

# SOCIAL SECURITY

## CHAPTER 533

HOUSE BILL NO. 1378  
(Representatives Oban, Dorso, Gorman)  
(Senator Schoenwald)

### INDEPENDENT CONTRACTORS

AN ACT to amend and reenact subsection 17 of section 52-01-01, subdivision e of subsection 18 of section 52-01-01, and section 65-01-03 of the North Dakota Century Code, relating to the definition of an independent contractor and exclusions from employment for unemployment compensation purposes and to the definition of an independent contractor for workers' compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 17 of section 52-01-01 of the North Dakota Century Code is amended and reenacted as follows:

17. "Employment" means:

- a. Any service performed prior to January 1, 1972, which was employment as defined in this subsection prior to such date, and subject to the other provisions of this subsection, service performed after December 31, 1971, including service in interstate commerce, by:
  - (1) Any officer of a corporation.
  - (2) Any individual who, under the provisions of subdivision e, has the status of an employee.
  - (3) Any individual other than an individual who is an employee under paragraph 1 or 2 who performs services for remuneration for any person:
    - (a) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his principal.
    - (b) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for

\* NOTE: Subsection 17 of section 52-01-01 was also amended by section 1 of House Bill No. 1580, chapter 534.

resale or supplies for use in their business operations.

For purposes of this paragraph, the term "employment" includes services described in either subparagraph a or b performed after December 31, 1971, only if the contract of service contemplates that substantially all of the services are to be performed personally by such individual; the individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

- b. An individual's entire service, performed within or both within and without this state if the service is localized in this state.
- c. Services covered by an election pursuant to chapter 52-05.
- d. Services covered by an arrangement pursuant to sections 52-02-14 and 52-02-15 between the bureau and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, must be deemed to be employment if the bureau has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.
- e. Services performed by an individual for wages or under any contract of hire must be deemed to be employment subject to the North Dakota Unemployment Compensation Law unless and until it is shown that: ~~(1)~~ such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; ~~(2)~~ such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of the enterprise for which such service is performed; and ~~(3)~~ such individual is customarily engaged in an independently established trade, occupation, profession, or business the individual is an independent contractor as determined by the "common law" test.
- f. Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.] solely by reason of section 3306(c)(7) of that Act and is not excluded from "employment" under subdivision h of this

subsection. Service performed after December 31, 1977, in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.] by section 3306(c)(7) of that Act and is not excluded from "employment" as enumerated under subdivision h of this subsection.

- g. Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization but only if the following conditions are met:
- (1) The service is excluded from "employment" as defined in the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.] solely by reason of section 3306(c)(8) of that Act; and
  - (2) The organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.
- h. For the purposes of subdivisions f and g, the term "employment" does not apply to service performed:
- (1) In the employ of:
    - (a) A church or convention or association of churches; or
    - (b) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.
  - (2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.
  - (3) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education and after December 31, 1977, in the employ of a governmental entity referred to in subdivision f if such service is performed by an individual in the exercise of duties:
    - (a) As an elected official.
    - (b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision.
    - (c) As a member of the state national guard or air national guard.

- (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.
  - (e) In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week.
- (4) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work.
  - (5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.
  - (6) Prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.
- i. The term "employment" includes the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, and after December 31, 1976, in the case of the Virgin Islands, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subdivision b and subsection 28 or the parallel provisions of another state's law), if:
- (1) The employer's principal place of business in the United States is located in this state; or
  - (2) The employer has no place of business in the United States, but:
    - (a) The employer is an individual who is a resident of this state;
    - (b) The employer is a corporation which is organized under the laws of this state; or
    - (c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

- (3) None of the criteria of paragraphs 1 and 2 is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.
  - (4) An "American employer", for purposes of this subdivision, means a person who is:
    - (a) An individual who is a resident of the United States;
    - (b) A partnership if two-thirds or more of the partners are residents of the United States;
    - (c) A trust, if all of the trustees are residents of the United States; or
    - (d) A corporation organized under the laws of the United States or of any state.
  - (5) The term "United States" for purposes of this subdivision includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.
- j. Notwithstanding subdivision b, all service performed after December 31, 1971, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office, from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled is within this state.
- k. Notwithstanding any other provision of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.] is required to be covered under the North Dakota Unemployment Compensation Law.
- l. An individual's service, wherever performed within the United States, the Virgin Islands, or Canada, if:
  - (1) Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada; and
  - (2) The place from which the service is directed or controlled is in this state.
- m. Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision a of subsection 18 when:
  - (1) Such service is performed for a person who:

