

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1450

2001 HOUSE INDUSTRY, BUSINESS AND LABOR  
HB 1450

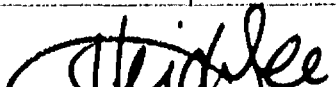
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1450

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
1	X		9-37.8
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.

Representative Dale Severson: Sponsoring bill.

Ray Gudaites: *Job Service ND* **Written testimony supporting bill** The reimbursement option is 100% of charges.

V.C. Keiser: What backs up Tribe Claims and who pays?

Gudaites: This allows the options of a surety bond but has no other guarantee. If the federal government doesn't pay 50%, the state pays all.

Representative Ekstrom: How is this dealt with now?

Gudaites: Like any other covered employer. The biggest change is the opportunity to be reimbursed.

Marcus Wells: **Written testimony**

Thomas Diselhost: *Attorney for Tribes* We support bill

Page 2  
House Industry, Business and Labor Committee  
Bill/Resolution Number HB 1450  
Hearing Date Jan 31, 2001

Representative Froese: How is the recourse?

Diselhost: We have the option of a Third-party carrier or self-coverage.

C. Berg: How was the surety bond envisioned?

Diselhost: As a joint bond for all tribes. We would like each tribe to be individual and have a choice

C. Berg: We'll close HB 1450


2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1450(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb 7, 2001

Tape Number	Side A	Side B	Meter #
2	X		10.5-17
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 Lemieux: Supplied amendments to bring legislation to be current with federal law.

Vice-Chair Keiser: I move to adopt the amendments.

Rep M. Klein: I second.

Rep M. Klein: I move a do pass as amended.

Rep Ekstrom: I second.

13 yea, 1 nay, 1 absent Carrier Rep Lemieux

## FISCAL NOTE

Requested by Legislative Council  
01/23/2001

Bill/Resolution No.: HB 1450

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:	01/26/2001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1450

Page 2, line 20, replace "At the discretion of the bureau, an" with "An"

Page 3, line 28, replace "Extended benefits" with "Benefits"

Page 3, line 29, remove "and not reimbursed by the federal government", replace "in their" with  
"as provided in section 52-04-19.1"

Page 3, line 30, remove "entirety by the Indian tribe"

Renumber Accordingly

Date: 2-7-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~Click here to type Bill/Resolution No.~~ 1450

House Industry, Business and Labor Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number ~~1000~~

Action Taken Do Pass as Amended

Motion Made By Klein Seconded By Ekstorm

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) 13 No 1

Absent 1

Floor Assignment Rep Lemieux

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



**REPORT OF STANDING COMMITTEE**

**HB 1450: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1450 was placed on the Eleventh order on the calendar.**

Page 2, line 20, replace "At the discretion of the bureau, an" with "An"

Page 3, line 28, replace "Extended benefits" with "Benefits"

Page 3, line 29, remove "and not reimbursed by the federal government" and replace "in their" with "as provided in section 52-04-19.1."

Page 3, remove line 30

Renumber accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1450

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1450

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 06, 2001.

Tape Number	Side A	Side B	Meter #
1	x		25.0 to 42.8
Committee Clerk Signature <i>Doris Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1450 relating to definitions for unemployment compensation purposes and financing of benefits paid to employees of Indian tribes; to provide an effective date; and to declare an emergency.

**Representative Dale Severson**, District 23, cosponsor. This bill was presented at the request of Workers' Comp, it provides the tribes with an opportunity to be handled as political subdivisions regarding unemployment taxes.

**Ray Gudajtes**, Job Service ND. The intent of the bill is to provide Native American Tribes options for financing of unemployment insurance and to ensure conformity with FUTA. Written testimony attached. These changes are to be effective December 21, 2000.

**Senator Mutch**: Why December of 2000?

**R Gudajtes**: FUTA law requires it.

**Senator Mutch**: Why do you feel you need a bond?

**R Gudajtes:** That is an amendment submitted by the House.

**Senator Tollefson:** Why a "may" and not a "shall" in the surety bond requirement?

**R Gudajtes:** Federal law says "may" the bill says "shall".

**Senator Krebsbach:** What rate would apply to the Tribes?

**R Gudajtes:** If they choose the contributory method, which I think they will, their rate would be based on their experience rating.

