

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1085

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1085

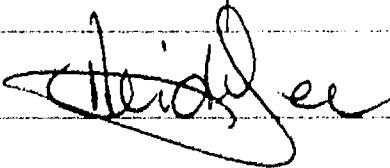
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1085

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 10, 2001

Tape Number	Side A	Side B	Meter #
1	X	X	27.44
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: (2744) We'll now open the hearing on HB 1085

Ray Gudaites: *Job Service ND* Written testimony.

Chairman Berg: (3040) Why do we not need that?

Gudaites: There is a lot of additional documentation recording that the employers have to do.

Continue written testimony.

Chairman Berg: How many employers fit this category?

Gudaites: This provision has not been applied by Job Service, we've gone through our records and I will find documentation as to why there was no implementation of this.

Chairman Berg: But now there are some employers that would fit these perimeters?

Gudajtes: We did some research in the summer of 1999 across the state trying to find out how many projects are out there they may meet these conditions and what we found out is there were about seven or eight projects back then that we at the \$25 million mark or more. We don't know for sure if they would have met the other conditions. We feel that if we really got into and got notification out to the public we'd be guesstimate because they were thin back then. We figure seven to ten a year possibly.

Chairman Berg: What protection do we have now to anticipate an occurrence and protect the fund now?

Gudajtes: There is no protection. Employers will pay the tax rate that's based on their situation.

Chairman Berg: How do we prevent something like the Coal Gassification Plant? We should probably have some protection and statue if something like that comes along. Basically, what options do we have?

Gudajtes: Perhaps Surety Bonds, we may be able to place some sort of tool in there available to us that we would be able to perhaps collect a surety bond on a project like that.

Chairman Berg: What do other states do in this situation?

Gudajtes: There is only one other state that has a provision like this and that's Wyoming. This was partially copied from the Wyoming statue.

Rep Ekstrom: (3656) I would hate to put an impediment on larger projects coming this way. It may persuade these projects to be taken to Minnesota or South Dakota.

Rep Froelich: I think that each board member should have the Century Code directly in front of them before the bill is acted on.

Chairman Berg: I don't believe we will be acting on this yet.

Rep Keiser: What you are proposing is transferring the liability to all the other employers and eventually the employees with in the state because if we pass this and there is a deficit from a major project that will be accommodated by the fund, those unemployment premiums will be paid and if it's a deficit then it has to be spread over those people remaining behind. The legislation currently has the four criteria in it, did you look at these criteria and say maybe \$25 million is a little bit too low, or 250 people isn't the right combination?

Gudaites: We did look into considerations but there would be quite a few. In this legislation, when you get down to the very end there may not be any bond money left because of these credits, and an employer could actually have all the money they paid in because they have hired ND workers and they could be eligible for 100% credit at the time they finish the project or if they have a larger project they could be eligible for 50% so the bond payment is actually shrinking when it comes down to it.

Chairman Berg: Could you explain to me the credit?

Gudaites: When the contractor finishes work on the project they can apply for a credit. How they qualify for a credit is to determine the percent of wages paid to ND workers versus the total payroll that was paid on a project. Using an example of 50%, if they have a contract of \$250,000 or less they would be eligible for 50%. They get 10% back for every 10% of the wages that are ND wages.

Chairman Berg: Then what happens if every employee goes on to unemployment benefits immediately following the completion of the project? Would they still be entitled to the credit?

Gudaites: Yes, they would. There's no condition or history of that credit.

Chairman Berg: Is it a wash for the fund?

Gudajtes: No, basically what they've paid in they're going to get back, the bond payment plus the interest.

Rep Keiser: Last session we worked very hard as a committee to come up with the new formula for the reserve fund. Did Job Service take into consideration the desire of the legislature to keep that reserve fund operating the way we programed it last session?

Gudajtes: When the rates are determined there is an estimation of what the benefit charges will be that year and that's past on a model that I'm not familiar with.

Chairman Berg: I'd like to reexamine this. I'm concerned about if we had a company from out of state land a contract, hires people, and then when the project is over those people are here in ND and they draw down the fund. That cost is then shifted to all the other employers in the state. I would like to give Job Service the flexibility to adjust according to the employer or the business to make sure we don't have a huge draw on that fund. I would like Job Service to look into ways to do this.

Gudajtes: Yes, we will be sure to look into that.

Chairman Berg: Maybe we can do that and then later take a look at that.

Rep Severson: You said that in 1999 you discovered this portion of law that has never been used. Any ideas why?

Gudajtes: We became aware of it from a call from the US Defense Dept. They were doing some carpentry work for potential contracts. They noticed the law and asked us what to do and none of us could answer the question. We have no resources to go to for our questions.

Rep Severson: Is that the soul reason for wanting to delete it?

Gudaites: The reason we're looking at this for all the paper shuffling, for the employers and for the additional administrative activities, we see very minimal benefit from it because of the credits and the refunds and all those other things. A lot of that money is going to go back to them that we had submitted. We go through all this for a very little return and it does not affect any eligibility for benefits or duration of benefits.

Rep Koppang: Are there any states that have this on their books?

Gudaites: One state, Wyoming, and it's not the same provision.

Chairman Berg: (5307) We don't want a barrier for a contractor, it seems to be a collection concern rather than a pre-qualification. What if we have a company that has 300 employees that are all laid off at the end of the period, what's our question procedure for that?

Gudaites: Do you mean collection of contributions due? I don't think it's a problem with collections, it's not that they owe us the money. They pay what they owe. The contributions that they pay fall short of what the benefits they receive.

Chairman Berg: Then that's the issue that needs to be addressed. Part of what happened here is part of a reaction to what happened in the eighties, when rates went up 45%. If we have a project like this that happens I would like to feel that the Trust Fund is going to be held countless for the premiums and benefits collected on that project. We should have the ability to collect a deficit from an employer. Can we be shown who qualifies for a credit and how it's been used in the last few years?

Gudaites: I will come up with a scenario, but I can't say how it's been used since it's never been incorporated before. Credit only applies to this bond legislation.

Chairman Berg: If we're providing a credit, it is being provided by the whole state of North Dakota because we want that construction project. That credit should not be a burden or be paid for if it's a deficit project by the other business owners who may have been competing for that project and didn't get it.

Gudjates: I believe that was put in the bill to try and encourage those companies that are coming into state for any employer or contractor that's on a project to hire a ND worker versus an out-of-state worker.

Chairman Berg: If we look at this and make a change, we should look at the credit as well if we don't delete this section. Our decision is to delete this section but to modify this section the end result should be mutual effect from the trust fund and if we're giving a credit, I don't think that credit should be paid by other employers, it should be paid by a general fund credit or one the state participates in.