- (a) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph 2); or
  - (b) For some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph 2) ten or more individuals, regardless of whether they were employed at the same moment of time.
- (2) Such service is not performed in agricultural labor if performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act [Pub. L. 82-414; 66 Stat. 166; 8 U.S.C. 1101 et seq.].
- (3) For the purposes of this subdivision, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:
- (a) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963 [Pub. L. 88-582; 78 Stat. 920; 7 U.S.C. 2041 et seq.]; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and
  - (b) If such individual is not an employee of such other person within the meaning of subdivision a.
- (4) For the purposes of this subdivision, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph 3:
- (a) Such other person and not the crew leader must be treated as the employer of such individual; and
  - (b) Such other person must be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the

service in agricultural labor performed for such other person.

- (5) For the purposes of this subdivision, the term "crew leader" means an individual who:
- (a) Furnishes individuals to perform service in agricultural labor for any other person;
  - (b) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and
  - (c) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.
- n. The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority, performed for a person who paid cash remuneration of one thousand dollars or more to individuals employed in such domestic service in any calendar quarter in the current or preceding calendar year.

SECTION 2. AMENDMENT. Subdivision e of subsection 18 of section 52-01-01 of the North Dakota Century Code is amended and reenacted as follows:

- e. Service performed by an individual in the employ of ~~his~~ the individual's son, daughter, or spouse, and service performed by a child under the age of eighteen minor in the employ of his the minor's father or mother and dwelling in the household of the minor's father or mother.

SECTION 3. AMENDMENT. Section 65-01-03 of the North Dakota Century Code is amended and reenacted as follows:

65-01-03. Person performing service for remuneration presumed an employee. Each person who performs services for another for a remuneration, whether the same is paid as a salary, commission, or other considerations in lieu thereof, under any agreement or contract of hire, express or implied, ~~shall be is~~ presumed to be an employee of the person for whom the services are performed, unless ~~he shall maintain~~ the person maintains a separate business establishment or ~~shall hold himself~~ holds that person out to render or ~~shall render~~ renders services to the general public.

In determining whether a person is an independent contractor or an employee, the primary test to be employed is the "right to control common law" test.

Approved April 16, 1991  
Filed April 18, 1991

## CHAPTER 534

HOUSE BILL NO. 1580  
(Representatives Kaldor, Dorso, B. Anderson)  
(Senators Ingstad, Satrom)

### CORPORATE OFFICERS UNDER UNEMPLOYMENT COVERAGE

AN ACT to amend and reenact paragraph 1 of subdivision a of subsection 17 of section 52-01-01 of the North Dakota Century Code, relating to definitions of employment for purposes of unemployment compensation contributions and benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Paragraph 1 of subdivision a of subsection 17 of section 52-01-01 of the North Dakota Century Code is amended and reenacted as follows:

- (1) Any officer of a corporation. If a corporate officer is employed by a corporation in which one-fourth or more of the ownership interest, however designated, is owned or controlled by the officer or by the officer's parent, child, or spouse, or by any combination of them, the corporation with the concurrence of the officer may exclude that officer's service from employment as of the first day of January of any calendar year if, during January of that year, the corporation files a written application to exclude the officer's service from employment.

Approved March 13, 1991  
Filed March 13, 1991

\* NOTE: Subsection 17 of section 52-01-01 was also amended by section 1 of House Bill No. 1378, chapter 533.

**CHAPTER 535**

HOUSE BILL NO. 1072  
(Dorso, Gorman)

**UNEMPLOYMENT COMPENSATION - CADDIES**

AN ACT to create and enact a new paragraph to subdivision i of subsection 18 of section 52-01-01 of the North Dakota Century Code, relating to the exclusion of golf caddies under the age of eighteen from the definition of employment under the unemployment compensation law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new paragraph to subdivision i of subsection 18 of section 52-01-01 of the North Dakota Century Code is created and enacted as follows:

By an individual under the age of eighteen as a golf caddy, except for service described in subdivisions f and g of subsection 17.

