

SOCIAL SECURITY

CHAPTER 439

HOUSE BILL NO. 1117

(Government and Veterans Affairs Committee)
(At the request of Job Service North Dakota)

AN ACT authorizing the state of North Dakota acting through job service North Dakota to sell certain property; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of property to job service North Dakota. The state of North Dakota acting through job service North Dakota may sell and convey lots one, two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve, block 9, Kelley and Fuller's second addition to Jamestown, Stutsman County, North Dakota. Job service North Dakota may cause this 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. Net proceeds from the sale must be used as authorized and directed by law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2009
Filed March 24, 2009

CHAPTER 440**HOUSE BILL NO. 1118**

(Government and Veterans Affairs Committee)
(At the request of Job Service North Dakota)

AN ACT authorizing the state of North Dakota acting through job service North Dakota to sell certain properties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of property by job service North Dakota. The state of North Dakota acting through job service North Dakota may sell and convey Lot Six (6), Block Two (2), of Replat of Block One (1) of Westgate Village in the City of Fargo, Cass County, North Dakota. Job service North Dakota may cause this 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. Net proceeds from the sale must be used as authorized and directed by law.

SECTION 2. Sale of property by job service North Dakota. The state of North Dakota acting through job service North Dakota may sell and convey a tract of land located in the Southwest Quarter of the Southwest Quarter of Section Thirteen, Township One Hundred Fifty-seven North, Range Fifty-three West, Fifth p.m., more accurately described as follows: commencing at a point seventy-five feet North and one hundred thirty-nine and nine-tenths feet East of the Southwest corner of said Section Thirteen; thence continuing South 90 degrees 00 minutes 00 seconds East, and parallel to the South line of Section Thirteen, one hundred fifty feet; thence North 0 degrees 05 minutes 36 seconds East, two hundred eighty-three feet; thence North 90 degrees 00 minutes 00 seconds West, one hundred fifty feet; thence South 0 degrees 05 minutes 36 seconds West, two hundred eighty-three feet, to the point of beginning; now known as part of Lot 1, Block 1, State School First Addition, to the City of Grafton. Said tract of land contains 0.97 acres more or less. Job service North Dakota may cause this 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. Net proceeds from the sale must be used as authorized and directed by law.

Approved March 19, 2009
Filed March 24, 2009

CHAPTER 441**SENATE BILL NO. 2078**

(Education Committee)

(At the request of Job Service North Dakota)

AN ACT to repeal section 52-02-02.1 of the North Dakota Century Code, relating to adult education and training student grants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 52-02-02.1 of the North Dakota Century Code is repealed.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 442**SENATE BILL NO. 2107**

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact section 52-04-01.1 of the North Dakota Century Code, relating to electronic filing of employer unemployment contribution and wage reports; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

52-04-01.1. Electronic filing of contribution and wage reports - Electronic payment of contributions - Assessments. An employer that employs more than ~~ninety-nine~~ twenty-four employees at any time shall file contribution and wage reports by an electronic method approved by the bureau beginning with the calendar quarter in which the employer first employs more than ~~ninety-nine~~ twenty-four employees. An employer that does not comply with the requirements to file reports electronically is deemed to have failed to submit any employer's contribution and wage report as provided in section 52-04-11. All payers making payments on behalf of more than one employer shall make all payments electronically.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2009.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 443**SENATE BILL NO. 2101**

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact subsection 6 of section 52-04-05 and subsection 2 of section 52-04-06 of the North Dakota Century Code, relating to rounding of calculations for employer unemployment compensation contribution rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 52-04-05 of the North Dakota Century Code is amended and reenacted as follows:

6. a. Except as otherwise provided in this subsection, an employer's rate may not be less than the negative employer minimum 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. If an employer in construction services has not been subject to the law as required, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. If an employer in nonconstruction services has not been subject to the law as required, the employer in nonconstruction services qualifies for a reduced rate if the account has been chargeable with benefits throughout the twelve-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. The executive director may provide any negative employer whose contributions paid into the trust fund are greater than the benefit charges against that employer's account, for a minimum of three consecutive years immediately preceding the computation date or subject to the law as required, with up to a thirty percent reduction to that employer's rate for any year if that employer has in place a plan approved by the bureau which addresses substantive changes to that employer's business operation and ensures that any rate reduction provided will not put the employer account back into a negative status.
- b. An employer that does not qualify under subdivision a is subject to a rate determined as follows:
 - (1) For each calendar year new employers must be assigned a rate that is ninety percent of the positive employer maximum rate or a rate of one percent, whichever is greater, unless the employer is classified in construction services. However, an employer must be assigned within the negative employer rate ranges for any year if, as of the computation date, the cumulative benefits charged to that 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. All results calculated under this paragraph must be rounded to the nearest one-hundredth of one percent.