Rep Froseth: How do other states protect themselves, protect their funds from being depleted?

Gudjates: We will look into that and find out.

Chairman Berg: Is there anyone else to testify this bill?

David L. Kemnitz: *NDAFL-CIO* We signed in as opposed to the proposed bill and we would like to entertain the idea that there can be an amendment that would salvage most if not all of it. Employees gave up a lot of benefits to try in rebuild the trust fund in the late eighties, *provided* *graphles*. We agree the limits should be changed, \$25 million doesn't cover a lot. \$35-100 Million might be another threshold that gives this legislative session an opportunity to say we can hold it there somewhere and not eliminate everything. How an Increment bond would be set up

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1085

Hearing Date Jan 10,2001

and how it would work still have not been addressed in this bill. We'd like to work with the committee and Job Service to change the bill and make it work.

Chairman Berg: Any more questions on HB 1085? Then we'll close the hearing on HB 1085.

Rep Kelser would you be the point person on HB 1085? We will come back to this bill again.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1085(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 5, 2001

Page Number	Side A	Side B	Meter #
2	X		27.15 49.4
		X	37.01-42.2
Committee Clerk Signature <i>Steve Lee</i>			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep George Keiser & Ray Gudaites: Written testimony with proposed amendments.

Rep Ekstrom: What is the base rate for a new employer?

Gudaites: 10.09%. This will not cover current projects and essentially the amount of bond requirement.

Rep M. Klein: I move the amendments.

Rep Severson: I second.

Rep Ekstrom: These create no extra burden on large projects.

Rep Lemieux: I recommend a do pass as amended.

Rep Ekstrom: I second.

14 yea, 0 nay, 1 absent Carrier Rep Keiser

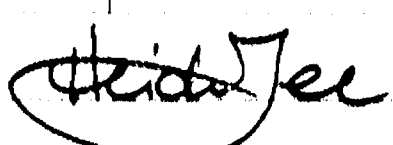
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1085(C)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 13, 2001

Tape Number	Side A	Side B	Meter #
2	X		51.34
		X	-2.99
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Keiser: I move to bring back HB 1085.

Rep Ekstrom: I second.

Rep Keiser: I move to reconsider the amendments.

Rep Froseth: I second.

Rep Keiser: I move amendments 18102.0102.0300

Rep Severson: I second.

Rep Keiser: I move a do pass as amended.

Rep Lemieux: I second.

12 yea, 0 nay, 3 absent Carrier Rep Keiser

FISCAL NOTE
Requested by Legislative Council
12/18/2000

Bill/Resolution No.: HB 1085

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

**NO FISCAL IMPACT ON STATE OR
AGENCY FUNDING.**

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

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

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

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

Name: Wayne Kindem

Agency: Job Service North Dakota

Phone Number: 328-3033

Date Prepared: 12/18/2000

PROPOSED AMENDMENTS TO HOUSE BILL 1085

Page 1, line 1, remove "repeal" and replace with "amend"

Page 1, line 4, remove "REPEAL" and replace with "AMENDMENT"

Page 1, line 5 remove "repealed." and replace the remainder of the bill with "amended and reenacted as follows:

52-04-06.1. Incremental Construction bond for Impact pProjects Risk Protection.

1. Any person, firm, corporation, or limited liability company 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 fifty 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 The general or prime contractor or, in those situations where there is no general or prime contractor, the owner of a project which meets the criteria specified under this section shall pay post the bond or irrevocable letter of credit required in subsection 2 prior to commencement of construction work on the project and shall report annually, within 30 days of the anniversary date the project is determined subject to this section, to the bureau any change in contract bids within the state as may have been determined under subsection 2 the construction costs of projects subject to this section.
2. If the bureau determines that the project is or will be within the criteria stated by this section, the bureau shall require the general or prime contractor or, in those situations where there is no general or prime contractor, the owner for whom the project is being constructed, on behalf of each employing unit, to post with it a bond executed by a surety company authorized to do business in the state or an irrevocable letter of credit from an FDIC insured state or nationally chartered bank authorized to do business in the state of North Dakota which will insure payment for all benefits claimed by employees of all employing units working on the project. The bureau may adjust the amount of bond or irrevocable letter of credit required under this subsection to cover any significant increases or decreases in project construction costs reported by the general or prime contractor or owner, whichever is appropriate. If any general or prime contractor or owner, whichever is appropriate, fails to comply with this subsection the bureau may apply to any court of this state within the jurisdiction of which the contractor or owner is found, located, or transacts business to obtain a court order to compel the general or prime contractor or owner, whichever is appropriate, to post the required bond or irrevocable letter of credit required under this subsection. Any failure to obey such order of the court may be punished by the court as a contempt of court. 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 amount of bond or irrevocable letter of credit will be the difference between the estimated benefits paid and estimated contributions. The estimation of contributions expected will be made as follows; multiply the current year's negative employer minimum rate or six percent, whichever is greater, times the estimated number of employees on the project (using figures from project plans, times the current year's taxable wage base times the number of years the project is estimated to be in existence (the number of years between the start date and the estimated completion date). The estimation of benefits paid will be made as follows; the ratio of benefits charged to contributions paid in the most recent three fiscal years by employers in the construction industry will be multiplied by the estimated contributions.
34. 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 Thirty 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 paid to the employees of the unit or units exceeds the total amount of contributions collected from the units under the North Dakota Unemployment Compensation Law the general or prime contractor or the owner, whichever is appropriate, shall pay the total amount of exceeds 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 that exceeded the total amount of contributions collected from the unit or units. In the event the general or prime contractor or the owner, whichever is appropriate, does not pay the payment required then job service North Dakota will collect the payment from the surety company that executed the surety bond or bank that issued the irrevocable letter of credit.
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 twenty 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.~~

~~6. 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.~~

75. 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.

86. ~~The bureau is authorized to adopt necessary rules for the effective administration and enforcement of this section.~~ Each employing unit having employees working on any project subject to this section shall maintain separate records for all employment on such project showing the individual's names, social security numbers, wages paid, and the dates those wages were paid. Such employers are required to submit separate reports from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.

97. This section applies to projects for which bids are let after August 1, 2001, 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.

8 Determinations, with respect to whether a project is subject to this section must be made in the same manner as provided for in section 52-04-17.

9. This section does not apply to any project where the state is the owner or contractor.

Date: 2-5-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~1085~~ 1085

House Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number ~~18102~~ 18102.0101

Action Taken Do Pass as Amend

Motion Made By Lemieux Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstrom	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 14 No 0

Absent 1

Floor Assignment Keiser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1085: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1085 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "repeal" with "amend and reenact"

Page 1, line 4, replace "**REPEAL**" with "**AMENDMENT**"

Page 1, line 5, replace "repealed," with "amended and reenacted as follows:"

Page 1, after line 5, insert:

"52-04-06.1. Incremental bond for impact projects Construction project risk projection.

