

SOCIAL SECURITY

CHAPTER 594

SENATE BILL NO. 2107
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

JOB SERVICE LAND SALE OR EXCHANGE

AN ACT authorizing the state of North Dakota acting by job service North Dakota to sell and convey or to exchange Lot 1, Block 11, of the original town, now City of Mandan, Morton County, North Dakota; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. The state of North Dakota acting by job service North Dakota is hereby authorized to sell and convey or to exchange Lot 1, Block 11, of the original town, now City of Mandan, Morton County, North Dakota.

SECTION 2. 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. Proceeds from the sale must be used as authorized and directed by law.

SECTION 3. Notwithstanding the provisions of sections 54-01-05.1 and 54-01-05.2, job service North Dakota may cause the property described in section 1 to be exchanged for real property of not less than equal value situated in Mandan, North Dakota. The real property received in exchange must be acceptable to job service North Dakota and to the United States department of labor. Any real property received in exchange must be appraised as provided by law in the case of sale or exchange of real property owned by the state. Any conveyance of real property made by exchange under this section may be made as provided by law in the case of sale or exchange of real property owned by the state without the complying with any statute requiring the giving of notice of exchange or competitive bidding.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 595

HOUSE BILL NO. 1359
(Representatives Koland, Kloubec)
(Senators Olson, Reiten)

UNEMPLOYMENT COMPENSATION AND CONTRIBUTIONS

AN ACT to amend and reenact sections 52-04-05, 52-04-06, 52-04-09, subdivision b of subsection 1 of section 52-06-04, and section 52-06-05 of the North Dakota Century Code, relating to unemployment compensation contributions and benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-05. Standard rate of contributions - Reduction Determination of rates.

1. For the calendar year 1979 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be the rate fixed for employers who have a minus balance reserve ratio which is applicable for the given year in the schedule of rates under section 52-04-06 or five and four-tenths percent, whichever is greater. No employer's rate shall be reduced below the standard rate for any calendar year unless and until his account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year, except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve-consecutive-calendar-month period, the twenty-four-consecutive-calendar-month period for 1985 and each year thereafter, ending on September thirtieth of the preceding calendar year. Employers who have not been subject to the law for a sufficient period of time to meet the requirements of this subsection shall have their rate determined under subsection 2.

2. For the calendar year 1981 and each year thereafter, an employer who is not eligible for an experience rate computation, as provided in subsection 1 and section 52-04-06, shall pay contribution at a rate equal to the average industry tax rate as determined by the bureau on computation date, provided that the rate shall not be less than one percent. This subsection shall not apply to newly liable employers in industries with an average tax rate exceeding three percent. Newly liable employers in these industries shall pay the standard rate. The computation of the average industry rate shall exclude those employer accounts which are not eligible for the computation of an experience rate solely by reason of insufficient experience. For the calendar year 1985 and each year thereafter, an employer who is not eligible for an experience rate as provided in subsection 1 and section 52-04-06, shall be assigned the average tax rate of all employers as determined by the bureau on the computation date, but in no event shall this rate be less than one percent. This provision shall not apply to employers classified in an industry which the bureau determines had a negative reserve on the computation date. Newly liable employers in these industries shall be assigned the standard rate. An employer with an industry classification code that is without experience in this state for twelve consecutive chargeable months or who has failed to provide correct industrial classification information shall pay at the standard rate. Assignment by the bureau of employer's industrial classification, for the purpose of this subsection, shall 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. The standard rate shall be assigned an employer account which on computation date has a minus balance reserve, or has failed to file a contribution report or a corrected or sufficient report as provided in section 52-04-09. 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, and each succeeding October first, is equal to twenty-five percent of the total benefits paid during the previous twelve months.

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.
- c. The maximum rate for each calendar year is the average required rate, multiplied by two and three-fourths, rounded to the nearest one-tenth of one 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 reduced below the maximum 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.
- b. If an employer has not been subject to the law as required under subdivision a, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year.
- c. An employer that does not qualify under either subdivision a or b is subject to a rate determined as follows:
- (1) For each calendar year new employers must be assigned a rate of three and one-fourth percent, unless the employer is classified in an industry that the bureau determines has a negative reserve on the computation date.
 - (2) New employers in industries that have a negative reserve on the computation date and employers that have failed to provide correct industrial classification information must be assigned the maximum rate.
 - (3) Assignment by the bureau of an employer's industrial classification for the purposes of this paragraph 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.
- d. Regardless of any other provision in this subsection, an employer must be assigned the maximum 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 with respect to wages paid by that employer before October first of that year.

