

# SOCIAL SECURITY

## CHAPTER 493

HOUSE BILL NO. 1518  
(Representatives Gorman, Kelsch)  
(Senators Goetz, Grindberg, Keller)  
(Approved by the Delayed Bills Committee)

### NEW JOBS TRAINING AND FUNDING

AN ACT to assist community economic development by providing incentive to businesses to locate and expand within the state through government-assisted new jobs training; to provide for reports to the budget section of the legislative council; to provide a continuing appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. Definitions.** When used in this Act, unless the context otherwise requires:

1. "Agreement" is the agreement between an employer and job service North Dakota concerning a project.
2. "Base employment level" means the number of full-time jobs an employer employs prior to the date of the commencement of the project.
3. "Community" means the city or county in which an eligible primary sector business is or will be located, or a local development corporation, community organization, or any other group the interest of which is in the economic growth of the area.
4. "Date of commencement of the project" means the date of the agreement.
5. "Department" means the department of economic development and finance.
6. "Employee" means the individual employed in a new job.
7. "Employer" means the individual, corporation, partnership, or association providing new jobs and entering into an agreement.
8. "New job" means a job in a new or expanding primary sector business. The term does not include recalled workers returning to positions they previously held, replacement workers, including workers newly hired as a result of a labor dispute, or other jobs that formerly existed within the employment of the employer in the state.
9. "New jobs credit from withholding" means the credit as provided in section 3 of this Act.
10. "New jobs training program" or "program" means the project or projects established by job service North Dakota to provide workers with education and training required for jobs in new or expanding primary sector businesses in the state.

11. "Primary sector business" means an employer engaged in locating to or in this state which previously had no presence in this state, or in expanding its operations within this state, which through the employment of knowledge or labor, adds value to a product, process, or export service that results in the creation of new wealth, excluding production agriculture, if it meets the following eligibility criteria:
  - a. An employer entering into an agreement, and increasing its base employment level by ten percent, or two employees, whichever is greater, or in the case of an employer without an established base employment level in this state creating a minimum of five employees, within the time set in the agreement, is entitled to the new jobs credit from withholding.
  - b. An employer must have an economically productive and socially desirable purpose within the state.
  - c. An employer must not be closing or reducing its operation in one area of the state and relocating substantially the same operation in another area.

This subsection does not prohibit an employer from expanding its operations in another area of the state if existing operations of a similar nature are not closed or substantially reduced.

12. "Program costs" means all necessary and incidental costs of providing program services. The term does not include the cost of purchase of equipment to be owned or utilized by the training or educational institution or service.
13. "Program services" means training and education specifically directed to the new jobs, including the following:
  - a. All direct training costs, such as:
    - (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; and
    - (7) Assessment and testing.
  - b. In-house or on-the-job training.
  - c. Subcontracted services with institutions governed by the board of higher education, private colleges or universities, federal, state, or local agencies, or other private training or educational services.

14. "Project" means a training arrangement that is the subject of an agreement entered into between job service North Dakota and an employer to provide program services.

**SECTION 2. Job service North Dakota - Agreements.** Program services developed and coordinated by job service North Dakota must be provided to primary sector businesses found eligible for loans or grants under this Act. Job service North Dakota may enter into an agreement to establish a project with an employer which meets the following conditions:

1. Sets a date of commencement of the project.
2. Identifies program costs, including deferred costs, which are to be paid from available sources including new jobs credit from withholding to be received or derived from new jobs resulting from the project.
3. Provides for a guarantee by the employer of payment for program costs.
4. Provides that any deferral of program cost payments may not exceed ten years from the date of commencement of the project.
5. Provides that on-the-job training costs for employees may not exceed fifty percent of the annual gross payroll costs of the new jobs in the first full year after the date of commencement of the project. For purposes of this subsection, "gross payroll" is the gross wages and salaries for the new jobs.
6. Provides the maximum amount of new jobs credit from withholding, or tuition and fee payments, allowed for a project.
7. Provides that every employee participating in the new jobs training program must be paid an income at least equal to one hundred twenty percent of the federal poverty level for a family of four as determined at the date of commencement of the project, for the life of the loan.

A project requiring a loan from the department or a community may not be approved, and an agreement may not be executed by job service North Dakota, until notification from the department or community that the employer has qualified for a loan. Upon execution of the agreement, job service North Dakota shall notify the state tax commissioner of the agreement and the identity of the employer. Job service North Dakota may adopt rules to implement this Act. Job service North Dakota shall prepare an annual report for the governor and the legislative assembly with respect to the new jobs training program.

**SECTION 3. New jobs credit from income tax withholding - Continuing appropriation.** Loans made under section 4 of this Act for program costs must be repaid by receipt of new jobs credit from withholding as follows:

1. New jobs credit from withholding must be based upon the wages paid to the new employees.
2. The North Dakota income tax withholding on wages paid by the employer to each new employee participating in a project must be credited from the withholding payments made by the employer pursuant to section 57-38-60. The tax commissioner shall transmit the equivalent credit payment amount to the state treasurer to be allocated to a special fund for payment to

the department, community, or both, as the case may be, of principal and interest on loans issued pursuant to section 4 of this Act. All moneys deposited in the fund are hereby appropriated for the purposes of this section. When the principal and interest on the loans have been repaid, the employer credits must cease and any money received after the loans have been repaid must be remitted by the tax commissioner to the general fund of the state.

3. The employer shall provide such other information the tax commissioner may require.
4. A new employee participating in a project must receive full credit for the amount withheld as provided in section 57-38-59.
5. The tax commissioner and state treasurer shall administer this section and may adopt rules consistent with and necessary for the administration of this section.
6. The provisions of chapter 57-38 pertaining to the administration of the income tax withholding, including provisions for refund or credit, not in conflict with the provisions of this Act, shall govern the administration of the credit provided by this Act.