1. ~~Any person, firm, corporation, or limited liability company 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 this state with an estimated construction cost of at least twenty-five fifty 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~~ The general or prime contractor, or the owner in those situations in which there is no general or prime contractor, of a project which that meets the criteria ~~the bond or irrevocable letter of credit required in subsection 2 before commencement of construction work on the project and shall report annually, within thirty days of the anniversary date the project becomes subject to this section, to the bureau any change in contract bids within the state as may have been determined under subsection 2 the construction costs of projects subject to this section.~~
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 4. Any employing unit failing to comply with this subsection may be enjoined by the bureau from engaging or continuing in business until o/~~

~~required payments are made~~ require the general or prime contractor, or the owner in those situations in which there is no general or prime contractor, for whom the project is being constructed, on behalf of each employing unit, to post a bond executed by a surety company authorized to do business in the state or an irrevocable letter of credit from a federal deposit insurance corporation insured state or nationally chartered bank authorized to do business in the state which will insure payment for all benefits claimed by employees of all employing units working on the project. The bureau may adjust the amount of bond or irrevocable letter of credit required under this subsection to cover any significant increases or decreases in project construction costs reported by the general or prime contractor or owner. If any general or prime contractor or owner fails to comply with this subsection, the bureau may apply to any court of this state within the jurisdiction in which the contractor or owner is found, located, or transacts business to obtain an order to compel the general or prime contractor or owner to post the required bond or irrevocable letter of credit required under this subsection. Any failure to obey an order of the court may be punished by the court as a contempt of court.

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~~ The amount of bond or irrevocable letter of credit must be the difference between the estimated benefits paid and estimated contributions. The estimation of contributions expected must be made as follows: multiply the current year's negative employer minimum rate or six percent, whichever is greater, times the current year's taxable wage base times the estimated number of employees on the project using figures from project plans, times the number of years between the start date and the estimated completion date of the project. The estimation of benefits paid must be made as follows: the ratio of benefits charged to contributions paid in the most recent three fiscal years by employers in the construction industry multiplied by the estimated contributions.
4. ~~Thirty 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~~. If the total amount amount of contributions collected from the units under the North Dakota Unemployment Compensation Law ~~exceeds total~~, the general or prime contractor or the owner shall pay the total amount of 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 which exceeded the total amount of contributions collected from the unit of units.~~ If the general or prime contractor or the owner does not pay the payment requirement, job service North Dakota shall collect the payment from the surety company that executed the surety bond or bank that issued the irrevocable letter of credit.
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 twenty 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 of 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.~~ 5. For the purposes of this section, a project includes all entities which that 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 Each employing unit, whether contractor, subcontractor, or otherwise, involved in the project is subject to this section.
- ~~8.~~ 6. The bureau is authorized to adopt necessary rules for the effective administration and enforcement of this section Each employing unit having employees working on a project subject to this section shall maintain separate records for all employment on the project showing each individual's name, social security number, wages paid, and the dates the wages were paid. The employers shall submit separate reports from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.
- ~~9.~~ 7. 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 for which bids are let after August 1, 2001.
8. The determination of whether a project is subject to this section must be made in the same manner as provided for in section 52-04-17.
9. This section does not apply to any project in which the state is the owner or contractor."

Renumber accordingly

February 12, 2001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1085

Page 1, line 1, replace "repeal" with "amend and reenact"

Page 1, line 4, replace "**REPEAL**" with "**AMENDMENT**"

Page 1, line 5, replace "repealed." with "amended and reenacted as follows:"

Page 1, after line 5, insert:

"52-04-06.1. Incremental bond for impact projects Construction project risk protection.

1. ~~Any person, firm, corporation, or limited liability company 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 this state with an estimated construction cost of at least twenty-five fifty 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 The general or prime contractor, or the owner in those situations in which there is no general or prime contractor, of a project which [that] meets the criteria specified under this section shall pay post the bond or irrevocable letter of credit required in subsection 2 before commencement of construction work on the project and shall report annually, within thirty days of the anniversary date the project becomes subject to this section, to the bureau any change in contract bids within the state as may have been determined under subsection 2 the construction costs of projects subject to this section.~~
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~~ require the general or prime contractor, or the

owner in those situations in which there is no general or prime contractor, for whom the project is being constructed, on behalf of each employing unit, to post a bond executed by a surety company authorized to do business in the state or an irrevocable letter of credit from a federal deposit insurance corporation insured state or nationally chartered bank authorized to do business in the state which will insure payment for all benefits claimed by employees of all employing units working on the project. The bureau may adjust the amount of bond or irrevocable letter of credit required under this subsection to cover any significant increases or decreases in project construction costs reported by the general or prime contractor or owner. If any general or prime contractor or owner fails to comply with this subsection, the bureau may apply to any court of this state within the jurisdiction in which the contractor or owner is found, located, or transacts business to obtain an order to compel the general or prime contractor or owner to post the required bond or irrevocable letter of credit required under this subsection. Any failure to obey an order of the court may be punished by the court as a contempt of court.

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~~ The amount of bond or irrevocable letter of credit must be the difference between the estimated benefits paid and estimated contributions. The estimation of contributions expected must be made as follows: multiply the current year's negative employer minimum rate or six percent, whichever is greater, times the current year's taxable wage base times the estimated number of employees on the project using figures from project plans, times the number of years between the start date and the estimated completion date of the project. The estimation of benefits paid must be made as follows: the ratio of benefits charged to contributions paid in the most recent three fiscal years by employers in the construction industry multiplied by the estimated contributions.
4. ~~Thirty 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~~. If the total amount paid to the employees of the unit or units exceeds the total amount of contributions collected from the units under the North Dakota Unemployment Compensation Law ~~exceeds total~~, the general or prime contractor or the owner shall pay the total amount of 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 which exceeded the total amount of contributions collected from the unit or units. If the general or prime contractor or the owner does not pay the payment requirement, Job Service North Dakota shall collect the payment from the surety company that executed the surety bond or bank that issued the irrevocable letter of credit.
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 twenty 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 projects.
- ~~7.~~ 5. For the purposes of this section, a project includes all entities ~~which~~ that 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~~ Each employing unit, whether contractor, subcontractor, or otherwise, involved in the project is subject to this section.
- ~~8.~~ 6. ~~The bureau is authorized to adopt necessary rules for the effective administration and enforcement of this section~~ Each employing unit having employees working on a project subject to this section shall maintain separate records for all employment on the project showing each individual's name, social security number, wages paid, and the dates the wages were paid. The employers shall submit separate reports from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.
- ~~9.~~ 7. 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~~ for which bids are let after August 1, 2001.
8. The determination of whether a project is subject to this section must be made in the same manner as provided for in section 52-04-17.
9. This section does not apply to any project in which the state is the owner or contractor."