Approved April 8, 1991  
Filed April 8, 1991

## CHAPTER 536

SENATE BILL NO. 2164  
(Committee on Industry, Business and Labor)  
(At the request of Job Service North Dakota)

### UNEMPLOYMENT CONTRIBUTION RATE FOR NEW EMPLOYERS

AN ACT to amend and reenact subdivision c of subsection 3 of section 52-04-05 of the North Dakota Century Code, relating to determination of rates of contributions for unemployment compensation purposes; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subdivision c of subsection 3 of section 52-04-05 of the North Dakota Century Code is amended and reenacted as follows:

c. An employer that does not qualify under either subdivision a or b is subject to a rate determined as follows:

- (1) For each calendar year new employers must be assigned a rate of ~~three and one-fourth~~ two and eight-tenths percent, unless the employer is classified in an industry that the bureau determines has a negative reserve on the computation date. However, an employer must be assigned the maximum rate for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1991.

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

Approved February 19, 1991  
Filed February 19, 1991

\* NOTE: Subsection 3 of section 52-04-05 was also amended by section 1 of Senate Bill No. 2163, chapter 537.

## CHAPTER 537

SENATE BILL NO. 2163  
 (Committee on Industry, Business and Labor)  
 (At the request of Job Service North Dakota)

### UNEMPLOYMENT COMPENSATION CONTRIBUTION RATES FOR NEW EMPLOYERS

AN ACT to amend and reenact subsection 3 of section 52-04-05 of the North Dakota Century Code, relating to determination of rates of contributions for unemployment compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 3 of section 52-04-05 of the North Dakota Century Code is amended and reenacted as follows:

3. a. Except as otherwise provided in this subsection, an employer's rate may not be reduced below the maximum rate for a calendar year unless the employer's account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year.
- b. ~~If an employer has not been subject to the law as required under subdivision a; that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four consecutive calendar month period ending on September thirtieth of the preceding calendar year.~~
- c. An employer that does not qualify under ~~either~~ subdivision a or b is subject to a rate determined as follows:
  - (1) For each calendar year new employers must be assigned a rate of three and one-fourth percent, unless the employer is classified in ~~an industry that the bureau determines has a negative reserve on the computation date construction services~~. However, an employer must be assigned the maximum rate for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.
  - (2) New employers in ~~industries that have a negative reserve on the computation date and employers that have failed to provide correct industrial classification information construction services~~ must be assigned the maximum rate. However, an employer who becomes subject to the North Dakota Unemployment Compensation Law after December 31, 1989, who is classified in construction services pursuant

\* NOTE: Subsection 3 of section 52-04-05 was also amended by section 1 of Senate Bill No. 2164, chapter 536.

to subdivision C of the standard industrial classification manual must be assigned a rate of nine percent or the maximum rate, whichever is greater.

- (3) Assignment by the bureau of an employer's industrial classification for the purposes of this paragraph must be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual issued by the executive office of the president, office of management and budget.

Approved April 2, 1991  
Filed April 4, 1991

## CHAPTER 538

SENATE BILL NO. 2236  
 (Committee on Industry, Business and Labor)  
 (At the request of Job Service North Dakota)

### ALIENS UNDER UNEMPLOYMENT COMPENSATION

AN ACT to amend and reenact subsection 14 of section 52-06-02 of the North Dakota Century Code, relating to treatment of services performed by aliens under the unemployment compensation law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 14 of section 52-06-02 of the North Dakota Century Code is amended and reenacted as follows:

14. Which are based on service performed by an alien, unless such alien ~~has been is an individual~~ who was lawfully admitted for permanent residence ~~or to perform~~ at the time such services were performed, ~~was lawfully present for purposes of performing such services,~~ or otherwise ~~is was~~ permanently residing in the United States under color of law at the time such services were performed (including an alien who ~~is was~~ lawfully present in the United States as a result of the application of the provisions of ~~section 203(a)(7)~~ sections 207 and 208 or section 212(d)(5) of the Immigration and Nationality Act ~~(Pub. L. 82-414, 66 Stat. 166, 8 U.S.C. 1101 et seq.)).~~
  - a. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status must be uniformly required from all applicants for benefits.
  - b. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status may be made except upon a preponderance of the evidence.