- (2) New employers in construction services must be assigned the negative employer maximum rate.
- (3) Assignment by the bureau of an employer's industrial classification for the purposes of this section must be the three-digit major group provided in the North American industrial classification system manual, in accordance with established classification practices found in the North American industrial classification system manual, issued by the executive office of the president, office of management and budget. Employers who are liable for coverage before August 1, 2001, remain under an industrial classification under the two-digit major group provided in the standard industrial classification manual unless they are classified in the construction industry within the standard industrial classification code.

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

2. For each calendar year the bureau shall establish a schedule of positive employer rate groups within the positive employer minimum rate and the positive employer maximum rate determined under section 52-04-05. Each successive rate group for positive employer rate groups must be assigned a rate equal to one hundred twenty percent of the previous group's rate with a minimum increase of one-tenth of one percent and a maximum increase of four-tenths of one percent. The number of rate groups in the positive employer schedule must be ten. For each calendar year the bureau shall establish a schedule of negative employer rate groups with the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05. Each successive rate group for negative employer rate groups must be assigned a rate equal to the previous group's rate plus four-tenths of one percent. The number of rate groups in the negative employer schedule must be the number required to provide for a rate group at each four-tenths of one percent interval between the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05. All results calculated under this subsection must be rounded to the nearest one-hundredth of one percent.

Approved April 22, 2009

Filed April 23, 2009

CHAPTER 444**SENATE BILL NO. 2102**

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact subsection 2 of section 52-04-11 of the North Dakota Century Code, relating to the penalty for failure to submit employer contribution and wage reports; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 52-04-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Any employer who fails to submit to the bureau any employer's contribution and wage report by the date due shall pay the bureau a penalty equal to five percent of the contributions due for each month or part of a month until the report is submitted. The penalty for the first month of the first delinquent report in a calendar year may not be less than twenty-five dollars. The penalty for the first month of any subsequent delinquent reports in a calendar year may not be less than one hundred dollars. The penalty for subsequent months may not exceed twenty percent of contributions due. The maximum penalty imposed by this subsection may not exceed ~~two~~ five hundred ~~fifty~~ dollars for any single report. The penalty imposed by this subsection may be waived if the bureau determines that the failure to submit the report timely was caused by circumstances beyond the control of the employer.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 445**SENATE BILL NO. 2130**

(Government and Veterans Affairs Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact section 52-04-22 of the North Dakota Century Code, relating to the federal advance interest repayment fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 - Continuing 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 North Dakota 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 or invested in deposits of 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 principal and 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 also may be used for the purpose of paying principal and interest costs associated with the acquisition and renovation of land and building to be used as an office facility by job service North Dakota in Bismarck, North Dakota. Moneys in this fund also may be used for the purpose of paying building lease costs of office facilities leased by job service 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 may be used for the purpose of paying the replacement rate charged for use of state fleet vehicles. Moneys in this fund may be used for the purposes of reemployment programs to ensure the integrity of the unemployment insurance program in this state. Moneys in this fund are hereby appropriated for the purposes specified in this section including the purpose of paying principal and 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 principal and 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 Bismarck, North Dakota. Moneys in this fund are appropriated for the purpose of paying building lease costs of office facilities leased by job service 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. Moneys in this fund are appropriated for the purpose of paying the replacement rate charged for use of state fleet vehicles. Moneys in this fund are appropriated for the purposes of reemployment programs to ensure the integrity of the unemployment insurance program in this state.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 446**HOUSE BILL NO. 1362**

(Representatives Grande, Kasper, Ruby)
(Senators Klein, J. Lee, Triplett)

AN ACT to amend and reenact section 52-04-24 of the North Dakota Century Code, relating to unemployment compensation rates for staffing services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-24 of the North Dakota Century Code is amended and reenacted as follows:

52-04-24. Staffing services - Payment of unemployment insurance taxes.