SECTION 2. AMENDMENT. Section 52-04-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-06. Variations in standard rate of contributions - How determined. Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

- 1- The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before October thirty-first of any year, with respect to wages paid by that employer prior to the first day of October of that calendar year, exceeds the cumulative benefits which were charged to that employer's account and paid on or before September thirtieth of that year, is that employer's reserve ratio. The contribution rate for the next calendar year of an employer eligible under section 52-04-05 will be the basic rate of contributions on the line in the schedule of basic rates opposite that employer's reserve ratio as established for that year.

EMPLOYER'S RESERVE RATIO	BASIC RATE
0% or less	5-0%
More than 0% but less than 1%	4-3%
1% but less than 2%	4-1%
2% but less than 3%	3-9%
3% but less than 4%	3-7%
4% but less than 5%	3-5%
5% but less than 6%	3-3%
6% but less than 7%	3-1%
7% but less than 8%	2-9%
8% but less than 9%	2-7%
9% but less than 10%	2-5%
10% but less than 11%	2-3%
11% but less than 12%	2-1%
12% but less than 13%	1-9%
13% but less than 14%	1-7%
14% but less than 15%	1-5%
15% but less than 16%	1-3%
16% but less than 17%	1-1%
17% but less than 18%	0-9%
18% but less than 19%	0-7%
19% and over	0-5%

- 2- For the calendar year 1983 and each year thereafter, the bureau shall adjust the basic rates in the schedule of basic rates by an adjustment ratio so as to provide a return of contributions needed to pay the projected amount of benefits payable for the following year and to provide for an adequate trust fund reserve. An adequate trust

- fund reserve as of October 17, 1986, must be at least fifteen percent of the average annual amount of benefits paid. An adequate trust fund reserve as of October 17, 1987, and each October first thereafter, must be at least twenty-five percent of the average annual amount of benefits paid. The eventual goal for the amount of the trust fund reserve is fifty percent of the average annual amount of benefits paid. The average annual amount of benefits paid shall be computed by dividing the total amount of benefits paid and projected to be paid during the previous thirty-six months by three. Benefits financed by direct reimbursement must be omitted from this computation. After the bureau has determined the necessary adjustment ratio, each basic rate in the schedule of basic rates will be reduced or increased by that adjustment ratio with the result rounded to the nearest lower one-tenth of one percent in the case of a reduction or to the nearest higher one-tenth of one percent in the case of an increase.
- 3- Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within four months after the beginning of such year.
 - 4- If the total benefits chargeable against an employer's account for all periods prior to October first of such year, including benefits paid on or before October first, with respect to weeks of unemployment compensated prior to October first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before October thirty-first with respect to wages paid prior to October first of the same year, his contribution rate for the ensuing calendar year shall be the standard rate.
 - 5- In the bureau's determination of the trust fund reserve ratio, neither the amount paid by, nor the cost of benefits charged to, those employers who have elected to pay on a basis other than that which is computed under the provisions of sections 52-04-03 and 52-04-06, shall be taken into account in the computation of contribution rates and taxable wage base.
 - 6- When

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 the cumulative 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 the cumulative benefits charged to that employer's account before October first of that year.
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.
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 those rate groups at or below the average rate required of employers eligible for experience rating and twenty-two percent of those wages are equally distributed in those rate groups above the average rate.
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. 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. 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 such that employer shall be is the standard 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 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-09. Classification of employers to determine contributions - Regulations governing. An employer's rate for a calendar year shall 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 standard maximum rate. 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 shall become 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. Subdivision b of subsection 1 of section 52-06-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

b. An individual's "weekly benefit amount" ~~shall be an amount equal to~~ is one ~~fifty-second~~ 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; however; 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 such that amount is less than the "minimum weekly benefit amount" the individual shall be is monetarily ineligible for benefits. The "minimum weekly benefit amount" shall be eighteen times the current federal minimum hourly wage provided under the Fair Labor Standards Act (29 U.S.C. 206). The "minimum weekly benefit amount", if not a multiple of one dollar, shall be rounded to the next lower multiple of one dollar. The is forty-three dollars. For benefit years beginning after August 8, 1987, the "maximum weekly benefit amount" shall be as hereinafter provided-

- (1) Sixty-two is sixty percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1983-
- (2) Sixty-five percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1984-
- (3) Sixty-seven percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after July 1, 1985. 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.