Approved April 3, 1991  
 Filed April 4, 1991

## CHAPTER 539

SENATE BILL NO. 2144  
(Committee on Industry, Business and Labor)  
(At the request of Job Service North Dakota)

### UNEMPLOYMENT QUALIFICATION AND BENEFIT DURATION

AN ACT to amend and reenact subsection 2 of section 52-06-04 and section 52-06-05 of the North Dakota Century Code, relating to qualifications as an insured worker and benefit duration for unemployment compensation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 52-06-04 of the North Dakota Century Code is amended and reenacted as follows:

2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of the individual's base period totaling not less than one and ~~one-half~~ three-tenths times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which the individual filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times the individual's current weekly benefit amount. Base-period wages used to determine an individual's monetary eligibility under this subsection, as a result of the following employment, shall not exceed ten times the individual's weekly benefit amount:
  - a. Employment by a partnership, if one-fourth or greater ownership interest in the partnership is or during such employment was owned or controlled, directly or indirectly by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
  - b. Employment by a corporation, if one-fourth or more of the ownership interest, however designated or evidenced in the corporation is or during such employment was owned or controlled, directly or indirectly, by the individual or by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
  - c. This provision does not apply if, at the time of the claim, such ownership interest has been ceded.

SECTION 2. AMENDMENT. Section 52-06-05 of the North Dakota Century Code is amended and reenacted as follows:

52-06-05. Maximum potential benefits. Any otherwise eligible individual is entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
<del>1.50 to 2.29</del>	<del>12</del>
<del>2.30 to 2.44</del>	<del>14</del>
<del>2.45 to 2.59</del>	<del>16</del>
<del>2.60 to 2.74</del>	<del>18</del>
1.30 to 1.49	12
<u>1.50 to 2.29</u>	<u>14</u>
<u>2.30 to 2.49</u>	<u>16</u>
<u>2.50 to 2.74</u>	<u>18</u>
2.75 to 2.89	20
2.90 to 3.04	22
3.05 to 3.19	24
3.20 or more	26

Approved April 3, 1991  
Filed April 4, 1991

## CHAPTER 540

SENATE BILL NO. 2103  
(Committee on Industry, Business and Labor)  
(At the request of Job Service North Dakota)

### UNEMPLOYMENT COMPENSATION DECISION APPLICATION

AN ACT to create and enact a new section to chapter 52-06 of the North Dakota Century Code, relating to applicability of unemployment compensation decisions to separate proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-06 of the North Dakota Century Code is created and enacted as follows:

Applicability of decision to separate proceedings. Any finding of fact or law, judgment, conclusion, or decision made by a claims examiner, appeals referee, the bureau, or any person with the authority to make findings of fact or law in any action or proceeding before the bureau is not conclusive or binding on, nor may it be used as evidence in, any separate or subsequent action or proceeding unrelated to the North Dakota Unemployment Compensation Law, except for workers compensation purposes, between an individual and the individual's present or prior employer brought before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

Approved April 2, 1991  
Filed April 4, 1991

## CHAPTER 541

SENATE BILL NO. 2515  
(Senators Keller, Thane)  
(Representatives Wentz, Oban)

### WORK FORCE 2000 PROGRAM

AN ACT to provide for work force development programs; to provide a statement of legislative intent; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

#### SECTION 1. North Dakota work force 2000 policy and goals.

1. The legislative assembly finds that a highly skilled work force is critical to the present and future competitiveness of North Dakota's economy. The legislative assembly, therefore, declares that it is the policy of the state to support and promote skill training, retraining, and upgrade training for North Dakota workers. It is the goal of the state to:
  - a. Improve the skills of North Dakota workers;
  - b. Promote and sponsor effective and responsive training programs for employed and unemployed North Dakotans who need job-related training;
  - c. Promote programs that lead to family wage jobs;
  - d. Secure the active participation and full cooperation of North Dakota industry leaders, business owners, and employee representatives in developing programs to increase and improve worker skill training;
  - e. Promote the coordination of North Dakota's education and job training systems to more fully respond to the increasingly complex training needs of workers; and
  - f. Promote access to education and job training programs for all North Dakotans regardless of their economic status or geographic location within the state.
2. The legislative assembly declares that it is the policy of this state to integrate skill training and development programs into its economic development strategies.

SECTION 2. North Dakota work force 2000 program administration. Job service North Dakota shall administer the North Dakota work force 2000 program within the state.