**Chad Kramer,** ND Indian Reservations, representing Tex G Hall, distributed written testimony on behalf of Three Affiliated Tribes, in favor of this bill.

**Senator Mutch:** Tribes have not been offering unemployment coverage for their employees?

**R Gudajtes:** They have been. Major change of this bill for ND is that we are offering the reimbursable method and the other issue of coverage. Occupations excluded from coverage will be the same for the tribes, as for the state and the political subdivisions.

No opposing testimony. Hearing closed.

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

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

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

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1450**

## Senate Industry, Business and Labor

Committee

☐ Subcommittee on \_\_\_\_\_

**or**

☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

### Action Taken

De Pass

**Motion Made By**

Seri Mother

## Seconded

By

Don Edwards

[illegible]

Total (Yes) 1 No 0

Absent 0

Floor Assignment See Enclure

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

**REPORT OF STANDING COMMITTEE (410)**  
March 6, 2001 9:34 a.m.

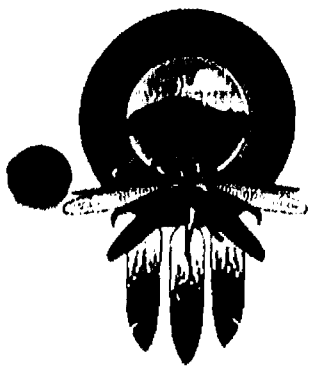
Module No: SR-38-4874  
Carrier: Espegard  
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**REPORT OF STANDING COMMITTEE**

HB 1450, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1450 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1450



# MANDAN, HIDATSA, & ARIKARA NATION

*Three Affiliated Tribes • Fort Berthold Indian Reservation*

*HC3 Box 2 • New Town, North Dakota 58763-9402*

**Industry, Business and Labor Committee  
North Dakota House  
57th Legislative Assembly**

TRIBAL BUSINESS COUNCIL  
701-627-1781  
Fax 701-627-3805

**Testimony of Three Affiliated Tribes  
Mandan, Hidatsa and Arikara Nation  
Marcus Wells, Jr.  
Secretary**

**on HB 1450  
Unemployment Compensation Eligibility for Tribes**

**January 31, 2001**

Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony today concerning HB 1450 which relates to the need to define Tribes as employers eligible to participate in the unemployment compensation program of the State of North Dakota. For your information, I am the Secretary of the Tribal Business Council of the Three Affiliated Tribes, the Mandan, Hidatsa and Arikara Nation located in northwest North Dakota, and am also the former Executive Director of our Tribal Employment Rights Office, which serves some of the functions of Job Service on the Fort Berthold Reservation.

HB 1450 is a simple bill. All it really does is define Indian Tribes as employers for the purpose of the State unemployment compensation law. This is made necessary because for the purpose of the Federal Unemployment Tax Act (FUTA), Indian Tribes were made exempt and are now treated similarly to states and the Federal government through a change in FUTA made by the 106th Congress just completed late last year. In HB 1450, Tribes are generally treated the same as other employers, except that it is made clear that if Tribes do not pay their contributions to the unemployment compensation program of the state of North Dakota, they may lose their eligibility to participate in North Dakota's program and may become liable for the full FUTA tax under Federal law.

Since North Dakota law concerning the definition of an employer is based on the Federal FUTA law, without the change being made by HB 1450, the Tribes would no longer be eligible to participate in the state unemployment compensation program. As far as I know, Tribes, in general, are not interested in providing their own unemployment compensation program, and are therefore interested in continuing to be eligible for the state unemployment compensation program. We are also required by our Tribal-state gaming compacts to have unemployment compensation insurance, and all of the Tribes with casinos in North Dakota are presently participating in that program.

At present, I would also like to note that we are current with our payments into the unemployment compensation program, and intend to remain so.

Therefore, we urge a DO PASS recommendation from this Committee on HB 1450.



**HOUSE BILL 1450**  
**Testimony Before the House Committee On**  
**Industry, Business and Labor**  
**Representative Rick Berg, Chairman**  
**January 31, 2001**

Mr. Chairman and members of the committee, I am Ray Gudajtes with Job Service North Dakota. House Bill 1450 is being introduced to provide Native American Tribes options for financing of Unemployment Insurance and to ensure the State's Unemployment Insurance Program maintains conformity with the requirements of the Federal Unemployment Insurance Act (FUTA) to enable employers to continue receive a credit for 5.4 percent of the 6.2 percent FUTA tax.