1. If a staffing service exclusively provides temporary staffing services, the staffing service is considered to be the employee's employer and the staffing service shall pay unemployment insurance taxes at the staffing service's unemployment insurance tax rate. If a staffing service provides temporary and long-term employee staffing services, the staffing service is subject to the reporting and tax requirements associated with the type of employee provided to the client company.
2. For the purposes of long-term employee staffing services provided by a staffing service, the staffing service shall:
 - a. Report quarterly the wages of all employees furnished to each client company and pay taxes on those wages at the client company's unemployment insurance tax rate, except as otherwise provided under subsection 3.
 - b. Maintain complete and separate records of the wages paid to employees furnished to each of the client companies. Claims for benefits must be separately identified by the staffing service for each client company.
 - c. Notify the agency of each client company's name and unemployment insurance account number and the date the staffing service began providing services to the client company. The staffing service shall provide the agency with the information required under this subdivision upon entering an agreement with a client company, but no later than fifteen days from the effective date of the written agreement.
 - d. Supply the agency with a copy of the agreement between the staffing service and the client company.
 - e. Notify the agency upon termination of any agreement with a client company, but no later than fifteen days from the effective date of the termination.

- f. Share employer responsibilities with the client company, including retention of the authority to hire, terminate, discipline, and reassign employees. If the contractual agreement between the staffing service and a client company is terminated, the employees become the sole employees of the client company.
3. For the purposes of long-term employee staffing services provided by a staffing service, upon authorization of the agency, the staffing service may be considered to be the employee's employer and the staffing service shall pay unemployment insurance taxes at the staffing service's unemployment insurance tax rate. The agency may not make an authorization under this subsection unless one of the following requirements is met:
 - a. In the case of a client company unemployment insurance tax rate that is higher than the staffing services tax rate:
 - (1) The staffing service:
 - (a) Calculates the difference between the staffing service's tax rate and the client company's tax rate;
 - (b) Applies the difference to the wages to be earned by the employees furnished to the client company in the following completed calendar quarter; and
 - (c) Notifies the agency that such application would, if the staffing service's tax rate were applied to those same wages, cause a reduction in the tax due on those wages which does not exceed five hundred dollars.
 - (2) If the reduction under paragraph 1 exceeds five hundred dollars, at the written request of the staffing service, the agency may make a written determination that it is appropriate to allow the staffing service to use the staffing service's unemployment insurance tax rate. The agency shall respond to a request under this paragraph within fifteen days of receiving all required information.
 - b. The staffing service includes in its contract with the client company a requirement that if the client company's unemployment insurance tax rate is higher than the staffing service's tax rate, the client will arrange to make payment to the agency, pursuant to subsection 4 of section 52-04-06, in the amount necessary to cause the client company's unemployment insurance tax rate should it be recomputed to be determined by the agency to be equivalent to the staffing service's unemployment insurance tax rate. Before the agency makes an authorization under this subdivision, the agency actually must receive payment of the amount required to cause the determination that the client company has complied with this subdivision.
 - c. The staffing service demonstrates to the agency that the staffing service has entered an agreement with a client company that has an unemployment insurance tax rate that is, at the time of

execution of the contract, equal to or lower than the staffing service's tax rate.

4. If a staffing service enters a contract with a client company that has an unemployment insurance tax rate that is lower than the staffing service's tax rate, the agency shall determine the following year's tax rate for the staffing service by calculating a blended reserve ratio using the proportion of that client company's total wages paid for up to the previous six years to the total wages paid for up to the previous six years for all of that staffing service's client companies whose furnished workers are considered the staffing service's employees for unemployment insurance tax purposes pursuant to subsection 3.
5. Both a staffing service and client company are considered employers for the purposes of this title. Both parties to a contract between a staffing service and a client company are jointly liable for delinquent unemployment insurance taxes, and the agency may seek to collect such delinquent taxes, and any penalties and interest due, from either party. The agency shall send notices of rate determinations annually to the staffing service. This chapter does not modify or impair any other provisions of the contract between the staffing service and the client company not relating to the requirements of this subsection concerning liability for payment of taxes on the wages paid to workers furnished by the staffing service to the client company, and the means of determining the tax rate to be applied to those wages. Any report that relates to the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.] which is required to be submitted to the federal internal revenue service regarding a staffing service must be submitted with the employer identification number of the staffing service.
6. The agency shall determine whether a person is a staffing service. If the agency determines a person is a staffing service, the agency may further determine if the person is a temporary staffing service. The agency's determination must be issued in writing, and within fifteen days of the date of issuance of that determination, a person aggrieved by that determination may appeal that determination. The appeal must be heard in the same manner and with the same possible results as all other administrative appeals under this title. In making a determination under this subsection, the agency may consider:
 - a. The number of client companies with which the staffing service has contracts;
 - b. The length of time the staffing service has been in existence;
 - c. The extent to which the staffing service extends services to the general public;
 - d. The degree to which the client company and the staffing services are separate and unrelated business entities;
 - e. The repetition of officers and managers between the client company and staffing service;
 - f. The scope of services provided by the staffing service;