Renumber accordingly

Date: 2-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1085

House Industry, Business and Labor Committee

Legislative Council Amendment Number 18102.0201.0300

Action Taken Do Pass as amended

Motion Made By Keiser Seconded By Lemieux

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein		
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen			Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	✓

Total (Yes) 12 No 0

Absent 3

Floor Assignment Rep Keiser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1085: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1085 was placed on the Sixth order on the calendar.

Page 1, replace lines 6 through 24 with:

"52-04-06.1. Incremental bond for impact projects Construction project risk protection.

1. ~~Any person, firm, corporation, or limited liability company 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 this state with an estimated construction cost of at least twenty-five fifty 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 The general or prime contractor, or the owner in those situations in which there is no general or prime contractor, of a project which that meets the criteria post the bond or irrevocable letter of credit required in subsection 2 before commencement of construction work on the project and shall report annually, within thirty days of the anniversary date the project becomes subject to this section, to the bureau any change in contract bids within the state as may have been determined under subsection 2 the construction costs of projects subject to this section.~~
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 4. 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 require the general or prime contractor, or the owner in those situations in which there is no general or prime contractor, for whom the project is being constructed, on behalf of each employing unit, to post a bond executed by a surety company authorized to do business in the state or an irrevocable letter of credit from a federal deposit insurance corporation insured state or nationally chartered bank

authorized to do business in the state which will insure payment for all benefits claimed by employees of all employing units working on the project. The bureau may adjust the amount of bond or irrevocable letter of credit required under this subsection to cover any significant increases or decreases in project construction costs reported by the general or prime contractor or owner. If any general or prime contractor or owner falls to comply with this subsection, the bureau may apply to any court of this state within the jurisdiction in which the contractor or owner is found, located, or transacts business to obtain an order to compel the general or prime contractor or owner to post the required bond or irrevocable letter of credit required under this subsection. Any failure to obey an order of the court may be punished by the court as a contempt of court

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. EighteenThe amount of bond or irrevocable letter of credit must be the difference between the estimated benefits paid and estimated contributions. The estimation of contributions expected must be made as follows: multiply the current year's negative employer minimum rate or six percent, whichever is greater, times the current year's taxable wage base times the estimated number of employees on the project using figures from project plans, times the number of years between the start date and the estimated completion date of the project. The estimation of benefits paid must be made as follows: the ratio of benefits charged to contributions paid in the most recent three fiscal years by employers in the construction industry multiplied by the estimated contributions.
4. Thirty 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, If the total amount amount of contributions collected from the units under the North Dakota Unemployment Compensation Lawexceeds total, the general or prime contractor or the owner shall pay the total amount of 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 which exceeded the total amount of contributions collected from the unit or units. If the general or prime contractor or the owner does not pay the payment requirement, job service North Dakota shall collect the payment from the surety company that executed the surety bond or bank that issued the irrevocable letter of credit.
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 twenty 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 projects.~~
- ~~7. 5. For the purposes of this section, a project includes all entities which that 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 Each employing unit, whether contractor, subcontractor, or otherwise, involved in the project is subject to this section.~~
- ~~8. 6. The bureau is authorized to adopt necessary rules for the effective administration and enforcement of this section. Each employing unit having employees working on a project subject to this section shall maintain separate records for all employment on the project showing each individual's name, social security number, wages paid, and the dates the wages were paid. The employers shall submit separate reports from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.~~
- ~~9. 7. 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 for which bids are let after August 1, 2001.~~
- ~~8. The determination of whether a project is subject to this section must be made in the same manner as provided for in section 52-04-17.~~
- ~~9. This section does not apply to any project in which the state is the owner or contractor."~~

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 17

Re-number accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1085

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1085

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 06, 2001.

Tape Number	Side A	Side B	Meter #
1		x	24.0 to end
2	x		0 to 1.7
Committee Clerk Signature <i>David E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1085 relating to impact project incremental bonds under the unemployment compensation system.

Ray Gudajtes, Job Service ND. Written testimony attached. Distributed copies of estimated contribution and bond amount formula, contribution/taxable wages and contributions/benefits tables.

Senator Mutch: Requires a cash bond?

R Gudajtes: Up front cash payment required now, this bill will require surety bond or letter of credit.

Senator Krebsbach: How do other states treat our contractors when they go out of state?

R Gudajtes: Wyoming is the only state that is similar to us. Some states have higher charges.

Senator Mutch: Have you had any loses from contractors going broke?

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number HB 1085
Hearing Date March 06, 2001.

R Gudajtes: This requirement has never been applied. Most projects did not meet the conditions for incremental bonds. Don't know why we didn't apply it before. In 1999 the Department of Defense inquired about this provision, we then looked at it closely and decided it was burdensome and wanted to present this to the legislature.

Senator Krebsbach: Initial bill was to repeal this section, how would you have dealt with it had that been done?

R Gudajtes: We would have let it go. With small projects we don't look for any special payments for out of state contractors.

Senator Espegard: Instead of repealing you raised it to fifty million?

R Gudajtes: The House didn't feel it should be repealed. They felt some protection needed to be left in the statute and asked us to come up with an alternative.

Senator Mathern: What would the bond normally cost?

R Gudajtes: It will depend on the businesses' relationship with the bank or bond company, will be two percent or less depending on creditworthiness.

Chuck Peterson, GNDA: Support this bill.

No opposing testimony. Hearing closed. Discussion held.

Senator Espegard: Motion: do pass. **Senator Tollefson:** Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Mutch.**

Date: March 06/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1085

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Espigard Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espigard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Senator Mutch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 6, 2001 12:11 p.m.

Module No: SR-38-4884
Carrier: Mutch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1085, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1085 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1085

AB1085

HOUSE BILL 1085
Testimony Before the House Committee On
Industry, Business and Labor
Representative Rick Berg, Chairman
January 10, 2001

Mr. Chairman and members of the committee, I am Ray Gudaites with Job Service North Dakota. House Bill 1085 repeals Section 52-04-06.1. of the North Dakota Century Code (NDCC). This section is intended to recover excessive benefit costs caused by major construction projects. It was enacted in 1987 in response to the large amount of unemployment insurance benefit payouts during the 1980's and the resulting depletion of the state's Unemployment Insurance Trust Fund. Much of the responsibility for this occurring was placed on the Coal Gasification Plant and the Power Plants construction projects.