The Consolidated Appropriations Act 2001 signed into law in December 2000 amended Federal law to change the way American Indian Tribes are treated under the FUTA. Specifically, under the new law, the Indian Tribes are treated similarly to State and local governments for those services performed "in the employ of an Indian Tribe." This includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian Tribe. It does not apply to services performed for a private entity on reservation lands.

Some of the major points are:

- Services performed in the employ of Indian Tribes are no longer subject to the FUTA tax.
- Services performed in the employ of Tribes are, with specified exceptions, required to be covered under State UI laws. Prior to these changes, coverage was at the option of the State.

Coverage is currently provided in North Dakota law.

House Bill 1450 provides the same exclusions of services from employment in North Dakota law to Indian Tribes as it does for the State and its instrumentalities. It also continues coverage of services, which are subject to all other employers in the state.

- Indian Tribes must be offered the reimbursement option for payment (in lieu of contributions).

House Bill 1450 provides Tribes the option of the reimbursement method of payment for unemployment insurance benefits paid to their former employees. Indian Tribes electing this method will be required to make such election in the same manner and under the same conditions as provided in current law for the State and its instrumentalities. Indian Tribes will be able to determine if this method will apply to the Tribe as a whole or individual tribal units or a combination of units.

Existing law regarding the reimbursement method will apply to Tribes in the same manner as they do to the State and its instrumentalities.

- If an Indian Tribe fails to make required payments to the State's unemployment insurance fund, then the Tribe will become liable for the FUTA tax and the State may remove tribal services from the State UI coverage.

House Bill 1450 provides that an Indian Tribe will lose the option of the reimbursement method if it fails to make required payments. It also provides opportunity of reinstatement.

This bill further provides that after all collection activities have been exhausted an Indian Tribe that fails to make required payments will lose their unemployment insurance coverage. It also provides opportunity to again have coverage.

Although the termination of coverage due to non-payment would be an option, it would be an option of last resort.

- States may require a payment bond to assure reimbursements are made.

House Bill 1450 provides the State the option of requesting the execution and filing of a surety bond. This option is available to protect the employees from an employer that may place itself in jeopardy of losing unemployment insurance coverage. If the employer loses coverage, then employees who have no control whether their employer satisfies their unemployment insurance liabilities also lose this coverage.

- Extended benefit (EB) payments based on service performed in the employ of Tribes no longer qualify for Federal sharing.

The primary purpose of the EB program is to allow individuals who have exhausted their benefits during a period of high unemployment to receive additional payments. Funding for the EB program is normally shared 50 percent by the State and 50 percent by the federal government. However, this 50 percent sharing does not apply to states and local governments.

The amendment to House Bill 1450 includes a provision that financing of benefits for services performed for an Indian Tribe will be the same as the State and its instrumentalities and political subdivisions. If a Tribe chooses the contribution payment method, the Tribe will pay one-half the cost of the extended benefits. If a Tribe chooses the reimbursement method, the Tribe will pay the entire cost of extended benefits.

- These changes are to be effective December 21, 2000.

Mr. Chairman this concludes my testimony. Thank you.

Prepared by Job Service  
North Dakota for House  
Industry, Business, and Labor  
Committee

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1450

Page 3, replace lines 28 through 30 with:

"5. "Benefits paid that are attributable to service in the employ of an Indian tribe  
must be financed as provided in section 52-04-19.1."

Renumber accordingly

**HOUSE BILL 1450**  
**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. House Bill 1450 is being introduced to provide Native American Tribes options for financing of Unemployment Insurance and to ensure the State's Unemployment Insurance Program maintains conformity with the requirements of the Federal Unemployment Insurance Act (FUTA) to enable employers to continue receive a credit for 5.4 percent of the 6.2 percent FUTA tax.

The Consolidated Appropriations Act 2001 signed into law in December 2000 amended Federal law to change the way American Indian Tribes are treated under the FUTA. Specifically, under the new law, the Indian Tribes are treated similarly to State and local governments for those services performed "in the employ of an Indian Tribe." This includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian Tribe. It does not apply to services performed for a private entity on reservation lands.