SECTION 5. AMENDMENT. Section 52-06-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. Maximum potential benefits. Any otherwise eligible individual ~~shall be~~ 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
<u>1.50 to 1.75</u>	<u>12</u>
<u>1.76 to 1.95</u>	<u>14</u>
<u>1.96 to 2.15</u>	<u>16</u>
<u>2.16 to 2.35</u>	<u>18</u>
<u>2.36 to 2.55</u>	<u>20</u>
<u>2.56 to 2.75</u>	<u>22</u>
<u>2.76 to 2.95</u>	<u>24</u>
<u>2.96 or more</u>	<u>26</u>
<u>1.50 to 2.29</u>	<u>12</u>
<u>2.30 to 2.44</u>	<u>14</u>
<u>2.45 to 2.59</u>	<u>16</u>
<u>2.60 to 2.74</u>	<u>18</u>
<u>2.75 to 2.89</u>	<u>20</u>
<u>2.90 to 3.04</u>	<u>22</u>
<u>3.05 to 3.19</u>	<u>24</u>
<u>3.20 or more</u>	<u>26</u>

Approved April 24, 1987
Filed April 27, 1987

CHAPTER 596

SENATE BILL NO. 2128
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

INCREMENTAL BOND FOR IMPACT PROJECTS

AN ACT to create and enact a new section to chapter 52-04 of the North Dakota Century Code, relating to incremental bonding of impact projects for unemployment compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Incremental bond for impact projects.

1. Any person, firm, or corporation and every general contractor which will employ or contract for the employment of or which is employing, directly or indirectly through agents, independent contractors or subcontractors on any project in North Dakota with an estimated construction cost of at least twenty-five million dollars including physical construction and site preparation but excluding design and engineering, a majority of which is planned to be completed or discontinued within a period of seven years, and which will require the employment of at least two hundred fifty people is subject to this section. Each employing unit working on a project which meets the criteria specified under this section shall pay the bond required in subsection 2 and shall report annually to the bureau any change in contract bids within the state as may have been determined under subsection 2.
2. If the bureau determines that the project is or will be within the criteria stated by this section, the bureau shall estimate the total job insurance contributions which the employing units will make under the North Dakota Unemployment Compensation Law based on the average estimated number of covered employees during the course of the project. The bureau shall also estimate the total benefits which will be required at the completion of the

project, assuming that fifty percent of covered employees will claim benefits following completion or discontinuance of the project. If estimated benefits exceed estimated contributions, the bureau shall assess and collect from each employing unit an additional amount of one-half percent times the successful bid amount on the project awarded to each employing unit but not to exceed one-half percent times the total amount allowed under all bids accepted under the project. The amount is in addition to any other contribution required under the law and must be treated as incremental bond payments to ensure payment for all benefits ultimately claimed. The payments are not contributions until the ultimate determination of liability is made under subsection 3. The bureau shall amend the amount assessed under this subsection in accordance with any increases in contract bids reported by an employing unit under subsection 1. Any employing unit failing to comply with this subsection may be enjoined by the bureau from engaging or continuing in business until all required payments are made.

3. The amounts collected from each employing unit under this section must be credited to individual interest-bearing incremental bond trust accounts established by the bureau at the Bank of North Dakota.

Eighteen months after the completion or discontinuance of the project or eighteen months after the employing unit completes its phase of the work, the bureau shall determine the total benefits paid to employees of the employing unit or units and if the total amount collected from the units under the North Dakota Unemployment Compensation Law exceed total benefits paid to the employees of the units, the difference plus accrued interest must be refunded to the appropriate unit or units but not exceeding the amount paid under this subsection plus accrued interest. The amount not refunded must be credited to the unemployment compensation fund.