**SECTION 4. Fund - Administration.** Funding for programs must be through loans or grants as stated under this section. Loans may be made by the department from the North Dakota future fund, a community, or the department and a community cooperatively. A community may provide loans directly or through any financial institution currently qualified to participate in a loan with the Bank of North Dakota. The Bank of North Dakota may participate in loans under such credit standards and lending policies it determines are necessary and applicable. A community may alternatively fund a program through a grant without use of new jobs credit from withholding.

1. Loans must be secured and payable from a sufficient portion of the future receipts of payments authorized by the agreement, with such other security as the lender may determine is justified. The state treasurer shall transfer the moneys from the special fund created in section 3 of this Act to a special fund set up for this purpose by the department or community. The receipts must be pledged to the payment of principal of and interest on the loan.
2. The department may adopt rules to implement this chapter.

**SECTION 5. REPORTS TO LEGISLATIVE COUNCIL BUDGET SECTION.** The tax commissioner shall report to the budget section of the legislative council the allocations to the special fund under section 3 of this Act, the executive director of job service North Dakota shall report to the budget section on the agreements entered under section 2 of this Act, and the director of the department of economic development and finance shall report to the budget section on loans, grants, and new jobs qualified for program services. The tax commissioner, executive director of job service North Dakota, and the director of the department of economic development and finance shall provide any other information relating to this Act which the budget section requests. The reports must be presented at the times requested by the budget section, but not less than once in each calendar year.

**SECTION 6. EXPIRATION DATE.** This Act is ineffective after June 30, 1995, but the provisions of this Act as they existed on June 30, 1995, remain effective after that date for any loan, grant, or agreement entered or rule adopted before July 1, 1995.

Approved April 30, 1993  
Filed May 3, 1993

## CHAPTER 494

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

### UNEMPLOYMENT ACCOUNT NONCHARGING

AN ACT to amend and reenact subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to noncharging of employer accounts for unemployment compensation purposes.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

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.

Approved March 15, 1993  
Filed March 16, 1993

## CHAPTER 495

SENATE BILL NO. 2110  
(Industry, Business and Labor Committee)  
(At the request of Job Service North Dakota)

### **JOB SERVICE PROPERTY SALE AND PURCHASE**

AN ACT to authorize the state of North Dakota acting through job service North Dakota to sell certain property; to amend and reenact section 52-04-22 of the North Dakota Century Code, relating to use of the job service North Dakota federal advance interest repayment fund; and to provide an appropriation.

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

**SECTION 1. Sale of property by job service North Dakota - Appropriation.** The state of North Dakota acting through job service North Dakota is hereby authorized to sell and convey all of lot two of the replat of lots b and c of the replat of block 1, Drees second addition to Grand Forks, North Dakota, and the east two hundred feet of lot "C" replat of block 1 Drees second addition to Grand Forks, North Dakota. Job service North Dakota may cause the above-described real property to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2. The provisions of section 54-01-05.5 do not apply to the sale and conveyance authorized by this Act. Proceeds from the sale must be used as authorized and directed by law. Proceeds from the sale are hereby appropriated for acquisition and renovation of land and a building to be used as an office facility by job service North Dakota in Grand Forks, North Dakota.

**SECTION 2. AMENDMENT.** Section 52-04-22 of the North Dakota Century Code is amended and reenacted as follows:

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

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

Moneys in this fund may also be used for the purpose of paying interest costs associated with the acquisition and renovation of land and a building to be used as an office facility by job service North Dakota in Grand Forks, North Dakota. Moneys in this fund may be used for the purpose of paying the costs of repair, renovation,

or alteration of job service owned office facilities. Moneys in this fund are hereby appropriated for the purposes specified in this section including the purpose of paying interest costs associated with the acquisition and renovation of land and a building to be used as an office facility by job service North Dakota in Grand Forks, North Dakota. Moneys in this fund are appropriated for the purpose of paying the costs of repair, renovation, or alteration of job service owned office facilities.

Approved March 30, 1993  
Filed April 1, 1993

## CHAPTER 496

SENATE BILL NO. 2108  
(Industry, Business and Labor Committee)  
(At the request of Job Service North Dakota)

### UNEMPLOYMENT BENEFIT ELIGIBILITY

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 eligibility for unemployment compensation benefits.

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

<sup>1</sup> SECTION 1. AMENDMENT. Subsection 2 of section 52-06-04 of the 1991 Supplement to 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 ~~three-tenths~~ one-half 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~~ are not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, ~~such~~ the 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~~ may 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.

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<sup>1</sup> NOTE: Section 52-06-04 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

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 1991 Supplement to 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>1.30 to 1.49</del> <u>1.50 to 2.29</u>	12
<del>1.50 to 2.29</del> <u>2.30 to 2.44</u>	14
<del>2.30 to 2.49</del> <u>2.45 to 2.59</u>	16
<del>2.50</del> <u>2.60 to 2.74</u>	18
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 29, 1993  
Filed April 30, 1993

## CHAPTER 497

SENATE BILL NO. 2069  
(Government and Veterans Affairs Committee)  
(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 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Primary insurance benefit" means the sum of the following:
- a. (1) Fifty percent of the amount of an individual's average monthly wage if the average monthly wage does not exceed seventy-five dollars; or
  - (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, ~~1991~~ 1993, three hundred forty dollars; or
  - (2) Effective July 1, ~~1992~~ 1994, three hundred ~~twenty~~ sixty dollars.

Approved March 10, 1993  
Filed March 11, 1993