agreement with the United States pursuant to chapter 306 of the 1955 Session Laws extending social security coverage to services covered by this chapter.

2. a. To be used by the bureau to pay ~~refunds provided for in section 52-09-10, and to pay~~ a prior service refund to any person who is not receiving any other payment under this chapter, who is employed on the date of the federal-state agreement covering services performed under this chapter and executed pursuant to chapter 306 of the 1955 Session Laws, or who was eligible to vote in the public employees' referendum held on December 20, 1956, pursuant to authorization of chapter 306, or to any employee or ~~his~~ the employee's survivor who has nineteen or more quarters of coverage on the date of ~~such~~ the federal-state agreement in an amount equal to the employee's individual contribution made between the dates July 1, 1947, and December 31, 1954, after ~~such~~ that person makes written application therefor to the bureau.
- b. ~~No~~ A refund ~~will~~ may not be paid if the application was received after 1959. ~~No~~ A contribution ~~will~~ may not be refunded if the wages are used to determine benefit eligibility. If ~~such~~ the wages were used for a benefit determination, the person shall repay the amount of the refund or the bureau may deduct the amount from any payment due to the person.
3. Contributions may be paid for employers and employees to the United States pursuant to chapter 306 of the 1955 Session Laws, and pursuant to any federal-state agreement executed thereunder, and to provide coverage under federal social security retroactive to December 31, 1954, and up to July 1, 1957, for employees subject to that agreement. ~~Such~~ The amounts are to be transferred and paid into the social security contribution fund established by chapter 306 of the 1955 Session Laws.
4. ~~For the purposes of making payments under this section, if the balance in the old-age survivors' fund becomes insufficient to pay current obligations, the bureau is authorized to borrow necessary amounts from the Bank of North Dakota and to repay such loans from the employer tax set forth in section 52-09-09.~~
5. The legislative assembly may appropriate moneys from this fund to be used by the bureau for the purposes of administration of this chapter and chapter 52-10. The bureau ~~will~~ shall maintain complete and accurate records of all appropriations under this subsection, and expenditures made from those appropriations. All disbursements for administrative expenses from the fund must be paid by warrant-checks prepared by the bureau.

²⁸¹ **SECTION 2. AMENDMENT.** Section 52-09-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-09-08. Default in taxes - Interest - Action to collect - Levy of tax by political subdivisions. Taxes unpaid on the date on which they are due and payable, as prescribed by the bureau, must bear interest at the rate of one-half of one per centum per month from and after ~~such~~ that date until payment plus accrued interest is received by the bureau; provided, that the bureau may prescribe fair and reasonable regulations pursuant to which ~~such~~ interest ~~shall~~ does not accrue with respect to taxes required. ~~In no case may the~~ The amount of interest imposed ~~hereby~~ may not be less than five dollars. Interest collected pursuant to this section must be paid into the old-age and survivors' fund.

- ~~1. If within thirty days after due notice, the employer defaults in payment of taxes or interest thereon, the amount due must be collected by civil action in the name of the bureau and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect taxes or interest thereon must be heard by the court at the earliest possible date and are entitled to preference upon the calendar of the court over all other civil actions.~~
- ~~2. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision.~~
- ~~3. The A political subdivision, except a school district, a multidistrict special education board, or a center board of an area vocational and technology center, shall levy a tax sufficient to meet its obligations under this chapter, up to a maximum levy not exceeding the limitation in section 57-15-28.1. Within the levy limitations set out in subsection 6 of section 57-15-28.1, the governing body of a county may levy a tax for comprehensive health care insurance employee benefit programs duly established by the governing body. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section must be paid out of the general fund of the political subdivision. All payments by a school district for obligations incurred under this chapter must be made out of the school district's general fund established pursuant to section 57-15-14.2.~~

SECTION 3. AMENDMENT. Subsection 9 of section 52-09-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Primary insurance benefit" means the sum of the following:
 - a. (1) Fifty percent of the amount of an individual's average monthly wage if the average monthly wage does not exceed seventy-five dollars; or

²⁸¹ Section 52-09-08 was also amended by section 1 of Senate Bill No. 2358, chapter 501.

- (2) If the average monthly wage exceeds seventy-five dollars, thirty-seven dollars and fifty cents, plus fifteen percent of the amount by which the average monthly wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars;
- b. One percent of the amount computed under subdivision a, multiplied by the number of years in which two hundred dollars or more of wages were paid to the individual; and
- c. (1) Effective August 1, ~~1997~~ 1999, ~~five~~ seven hundred thirty-three dollars and ~~thirty-three~~ thirty-two cents; or
- (2) Effective August 1, ~~1998~~ 2000, ~~six~~ seven hundred ~~sixty-six~~ ninety-nine dollars and ~~sixty-six~~ ninety-eight cents.

SECTION 4. REPEAL. Sections 52-09-09, 52-09-10, 52-09-11, 52-09-12, and 52-09-13 of the North Dakota Century Code are repealed.

Approved March 29, 1999
Filed March 29, 1999