The incremental bond is not a bond; rather it is an up-front cash payment to the unemployment insurance program made before work is begun on a liable project. All projects are liable to the incremental bond provision when:

- The total construction costs, excluding design and engineering, are \$25 million dollars or more; and
- More than half of the project is planned to be completed within seven (7) years; and
- 250 or more workers will be employed.
- Estimated benefits attributable to the project exceed the estimated contributions paid for services performed on the project.

The provision applies to all the project's contractors and subcontractors regardless of the residency of the owners or of the employing units. No work or employing unit is exempt from the cash bond payment.

The cash assessment is one-half percent (0.5%) of every contract award. This payment is due immediately upon determination of liability and is in addition to the contributions due on workers wages. The moneys collected are deposited in individual, interest bearing trust accounts in the Bank of North Dakota where they must remain until they are used either for a credit or a refund or are applied to excess benefit costs.

CREDIT PAYMENTS - Upon completion of work of a project contract, the employer may qualify for a credit of the bond payment. An employer qualifies for a credit depending on the amount of wages on the project paid to North Dakota residents. The credit is allowed regardless of the amount of benefit charges or contributions paid.

REFUND PAYMENTS - Eighteen months after an employing unit completes work on the project, a determination is made if any of the bond payment can be refunded. The bond payment is first applied to cover any amount of the total benefits charged to the employer's project tax account that exceed cumulative contributions paid. Any remaining portion of the bond payment plus interest is refunded to the employer.

APPLICATION TO EXCESS BENEFIT COSTS - If benefit charges to an employer's account for a project exceed the amount of contributions paid, then the bond payment plus interest will be applied to the deficit.

All employers must maintain separate records of employment on a project. Employers must submit separate quarterly Contribution and Wage Reports for only the employment on a project. This is separate from their other reporting. In addition, to qualify for a bond credit, each quarter employers must also report those workers that are North Dakota residents and their date of hire.

A separate unemployment insurance tax account that is separate from any other of the employer's unemployment insurance account(s) must be created for each employer for each project.

The statute creates considerable additional accounting and reporting for employers, creates additional administrative costs to the state, and may in some cases place North Dakota employers at a disadvantage.

- The up-front payment could be a burden on especially smaller North Dakota employers, as the payment must be made in advance of contract payments. The moneys remain in a trust account until the employer qualifies for a credit or refund of the bond payment (up to eighteen months after completion of work on a project).
- When North Dakota workers are employed, the best that can be expected is that one-half of the bond payment would be available to cover additional costs to the trust fund. Upon completion of work of a project contract, a contractor may qualify for a credit and/or refund of the bond payment. Qualification for a credit depends on the amount of wages paid to North Dakota residents. The credit is allowed regardless of the amount of benefit charges or contributions paid. Employers with a bond payment of \$1,250 or less (contract award of \$250,000 or less) will qualify for 100% credit of their bond payment. Employers with a bond payment of more than \$1,250 will qualify for a 50% credit. In addition to the credit, refunds are made to contractors whose contributions exceed benefit charges.

- There is significant bureaucratic red tape and administrative burdens to employers:
 - Employers have to maintain separate payroll accounting for each liable project.
 - Employers have to submit separate quarterly reports for only the employment on each project. This is separate from their other reporting.
 - Employers must maintain records of employee residency and, each quarter, employers must report those workers who are North Dakota residents and their date of hire.
 - Project managers and contractors must provide notification each time a contract is awarded and each time a contract is sublet.
 - Employers must report annually any change to contract bids.
- Out-of-state employers on short term projects with only out-of-state workers who are not liable to the state's unemployment insurance program may actually have a competitive advantage in obtaining a bid. Because their workers will not have North Dakota wages and consequently no charges against our trust fund, they will know that they will have the total bond payment refunded following completion of their contract.
- The amount of money collected for bond payment will not provide coverage for all and, in some cases, none of the potential deficits.
 - Out-of-state employers on short term projects with only out-of-state workers will qualify for a 100% refund of the bond payment.
 - Employers with contracts of \$250,000 or less who hire North Dakota residents will qualify for a 100% credit of the bond payment.
 - Employers with contracts greater than \$250,000 who hire North Dakota residents will qualify for a 50% credit of the bond payment.

We are recommending repeal of the law. This law has not been applied. We are unable to locate documentation, which would identify the reasoning for not applying the law. Our research indicates that the benefits from this provision are minimal compared to the amount of resources which would be expended on the part of employers as well as the administrator. Consequently, we are bringing the issue to the Legislature for your consideration.

Mr. Chairman, this concludes my testimony. I will try to answer any questions from the committee. Thank you.

at each four-tenths of one percent interval between the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-06.

3. 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 employer's 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. 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.
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.
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.

52-04-06.1. Incremental bond for impact projects.

1. Any person, firm, corporation, or limited liability company 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 exceeds 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 twenty 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.

52-04-07. Benefits paid chargeable to accounts of base-period employers.

1. Benefits paid to an individual must be charged against the accounts of the individual's base-period employers. The amount of benefits so chargeable against each base-period employer's account must bear the same ratio to the benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of the base-period wages paid to the individual by all of the individual's base-period employers.
2. Notwithstanding subsection 1, an employer's account may not be charged for any of the following:
 - a. With benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143; 42 U.S.C. 5122(2)], if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits.
 - b. With benefits paid to an individual who left the employment of the employer voluntarily without good cause or with good cause not involving fault on the part of the employer or who was discharged from employment by the employer for misconduct.
 - c. As provided under section 52-06-29.
 - d. With benefits paid to an individual who is in training with the approval of the bureau.
 - e. With benefits paid to an individual who is subsequently determined not entitled to receive the benefits.
3. Subsection 2 does not apply to benefit payments which are financed under a reimbursable method.
4. Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in section 52-04-18 is not liable to make such payments with respect to the benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in subsection 3 of section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of Pub. L. 94-566.
5. Notwithstanding the provisions of subsection 1, an employer's account may not be charged with benefits paid for previously uncovered services as defined in subsection 3 of section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of Pub. L. 94-566.