4. Upon completion of the contract requiring a bond in excess of one thousand two hundred fifty dollars, a contractor may receive a credit of ten percent of the total bond for every ten percent of the total wages which were paid to individuals who at the time of hire were North Dakota residents. Upon completion of the contract requiring a bond of one thousand two hundred fifty dollars or less, a contractor may receive a credit of ten percent of the total bond for every ten percent of the total wages which were paid to individuals who at the time of hire were North Dakota residents. For the purposes of this subsection a person may be considered a resident provided the person has earned in covered employment in North Dakota as defined in title 52, the sum of two thousand dollars during the past four completed calendar quarters

- preceding the date of employment or can provide evidence of having resided in the state during the past four completed calendar quarters preceding the date of employment.
5. Any employing unit, whether contractor, subcontractor, or otherwise, which in turn subcontracts a portion of its contract, may upon application to the bureau and proof of such subcontract receive an adjustment on its bond in direct proportion to the amount of such subcontract.
 6. Failure of any employing unit, whether contractor, subcontractor, or otherwise, to inform the bureau of the issuance of a subcontract or if any subcontractor fails to pay the bond required under this section shall cause the contractor to be liable for payment of the subcontractor bond and any unpaid subcontractor contributions due on the project.
 7. For the purposes of this section, a project includes all entities which employ or contract for the employment of, or is employing directly or indirectly through agents, independent contractors, or subcontractors, regardless of the number of employees that any particular employing unit may have to perform services on a project, if the overall project involves the employment of at least two hundred fifty persons in the aggregate. In this situation, each employing unit, whether contractor, subcontractor, or otherwise, involved in the project is subject to this section.
 8. The bureau is authorized to adopt necessary rules for the effective administration and enforcement of this section.
 9. This section applies to projects begun after June 30, 1987. A project must be deemed to have commenced under this section at the time that work begins under the first contract that has been let for any phase or type of work on the project.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 597

SENATE BILL NO. 2127
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

JOB SERVICE BORROWING

AN ACT to create and enact a new section to chapter 52-04 of the North Dakota Century Code, relating to advances from sources other than the federal unemployment trust fund; and to amend and reenact section 52-04-22 of the North Dakota Century Code, relating to the federal advance interest repayment fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-22. Federal advance interest repayment fund. There is created the federal advance interest repayment fund, to which will be credited all assessments collected by the division for the purpose of paying interest due on federal advances to the state trust fund. The fund shall consist of all interest collected on delinquent contributions and, all penalties provided by the Unemployment Compensation Law, and funds borrowed from sources other than federal advances which are placed in this fund. All moneys accruing to this fund in any manner shall be maintained in this separate interest bearing account at the Bank of North Dakota.

~~After all known interest charges have been paid, any remaining moneys in the fund may be transferred to the unemployment compensation fund.~~

Moneys in this fund may also be used for the purpose of repaying funds placed in this fund which are borrowed from sources other than federal advances and for the purpose of paying interest due on other than federal advances. However, moneys in this fund may not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, federal funds which would in the absence of the moneys be available to finance expenditures for the administration of the bureau. ~~Any remaining moneys in the fund not used for the purposes~~

SECTION 2. A new section to chapter 52-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Advances from certain sources other than federal unemployment trust fund. Job service North Dakota may borrow funds from the Bank of North Dakota. Job service North Dakota may also receive Title XII advances from the federal unemployment trust fund. However, the borrowings and advances may not exceed amounts which are necessary and sufficient to meet payment of unemployment compensation benefits, repayment of Title XII advances from the federal unemployment trust fund, and payment of interest on Title XII advances from the federal unemployment trust fund. Any such amounts borrowed from the Bank of North Dakota must be repaid no later than the end of the biennium in which they are borrowed. Any such amounts borrowed from the Bank of North Dakota are not indebtedness of the state or of any officer or agent of the state within the meaning of any statutory or constitutional provision. The borrowed funds may be placed in the state unemployment compensation fund or in the federal advance interest repayment fund established under section 52-04-22.

Any such amounts placed in the state unemployment compensation fund may be used to pay unemployment compensation benefits and to repay Title XII advances from the federal unemployment trust fund. Any such amounts placed in the federal advance interest repayment fund may be used to pay interest on Title XII advances from the federal unemployment trust fund.