1. Program priorities:

- a. Are compatible with statewide economic development strategies.
  - b. Demonstrate business and community financial support and participation.
  - c. Coordinate activities and resources with other training programs.
  - d. Provide for followup and evaluation of program results.
  - e. Provide customized, retraining, and upgrade training in occupations that pay not less than two hundred percent of the federal and state minimum wage.
  - f. Provide training to unemployed and employed residents of North Dakota for new and expanding businesses.
2. Program requirements:
- a. Only training for permanent jobs or occupations which have significant career opportunities and require substantive instructions will be considered for funding.
  - b. Training can include only upgrade training or retraining of current workers in situations where training is required for continued employment or to trainees as long as the company gives successful graduates hiring priority.
  - c. Only trainees approved by participating parties will be eligible.
  - d. Training will be limited to state residents.
  - e. All direct training costs are allowable and can include the following:
    - (1) Program promotion.
    - (2) Instructor wages, per diem, and travel.
    - (3) Curriculum development and training materials.
    - (4) Lease of training equipment and training space.
    - (5) Miscellaneous direct training costs.
    - (6) Administrative costs.
    - (7) Assessment and testing.

**SECTION 3. North Dakota work force 2000 priority of industry requirements.**

1. Assist companies that are undergoing major technological changes and where training is deemed critical to the company and in occupations that are deemed to have inadequate trained personnel.

2. Training assistance must be encouraged for small companies and companies located in rural areas.
3. Companies must be encouraged to participate with in-kind contributions of training space, training equipment, training supplies, and technical assistance.
4. Training programs must be designed with the direct participation of the sponsoring company and an employee representative.
5. If new job openings are created through upgrade training, the sponsoring company should give priority consideration to individuals eligible for other state and federal job training programs.

SECTION 4. North Dakota work force 2000 program implementation and coordination.

1. All programs must be conducted through contractual arrangements made with job service North Dakota.
2. Programs must be conducted in cooperation with appropriate state board for vocational education approved training providers and institutions.
3. Final screening of trainees must be conducted by the company with the assistance of job service North Dakota when required.
4. Program effectiveness will be determined by post-training monitoring that will address such issues as:
  - a. Company satisfaction with the program.
  - b. Company transition to new technologies or products.
  - c. Posttraining wage levels versus pretraining wage levels.
  - d. Number of trainees successfully completing the program.
  - e. Number of trainees who are retained by the company as a result of the training program.
  - f. Number of new jobs created at entry level as a result of upgrade training.

SECTION 5. North Dakota work force 2000 application procedure.

1. A proposal or concept paper must be submitted by the appropriate company, trade representative, or employee representative to job service North Dakota.
2. The proposal or concept paper should address the key guideline points but be kept brief.

SECTION 6. North Dakota work force 2000 gifts and grants. Job service North Dakota is authorized to accept and use any funds, including

gifts and grants, made available for the purpose of defraying expenses involved in carrying out this Act.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the North Dakota work force 2000 program receive priority consideration in grant allocation under the grant line item for the department of economic development and finance as provided in Senate Bill No. 2058 for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 8. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and from other income, to job service North Dakota for the purpose of defraying expenses of this Act, for the biennium beginning July 1, 1991, and ending June 30, 1993.

Salaries and wages	\$ 60,000
Operating expenses	15,000
Grants, benefits, and claims	425,000
Total all funds	<u>\$500,000</u>
Less estimated income	425,000
Total general fund appropriation	<u>\$ 75,000</u>

Approved April 16, 1991  
Filed April 18, 1991

## CHAPTER 542

HOUSE BILL NO. 1189  
(Committee on State and Federal Government)  
(At the request of Job Service North Dakota)

### OASIS BENEFITS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9. "Primary insurance benefit" means the sum of the following:
- a. (1) Fifty percent of the amount of an individual's average monthly wage if the average monthly wage does not exceed seventy-five dollars; or
  - (2) If the average monthly wage exceeds seventy-five dollars, thirty-seven dollars and fifty cents, plus fifteen percent of the amount by which the average monthly wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars;
  - b. One percent of the amount computed under subdivision a, multiplied by the number of years in which two hundred dollars or more of wages were paid to the individual; and
  - c. (1) Effective July 1, ~~1989~~ 1991, ~~two~~ three hundred ~~sixty~~ dollars; or
  - (2) Effective July 1, ~~1990~~ 1992, ~~two~~ three hundred ~~eighty~~ twenty dollars.

Approved March 27, 1991  
Filed March 28, 1991