52-04-08. Succession to predecessor's experience record. An employing unit that in any manner acquires all or part of the organization, business, trade, or assets of another employer and continues essentially the same business activity of the whole or part transferred, must upon request be transferred in accordance with such regulations as the bureau may prescribe, the whole or appropriate part of the experience record, reserve balance, and benefit experience of the preceding employer. Provided that if the predecessor files a written protest

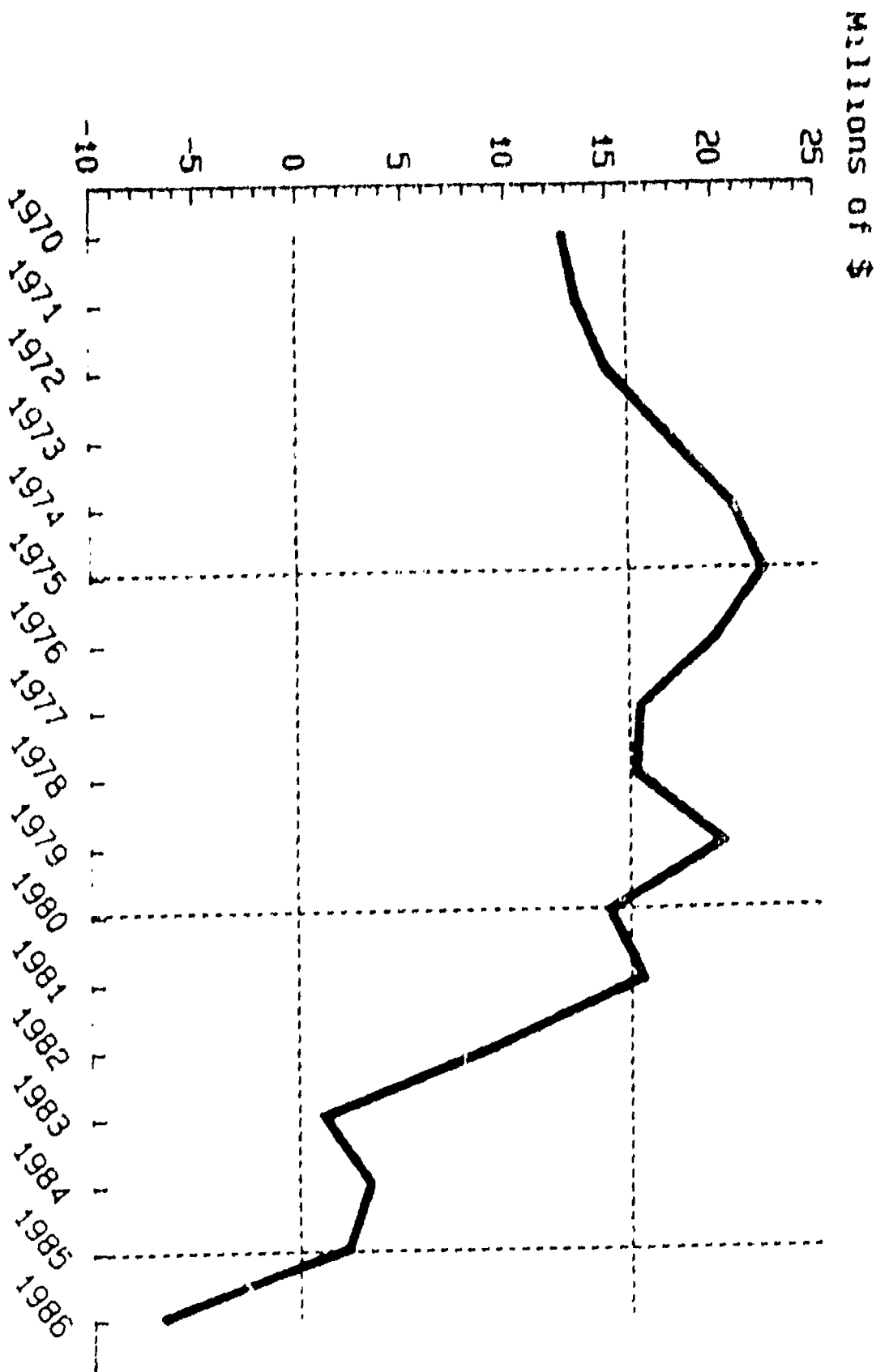
#B1085

Dave
Lemmitz

JOB SERVICE NORTH DAKOTA
FUND BALANCE AS OF 12/31

Marta Day

5/13/21/27



52-04-06.1. Construction Project Risk Protection.

1. Any project in North Dakota with an estimated construction cost of at least fifty million dollars, which is planned to be completed or discontinued within a period of seven years is subject to this section. The general or prime contractor or, in those situations where there is no general or prime contractor, the owner of a project which meets the criteria specified under this section shall post the bond or irrevocable letter of credit required in subsection 2 prior to commencement of construction work on the project and shall report annually, within 30 days of the anniversary date the project is determined subject to this section, to the bureau any change in the construction costs of projects subject to this section.
2. If the bureau determines that the project is or will be within the criteria stated by this section, the bureau shall require the general or prime contractor or, in those situations where there is no general or prime contractor, the owner for whom the project is being constructed, on behalf of each employing unit, to post with it a bond executed by a surety company authorized to do business in the state or an irrevocable letter of credit from an FDIC insured state or nationally chartered bank authorized to do business in the state of North Dakota which will insure payment for all benefits claimed by employees of all employing units working on the project. The bureau may adjust the amount of bond or irrevocable letter of credit required under this subsection to cover any significant increases or decreases in project construction costs reported by the general or prime contractor or owner, whichever is appropriate. If any general or prime contractor or owner, whichever is appropriate, fails to comply with this subsection the bureau may apply to any court of this state within the jurisdiction of which the contractor or owner is found, located, or transacts business to obtain a court order to compel the general or prime contractor or owner, whichever is appropriate, to post the required bond or irrevocable letter of credit required under this subsection. Any failure to obey such order of the court may be punished by the court as a contempt of court.
3. The amount of bond or irrevocable letter of credit will be the difference between the estimated benefits paid and estimated contributions. The estimation of contributions expected will be made as follows; multiply the current year's negative employer minimum rate or six percent, whichever is greater, times the current year's taxable wage base times the estimated number of employees on the project (using figures from project plans) times the number of years the project is estimated to be in existence (the number of years between the start date and the estimated completion date). The estimation of benefits paid will be made as follows; the ratio of benefits charged to contributions paid in the most recent three fiscal years by employers in the construction industry will be multiplied by the estimated contributions.
4. Thirty months after the completion or discontinuance of the project the bureau shall determine the total benefits paid to employees of the employing unit or units and if the total amount paid to the employees of the unit or units exceeds the total amount of contributions collected from the unit or units under the North Dakota

Unemployment Compensation Law the general or prime contractor or the owner, whichever is appropriate, shall pay the total amount of benefits paid to the employees of the units that exceeded the total amount of contributions collected from the unit or units. In the event the general or prime contractor or the owner, whichever is appropriate, does not pay the payment required, then job service North Dakota will collect the payment from the surety company that executed the surety bond or bank that issued the irrevocable letter of credit.