Job service North Dakota may repay funds borrowed from the Bank of North Dakota, which are placed in the state unemployment compensation fund, from amounts in the state unemployment compensation fund. Job service North Dakota may also repay funds borrowed from the Bank of North Dakota which are placed in the federal advance interest repayment fund, from amounts in the federal advance interest repayment fund. However, any interest due on any borrowed funds whatsoever may not be paid from amounts in the state unemployment compensation fund. Interest due on such borrowed funds must be paid from the federal advance interest repayment fund.

Approved April 7, 1987
Filed April 9, 1987

CHAPTER 598

SENATE BILL NO. 2225
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT 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 THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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 shall 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 shall 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 shall be charged fees of any kind for the cost of such second opinion.

This subsection shall not apply if the bureau determines that the individual left his last the most recent employment with no reasonable alternative because of a work-related 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 weekly benefit amount.

Approved April 1, 1987

Filed April 2, 1987

CHAPTER 599

SENATE BILL NO. 2218
 (Committee on Industry, Business and Labor)
 (At the request of Job Service North Dakota)

EDUCATIONAL EMPLOYEE UNEMPLOYMENT BENEFITS

AN ACT to amend and reenact subsections 9, 10, 11, 12, and 13 of section 52-06-02 of the North Dakota Century Code, relating to educational employee disqualification from unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
 STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 9, 10, 11, 12, and 13 of section 52-06-02 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

9. Repealed by S.L. 1971, ch. 479, § 1-
10. Repealed by S.L. 1979, ch. 526, § 3-
11. Which are based on service in an instructional, research, or principal administrative capacity in an institution of higher education (as defined in subsection 27 of section 52-01-01) for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivisions f and g of subsection 17 of section 52-01-01 shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.
12. Which are based on service performed in an instructional, research, or principal administrative capacity for an any educational institution, or in an educational institution

* NOTE: Section 52-06-02 was also amended by section 1 of House Bill No. 1433, chapter 600.

while in the employ of an educational service agency; for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, or during an established and customary vacation period or holiday recess; to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms or if the individual performs such services in the period immediately before such vacation period or holiday recess; and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess. For the purposes of this subsection and subsection 13, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivisions f and g of subsection 17 of section 52-01-01 shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.

- 13- 10. Which are based on services performed in any other capacity for an any educational institution, or in an educational institution while in the employ of an educational service agency; for any week which commences during a period between two successive academic years or terms; or during an established and customary vacation period or holiday recess; if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms or if the individual performs such services in the period immediately before such vacation period or holiday recess; and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivisions f and g of subsection 17 of section 52-01-01 shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law. If compensation is denied to any individual under this subsection and such individual was not offered an opportunity to perform such

services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subsection.

11. Which are based on any services described in subsections 9 or 10 for any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.
12. Which are based on any services described in subsections 9 or 10 if the individual performed the services in an educational institution while in the employ of an educational service agency. The disqualification must be as specified in subsections 9, 10, and 11. For this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 600

HOUSE BILL NO. 1433
(C. Williams)

UNEMPLOYMENT BENEFIT DISQUALIFICATION

AN ACT to amend and reenact subsections 12 and 13 of section 52-06-02 of the North Dakota Century Code, relating to disqualifications for unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 12 and 13 of section 52-06-02 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

12. Which are based on service performed in an instructional, research, or principal administrative capacity for an educational institution, or in an educational institution while in the employ of an educational service agency, for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, or during an established and customary vacation period or holiday recess, ~~to any individual~~ if such the individual performs performed such services in the first of such academic years or terms and ~~if~~ there is a contract or a reasonable assurance that ~~such the~~ individual will perform services in any such capacity for any educational institution in the second of such academic years or terms or if the individual ~~performs performed~~ such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that ~~such the~~ individual will perform such services in the period immediately following such vacation period or holiday recess. This disqualification does not apply to such services performed by an individual who is in the employ of an elementary or secondary school operated by the federal government or any agency of the federal government and who is in a noncontract full-time career position and who is placed in a nonwork and nonpay status for at least two weeks. For the purposes of this

* NOTE: Section 52-06-02 was also amended by section 1 of Senate Bill No. 2218, chapter 599.

subsection and subsection 13, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivisions f and g of subsection 17 of section 52-01-01 ~~shall be~~ are payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.