The major points are:

- Services performed in the employ of Indian Tribes are no longer subject to the FUTA tax.
- Services performed in the employ of Tribes are, with specified exceptions, required to be covered under State UI laws. Prior to these changes, coverage was at the option of the State.

Coverage is currently provided in North Dakota law.

House Bill 1450 provides the same exclusions of services from employment in North Dakota law to Indian Tribes as it does for the State and its instrumentalities. It also continues coverage of services, which are subject to all other employers in the state.

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House Bill 1450 provides Tribes the option of the reimbursement method of payment for unemployment insurance benefits paid to their former employees. Indian Tribes electing this method will be required to make such election in the same manner and under the same conditions as provided in current law for the State and its instrumentalities. Indian Tribes will be able to determine if this method will apply to the Tribe as a whole or individual tribal units or a combination of units.

Existing law regarding the reimbursement method will apply to Tribes in the same manner as they do to the State and its instrumentalities.

- If an Indian Tribe fails to make required payments to the State's unemployment insurance fund, then the Tribe will become liable for the FUTA tax and the State may remove tribal services from the State UI coverage.

House Bill 1450 provides that an Indian Tribe will lose the option of the reimbursement method if it fails to make required payments. It also provides opportunity of reinstatement.

This bill further provides that after all collection activities have been exhausted an Indian Tribe that fails to make required payments will lose their unemployment insurance coverage. It also provides opportunity to again have coverage.

Although the termination of coverage due to non-payment would be an option, it would be an option of last resort.

- States may require a payment bond to assure reimbursements are made.

The federal law provides the State the option of requesting the execution and filing of a surety bond. This option is available to protect the employees from an employer that may place itself in jeopardy of losing unemployment insurance coverage. If the employer loses

coverage, then employees who have no control whether their employer satisfies their unemployment insurance liabilities also lose this coverage.

House Bill 1450 requires an Indian tribe to execute and file a surety bond if it chooses the reimbursable method to finance their unemployment insurance costs.

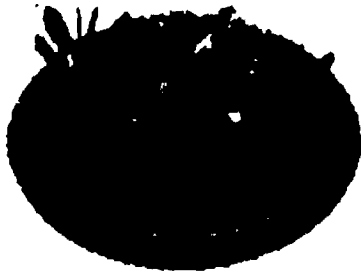
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House Bill 1450 includes a provision that financing of benefits for services performed for an Indian Tribe will be the same as the State and its instrumentalities and political subdivisions. This means that if a Tribe chooses the contribution payment method, the Tribe will pay one-half the cost of the extended benefits. If a Tribe chooses the reimbursement method, the Tribe will pay the entire cost of extended benefits.

- These changes are to be effective December 21, 2000.

Mr. Chairman this concludes my testimony. Thank you.



TRIBAL BUSINESS COUNCIL  
(701) 627-4281  
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## MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation  
HC3 Box 2 • New Town, North Dakota 58763-9402

Industry, Business and Labor Committee  
North Dakota Senate  
57th Legislative Assembly

Testimony of Three Affiliated Tribes  
Mandan, Hidatsa and Arikara Nation  
Tex G. Hall  
Chairman

on HB 1450  
Unemployment Compensation Eligibility for Tribes

March 6, 2001

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HB 1450 is a simple bill which is meant to allow the State of North Dakota to comply with recently passed Federal law. All it really does is define Indian Tribes as employers for the purpose of the State unemployment compensation law. It also puts Indian Tribes on a par with state and local governments for the purpose of the Federal Unemployment Tax Act (FUTA).

This is made necessary because for the purpose of the, Indian Tribes were made exempt and are now treated similarly to states and the Federal government through a change in FUTA made by the 106th Congress just completed late last year. In HB 1450, Tribes are generally treated the same as other employers, except that it is made clear that if Tribes do not pay their contributions to the unemployment compensation program of the state of North Dakota, they may lose their eligibility to participate in North Dakota's program and may become liable for the full FUTA tax under Federal law.

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Therefore, we urge a DO PASS recommendation from this Committee on HB 1450.