5. 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. Each employing unit, whether contractor, subcontractor, or otherwise, involved in the project is subject to this section.
6. Each employing unit having employees working on any project subject to this section shall maintain separate records for all employment on such project showing the individual's names, social security numbers, wages paid, and the dates those wages were paid. Such employers are required to submit separate reports from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.
7. This section applies to projects for which bids are let after August 1, 2001.
8. Determinations, with respect to whether a project is subject to this section must be made in the same manner as provided for in section 52-04-17.
9. This section does not apply to any project where the state is the owner or contractor.

HOUSE BILL 1085
Testimony Before the House Committee On
Industry, Business and Labor
Representative Rick Berg, Chairman
February 5, 2001

Mr. Chairman and members of the committee, I am Ray Gudajtes with Job Service North Dakota. House Bill 1085 repeals Section 52-04-06.1. of the North Dakota Century Code (NDCC). At the request of this committee Job Service was to review options for amendment of this section.

The enclosed is an option for your consideration. This amendment would make a project subject to this section if:

- The cost of the project was \$50 Million or more,
and
- The project is planned to be completed within 7 years

If the project were subject, then:

- The project must pay all of the unemployment insurance benefit costs of workers whose claims were based on wages earned while working on the project.
- The prime or general contractor or the owner must pay the cost of any benefits paid in excess of the contributions that have been paid by employers on the project.
- The prime or general contractor or the owner must post a bond or provide an Irrevocable letter of credit from a bank to cover the estimated shortfall.
- All employers must submit separate quarterly reports for project involvement.
- Thirty months after the project ends the bureau will determine benefit costs and contributions collected to date and will collect any shortfall from the prime or general contractor or the owner. If they don't pay then the company that posted the bond or the bank that issued the Irrevocable letter of credit will be required to pay that amount.
- If the State were the prime or general contractor or the owner, then it would be exempt from this section.

This amendment would remove current requirements of:

- An upfront cash payment.
- Each employer on the project having to post a bond. Only the prime or general contractor or the owner would post a bond or irrevocable letter of credit.
- Maintaining and accounting for individual interest bearing trust accounts for each employer.
- Credit refunds of bond payment for wages of North Dakota residents
- Employers to maintain records to determine an employee's State of residence.
- Additional reporting of employee's State of residency.

Mr. Chairman, this concludes my testimony. I will try to answer any questions from the committee. Thank you.

Average tax rate for construction employers (using most recent completed fiscal year - divide the total contributions of these employers by their total taxable wage)	X Current year's taxable wage base. CY 2001 \$17,000	X Number of employees (from project plans)	X Number of project years (from project plans)	= Estimated Contributions	X Ratio of total benefits charged to total contributions paid in the most recent three fiscal years by construction employers.	Estimated Benefits minus Estimated Contributions times 1.5	Band Amount Estimated Benefits minus Estimated Contributions times 1.5
FY 2000 - 4.39%							
Maximum negative balance tax rate -	17,000	775	2	\$1,156,765.00	116.70%	\$1,349,944.76	\$289,769.63
CY 2001 - 10.09%							
Minimum negative balance tax rate -	17,000	775	2	\$2,658,715.00	116.70%	\$3,102,720.41	\$666,038.11
CY 2001 - 6.49%							
	17,000	775	2	\$1,710,115.00	116.70%	\$1,995,704.21	\$428,383.81
Ratio of Sum of Contributions to the Total Wages Of Construction Employers in the most recent three fiscal years FY 1997, 1998, 1999 - 2.09%							
	X Total Wages (from project plans)	X Number of project years (from project plans)	= Estimated Contributions	X Ratio of total benefits charged to total contributions paid in the most recent three fiscal years by construction employers.	Estimated Benefits =		
	\$21,800,000		2	\$911,240.00	116.70%	\$1,063,417.08	\$228,265.62
	2.09%						

FY 2000 contribution/taxable wage

SIC	Count	FYMostCurr	Contrib	Percentage
1521	572	24,838,591.77	670,259.94	2.70%
1522	22	2,185,765.68	85,240.94	3.90%
1531	1	169,334.00	437.92	0.26%
1541	47	7,237,249.54	199,149.67	2.75%
1542	173	28,280,198.47	708,335.81	2.50%
1611	91	31,845,111.78	2,929,106.60	9.20%
1622	9	5,897,993.95	438,768.74	7.44%
1623	125	15,204,424.94	1,005,603.68	6.61%
1629	83	24,083,964.38	1,785,905.41	7.42%
1711	311	40,105,720.83	841,672.64	2.10%
1721	116	6,236,653.23	177,638.64	2.85%
1731	271	31,464,786.36	753,144.42	2.39%
1741	70	6,118,576.11	426,917.29	6.98%
1742	84	9,548,509.94	327,854.53	3.43%
1743	9	615,658.39	11,853.23	1.93%
1751	100	2,934,599.78	74,166.56	2.53%
1752	48	1,511,561.17	41,692.63	2.76%
1761	130	14,167,049.26	419,092.01	2.96%
1771	157	14,092,247.77	786,218.55	5.58%
1781	34	1,297,921.82	19,969.07	1.54%
1791	21	1,287,190.31	54,364.08	4.22%
1793	10	618,065.40	16,938.39	2.74%
1794	98	6,782,972.92	361,085.67	5.32%
1795	5	442,384.94	37,403.00	8.45%
1796	26	5,404,170.77	142,496.00	2.64%
1799	89	9,649,347.64	516,386.97	5.35%
	2,702	292,020,051.15	12,831,702.39	4.39%
1500	815	62,711,139.46	1,663,424.28	2.65%
1600	308	77,031,495.05	6,159,384.43	8.00%
1700	1,579	152,277,416.64	5,008,893.68	3.29%
	2,702	292,020,051.15	12,831,702.39	4.39%

FY 1997, 1998, 1999

Benefits / Contribution
Contribution / total wage

	Wages	Benefits	B/W	Cont/Benefits	
1997	408,570,662	12,012,967	2.9%	70.1%	8,422,291
1998	449,749,214	10,943,395	2.4%	88.3%	9,659,735
1999	524,960,721	11,769,377	2.2%	91.5%	10,768,980
	1,383,280,597	34,725,739	2.5%	83.3%	28,851,006

c/w .0209
c/c 16.7%

HOUSE BILL 1085
Testimony Before the Senate Committee On
Industry, Business and Labor
Senator Duane Mutch, Chairman
March 6, 2001

Mr. Chairman and members of the committee, I am Ray Gudajtes with Job Service North Dakota. The engrossed House Bill 1085 significantly modifies Section 52-04-06.1. of the North Dakota Century Code (NDCC). This section is intended to recover excessive benefit costs caused by major construction projects. It was enacted in 1987 in response to the large amount of unemployment insurance benefit payouts during the 1980's and the resulting depletion of the state's Unemployment Insurance Trust Fund.