13. Which are based on services performed in ~~any other~~ a capacity not described in subsection 12 for an educational institution, or in an educational institution while in the employ of an educational service agency, for any week which commences during a period between two successive academic years or terms, or during an established and customary vacation period or holiday recess, if ~~such the~~ the individual performs performed such services in the first of such academic years or terms and there is a reasonable assurance that such the individual will perform such services in the second of such academic years or terms or if the individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such the individual will perform such services in the period immediately following such vacation period or holiday recess. This disqualification does not apply to such services performed by an individual who is in the employ of an elementary or secondary school operated by the federal government or any agency of the federal government and who is in a noncontract full-time career position and who is placed in a nonwork and nonpay status for at least two weeks. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivisions f and g of subsection 17 of section 52-01-01 ~~shall be~~ are payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law. If compensation is denied to any individual under this subsection and ~~such the~~ the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such that individual shall be is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subsection.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 601

SENATE BILL NO. 2130
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION ATTORNEY'S FEES

AN ACT to amend and reenact section 52-06-32 of the North Dakota Century Code, relating to unemployment compensation claimant attorney fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-06-32 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-32. Individual claiming benefits not to be charged fees by bureau - Fees of individual's attorney. No A claimant shall may not be charged fees of any kind in any proceeding under this chapter by the bureau, its representatives, or by any court or any officer thereof in any proceeding under this chapter. Any employer or claimant party in any proceeding before the bureau may be represented by counsel or other duly authorized agent in any proceeding before the bureau or its representatives. A claimant's attorney fees, for representation in district court, shall be paid by the bureau, in an amount approved determined to be reasonable by the bureau, only if the claimant finally prevails; however, the bureau may not pay attorney fees if the claimant's attorney is employed by or contracting with a legal services organization funded totally or in part by public funds. A claimant's attorney fees are those fees charged to the claimant by the attorney and which would otherwise be payable by the claimant to the attorney. The bureau may not pay attorney fees for representation in any proceeding before the bureau or its representatives.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 602

SENATE BILL NO. 2219
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

EXTENDED UNEMPLOYMENT BENEFITS

AN ACT to amend and reenact sections 52-07.1-06 and 52-07.1-07 of the North Dakota Century Code, relating to extended unemployment compensation benefit amounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-07.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-07.1-06. Weekly extended benefit amount. The weekly extended benefit amount payable to an individual for a week of total unemployment in his the individual's eligibility period shall be is an amount equal to the weekly benefit amount payable to him the individual during his the individual's applicable benefit year. Provided, that for any week during a period in which federal payments to states under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 are reduced under an order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, the weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period must be reduced by a percentage equivalent to the percentage of the reduction in the federal payment. Such reduced weekly extended benefit amount, if not a full dollar amount, must be rounded to the nearest lower full dollar amount.

SECTION 2. AMENDMENT. Section 52-07.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-07.1-07. Total extended benefit amount. The total extended benefit amount payable to any eligible individual with respect to his the individual's applicable benefit year shall be the least of the following amounts:

1. Fifty percent of the total amount of regular benefits which were payable to ~~him~~ the individual under chapter 52-06 in ~~his~~ the individual's applicable benefit year; or
2. Thirteen times ~~his~~ the individual's weekly benefit amount which was payable to ~~him~~ the individual under chapter 52-06 for a week of total unemployment in the applicable benefit year. Provided further, that during any fiscal year in which federal payments to states under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 are reduced under an order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, the total extended benefit amount payable to an individual with respect to the individual's applicable benefit year must be reduced by an amount equal to the aggregate of the reductions under section 52-07.1-06 in the weekly amounts paid to the individual.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 603

SENATE BILL NO. 2252
(Committee on State and Federal Government)
(At the request of Job Service North Dakota)

OLD-AGE SURVIVORS' FUND CONTRIBUTIONS

AN ACT to create and enact a new subsection to section 52-09-07 of the North Dakota Century Code, relating to moneys paid or deposited into the old-age survivors' fund; to amend and reenact sections 52-09-06 and 52-09-09 of the North Dakota Century Code, relating to investing and disbursing money in the old-age survivors' fund and rates of contributions for purposes of old-age and survivor insurance; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-06. Custodian and trustee of fund - Investing and disbursing. The treasurer of the state of North Dakota is hereby made the custodian and trustee of the old-age survivors' fund and shall administer the same in accordance with the directions of the bureau. It shall be the duty of the trustee:

1. To hold said trust funds.
2. To invest such portion of said trust funds as are not needed for current payment of benefits under this chapter and costs of administration of this chapter and chapter 52-10 in interest-bearing bonds issued by the United States, or by the state of North Dakota, or in bonds, certificates of indebtedness, or warrants of any political subdivision of the state which constitute the general or contingent general obligations of the issuing tax authority and to sell and dispose of the same when needed for the payment of benefits under this chapter and costs of administration of this chapter and chapter 52-10.
3. To disburse such trust funds upon warrants drawn by the state treasurer pursuant to the order of the bureau.

4. To forward to the office of management and budget a monthly abstract showing all of the deposits to and disbursements from such trust fund.

SECTION 2. A new subsection to section 52-09-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

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 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.

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

52-09-09. Rate of contribution. In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one per centum of the wages paid before July 1, 1955, and two per centum of the wages paid after June 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959, up to July 1, 1961, such tax shall be equal to three and one-half percent, and after June 30, 1961, and until July 1, 1963, such tax shall be equal to three percent, and after June 30, 1963, such tax shall be equal to two percent, and after December 31, 1965, such tax shall be equal to one percent. After June 30, 1957, there shall be no tax hereunder upon the employee. Provided, however, if on the first day of October in any year the accumulated contributions under this chapter equal or exceed an amount two times the annual benefit payments of the twelve months ending on September thirtieth of that year one and one-half times the sum of the benefit payments and costs of administration of this chapter and chapter 52-10 for the twelve months ending on September thirtieth of that year, the tax shall be suspended during the succeeding year, and until such year in which, on the first day of October of the previous year, the accumulated contributions are less than one and one-half times the annual benefit payments for the twelve months ended as of September thirtieth of that year the sum of the benefit payments and costs of administration of this chapter and chapter 52-10 for the twelve months ending on September thirtieth of that year.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on January 1, 1987.

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

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 604

HOUSE BILL NO. 1426
(Representatives Flaagan, O. Hanson)
(Senator Richard)

CHAND AND OASIS MILL LEVIES

AN ACT to amend and reenact sections 52-09-08 and 57-15-28.1 of the North Dakota Century Code, relating to mill levy limitations for counties participating in the old age and survivors' insurance program and other related programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 52-09-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read 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, shall bear interest at the rate of one-half of one per centum per month from and after such 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 not accrue with respect to taxes required. In no case shall the amount of interest imposed hereby be less than five dollars. Interest collected pursuant to this section shall 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 shall 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 shall be heard by the court at the earliest possible date and shall be 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.

* NOTE: Section 52-09-08 was also amended by section 5 of House Bill No. 1299, chapter 232.

3. The political subdivision, except a school district, a multidistrict special education board, or a center board of a multidistrict vocational education 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 shall be paid out of the general fund of the political subdivision. All payments by a school district for obligations incurred under this chapter shall be made out of the school district's special fund established pursuant to section 57-15-14.2.

SECTION 2. AMENDMENT. Section 57-15-28.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28.1. Exceptions to tax levy limitations in political subdivisions. The tax levy limitations specified by law do not apply to the following mill levies, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section "political subdivision" has the same meaning as in section 32-12.1-02.

1. A political subdivision levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.
2. A political subdivision, except a school district, levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills.
3. A political subdivision, except a school district, levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.
4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.
5. A political subdivision, except a school district, levying a tax for old age and survivors' insurance according to section 52-09-08 may levy a tax not exceeding ~~forty~~ thirty mills.
6. A county levying a tax for comprehensive health care insurance employee benefit programs in accordance with section 52-09-08 may levy a tax not exceeding four mills.