The incremental bond is not a bond; rather it is an up-front cash payment to the unemployment insurance program made before work is begun on a liable project. All projects are liable to the incremental bond provision when:

- The total construction costs, excluding design and engineering, are \$25 million dollars or more; and
- More than half of the project is planned to be completed within seven (7) years; and
- 250 or more workers will be employed.
- Estimated benefits attributable to the project exceed the estimated contributions paid for services performed on the project.

The provision applies to all the project's contractors and subcontractors regardless of the residency of the owners or of the employing units. No work or employing unit is exempt from the cash bond payment.

The cash assessment is one-half percent (0.5%) of every contract award. This payment is due immediately upon determination of liability and is in addition to the contributions due on workers wages. The moneys collected are deposited in individual, interest bearing trust accounts in the Bank of North Dakota where they must remain until they are used either for a credit or a refund or are applied to excess benefit costs.

CREDIT PAYMENTS - Upon completion of work of a project contract, the employer may qualify for a credit of the bond payment. An employer qualifies for a credit depending on the amount of wages on the project paid to North Dakota residents. The credit is allowed regardless of the amount of benefit charges or contributions paid. To qualify for a bond credit, each quarter employers must report those workers that are North Dakota residents and their date of hire.

REFUND PAYMENTS - Eighteen months after an employing unit completes work on the project, a determination is made if any of the bond payment can be refunded. The bond payment is first applied to cover any amount of the total benefits charged to the employer's project tax account that exceed cumulative contributions paid. Any remaining portion of the bond payment plus interest is refunded to the employer.

APPLICATION TO EXCESS BENEFIT COSTS - If benefit charges to an employer's account for a project exceed the amount of contributions paid, then the bond payment plus interest will be applied to the deficit.

The statute creates considerable additional accounting and reporting for employers, creates additional administrative costs to the state, and may in some cases place North Dakota employers at a disadvantage.

- The up-front payment could be a burden on especially smaller North Dakota employers, as the payment must be made in advance of contract payments. The moneys remain in a trust account until the employer qualifies for a credit or refund of the bond payment (up to eighteen months after completion of work on a project).
- When North Dakota workers are employed, the best that can be expected is that one-half of the bond payment would be available to cover additional costs to the trust fund. Upon completion of work of a project contract, a contractor may qualify for a credit and/or refund of the bond payment. Qualification for a credit depends on the amount of wages paid to North Dakota residents. The credit is allowed regardless of the amount of benefit charges or contributions paid. Employers with a bond payment of \$1,250 or less (contract award of \$250,000 or less) will qualify for 100% credit of their bond payment. Employers with a bond payment of more than \$1,250 will qualify for a 50% credit. In addition to the credit, refunds are made to contractors whose contributions exceed benefit charges.
- There is significant bureaucratic red tape and administrative burdens to employers:
 - Employers must maintain records of employee residency and, each quarter, employers must report those workers who are North Dakota residents and their date of hire.
 - Project managers and contractors must provide notification each time a contract is awarded and each time a contract is sublet.

- Out-of-state employers on short term projects with only out-of-state workers who are not liable to the state's unemployment insurance program may actually have a competitive advantage in obtaining a bid. Because their workers will not have North Dakota wages and consequently no charges against our trust fund, they will know that they will have the total bond payment refunded following completion of their contract.
- The amount of money collected for bond payment will not provide coverage for all and, in some cases, none of the potential deficits.
 - Out-of-state employers on short term projects with only out-of-state workers will qualify for a 100% refund of the bond payment.
 - Employers with contracts of \$250,000 or less who hire North Dakota residents will qualify for a 100% credit of the bond payment.
 - Employers with contracts greater than \$250,000 who hire North Dakota residents will qualify for a 50% credit of the bond payment.

HB 108⁵ would:

- Make a project subject to this section if:
 - The cost of the project was \$50 million or more, and
 - The project is planned to be completed within 7 years.
- Require the following of a subject project:
 - To pay all of the unemployment insurance benefit costs of workers whose claims were based on wages earned while working on the project.
 - The prime or general contractor or the owner must pay the cost of any benefits paid in excess of the contributions that have been paid by employers on the project.
 - The prime or general contractor or the owner must post a bond or provide an irrevocable letter of credit from a bank to cover the estimated shortfall.
 - All employers must submit separate quarterly reports for wages paid for work on a subject project.

- Thirty months after the project ends the bureau will determine benefit costs and contributions collected to date and will collect any shortfall from the prime or general contractor or the owner. If they don't pay then the company that posted the bond or the bank that issued the irrevocable letter of credit will be required to pay that amount.
- If the State were the prime or general contractor or the owner, then it would be exempt from this section.
- Remove current requirements of:
 - An upfront cash payment.
 - Each employer on the project having to post a bond. Only the prime or general contractor or the owner would post a bond or irrevocable letter of credit.
 - Maintaining and accounting for individual interest bearing trust accounts for each employer.
 - Credit refunds of bond payment for wages of North Dakota residents.
 - Employers to maintain records to determine an employee's State of residence.
 - Additional reporting of employee's State of residency.

Mr. Chairman, this concludes my testimony. I will try to answer any questions from the committee. Thank you.

Average tax rate for construction employers (using most recent completed fiscal year - divide the total contributions of these employers by their total taxable wage)	X Current year's taxable wage base. CY 2001 \$17,000	X Number of employees (from project plans)	X Number of project years (from project plans)	= Estimated Contributions	X Ratio of total benefits charged to total contributions paid in the most recent three fiscal years by construction employers.	Estimated Benefits = Estimated Contributions	Estimated Benefits minus Estimated Contributions Bond Amount
FY 2000 - 4.39%	17,000	775	2	\$1,156,765.00	116.70%	\$1,349,944.76	\$193,179.76
Maximum negative balance tax rate - CY 2001 - 10.09%	17,000	775	2	\$2,658,715.00	116.70%	\$3,102,720.41	\$444,005.41
Minimum negative balance tax rate - CY 2001 - 6.49%	17,000	775	2	\$1,710,115.00	116.70%	\$1,995,704.21	\$285,589.21
Ratio of Sum of Contributions to the Total Wages Of Construction Employers in the most recent three fiscal years FY 1997, 1998, 1999 - 2.09%	X Total Wages (from project plans)						
	\$21,800,000			\$911,240.00	116.70%	\$1,063,417.08	\$152,177.08