Additionally, tax levy limitations do not apply to taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 605

SENATE BILL NO. 2462
(Langley, Vosper)

OASIS BENEFITS

AN ACT to amend and reenact subsection 9 of section 52-09-20 of the North Dakota Century Code, relating to primary insurance benefits under the North Dakota old-age and survivor insurance system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 52-09-20 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Primary insurance benefit" means ~~an amount equal to the~~ sum of the following:
 - a. (1) Fifty ~~per centum~~ percent of the amount of an individual's average monthly wage if the average monthly wage does not exceed seventy-five dollars; ~~or~~
 - (2) If the average monthly wage exceeds seventy-five dollars, ~~fifty per centum of seventy-five~~ thirty-seven dollars and fifty cents, plus ~~fifteen per centum~~ percent of the amount by which the average monthly wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars; ~~and~~
- b. ~~An amount equal to one per centum~~ 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 July 1, 1985 1987, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions a and b plus one two hundred eighty twenty dollars. Where the primary insurance benefit thus computed is less than one

hundred eighty dollars; the benefit shall be one hundred eighty dollars; or

- (2) Effective July 1, 1986 1988, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions a and b plus two hundred forty dollars. Where the primary insurance benefit thus computed is less than two hundred dollars, the benefit shall be two hundred dollars. The provisions apply to valid claims filed before and after the specified date.

Approved March 20, 1987

Filed March 23, 1987

CHAPTER 606

SENATE BILL NO. 2137
(Committee on Industry, Business and Labor)
(At the request of Job Service North Dakota)

SOCIAL SECURITY FUND TRANSFERS

AN ACT to amend and reenact subsection 4 of section 52-10-04, subsection 4 of section 52-10-05, and subsection 4 of section 52-10-06 of the North Dakota Century Code, relating to contributions for purposes of administration of social security and old-age survivor insurance, delinquent social security payments, and disbursements for administrative expenses from the social security contribution fund; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 52-10-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. In addition to the contributions required in subsection 1, every employer shall be required to pay for the period of coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages as defined in section 52-10-02, equal to one-tenth of one percent after June 1959. The purpose of this contribution is to provide a fund out of which the legislative assembly may appropriate for the administration of this chapter and chapter 52-09. The job insurance division will maintain complete and accurate records of all contributions under this subsection, and appropriations made therefrom. If on the first day of June in any year the accumulated contributions under this subsection, less appropriations, exceeds one hundred thousand dollars, or more, the tax shall be suspended during the succeeding year, and until such year in which, on the first day of June of the previous year, the accumulated contributions, less appropriations, are less than one hundred thousand dollars, at which time the tax shall be reimposed and collected as herein provided. All unexpended employer contributions in the social security contribution fund paid in to provide a fund out of which the legislative

assembly could appropriate for the administration of this chapter and chapter 52-09 as of June 30, 1987, must be transferred by the office of management and budget to the bureau for deposit by the bureau into the old-age survivors' fund established by section 52-09-05.

SECTION 2. AMENDMENT. Subsection 4 of section 52-10-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Delinquent payments due under subdivision a of subsection 3 shall bear interest at the rate specified in the Social Security Act at 42 U.S.C. 418 and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. In no case shall the interest imposed hereby be less than five dollars. In addition, penalty may be assessed on delinquent reports if such penalty is provided for in the Social Security Act at 42 U.S.C. 418. Any such penalty shall be under the terms, conditions, and in the amounts specified in the Social Security Act. In no case shall any penalty imposed hereby be less than five dollars. Annually on each September thirtieth the bureau shall determine the balance in the fund created by section 52-10-06 resulting from interest and penalties collected which are not or will not be due to the secretary of treasury. The bureau shall transfer this balance on September thirtieth to the old-age survivors' fund created by section 52-09-05.

SECTION 3. AMENDMENT. Subsection 4 of section 52-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The treasurer of the state of North Dakota shall be ex officio treasurer and custodian of the social security contribution fund and shall administer such fund in accordance with the provisions of this chapter and the directions of the state agency. All disbursements from such fund except administrative expenses shall be made in accordance with such regulations as the state agency may prescribe. ~~All disbursements for administrative expenses from such fund shall be paid by warrant-checks prepared by the office of management and budget after submission of vouchers to the office of the budget for its approval.~~

SECTION 4. EFFECTIVE DATE. This Act is retroactively effective on January 1, 1987.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved April 1, 1987
Filed April 2, 1987