CHAPTER 447**SENATE BILL NO. 2108**

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact section 52-06-01 of the North Dakota Century Code, relating to eligibility for unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-06-01 of the North Dakota Century Code is amended and reenacted as follows:

52-06-01. Conditions required to be eligible for benefits. An unemployed individual is eligible to receive benefits with respect to any week only if the bureau finds that:

1. The individual has made a claim for benefits with respect to such week in accordance with such regulations as the bureau may prescribe;
2. The individual has registered for work ~~at~~, and thereafter continued to ~~report at an employment office complete all assigned services and report to a local office as required~~ in accordance with such regulations as the bureau may prescribe, except that the bureau may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of the North Dakota unemployment compensation law; provided, that no such regulation shall conflict with section 52-06-03;
3. The individual is able to work and is available for suitable work and actively seeking work, provided:
 - a. That notwithstanding any other provisions in this section, no otherwise eligible individual may be denied benefits for any week because the individual is in training with the approval of the bureau by reason of the application of provisions of this subsection relating to availability for work and to active search for work, or the provisions of subsection 3 of section 52-06-02 relating to disqualification for benefits for failure to apply for, or a refusal to accept, suitable work; and
 - b. That no claimant may be considered ineligible in any week of unemployment for failure to comply with this subsection, if the failure is due to an illness or disability not covered by workforce safety and insurance and which occurred after the claimant has registered for work and no work has been offered the claimant which is suitable;

4. The individual has been unemployed for a waiting period of one week. No week may be counted as a week of unemployment for the purposes of this subsection:
 - a. Unless it occurs within the benefit year which includes the week with respect to which the individual claims payment of benefits;
 - b. If benefits have been paid with respect thereto; and
 - c. Unless the individual was eligible for benefits, with respect thereto as provided in this section and section 52-06-02; and
5. The individual participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the bureau, unless the bureau determines that:
 - a. The individual has completed these services; or
 - b. There is justifiable cause for the claimant's failure to participate in these services.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 448**SENATE BILL NO. 2106**

(Industry, Business and Labor Committee)
 (At the request of Job Service North Dakota)

AN ACT to amend and reenact subsections 1 and 2 of section 52-06-02 of the North Dakota Century Code, relating to overcoming disqualification from unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 52-06-02 of the North Dakota Century Code are amended and reenacted as follows:

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

A temporary employee of a temporary help firm is deemed to have left employment voluntarily if the employee does not contact the temporary help firm for reassignment before filing for benefits. Failure to contact the temporary help firm is not deemed a voluntary leaving of employment unless the claimant was advised of the obligation to contact the temporary help firm upon completion of an assignment and advised that unemployment benefits may be denied for failure to contact the temporary help firm. As used in this subsection, "temporary employee" means an employee assigned to work for a client of a temporary help firm; and "temporary help firm" means a firm that hires that firm's own employees and assigns these employees to a client to support or supplement the client's workforce in a work situation such as employee absence, temporary skill shortage, seasonal workload, a special assignment, and a special project.

This subsection does not apply if job service North Dakota determines that the individual in an active claim filing status accepted work which the individual could have refused with good cause under section 52-06-36 and terminated such employment with the same good cause and within the first ten weeks after starting work.

This subsection does not apply if the individual left employment or remains away from employment following illness or injury upon a physician's written notice or order; no benefits may be paid under this exception unless the employee has notified the employer of the

physician's requirement and has offered service for suitable work to the employer upon the individual's capability of returning to employment. This exception does not apply unless the individual's capability of returning to employment and offer of service for suitable work to the employer occurs within sixty days of the last day of work. However, the cost of any benefits paid under this exception may not be charged against the account of the employer, other than a reimbursing employer, from whom the individual became separated as a result of the illness or injury. Job service North Dakota may request and designate a licensed physician to provide a second opinion regarding the claimant's qualification; however, no individual may be charged fees of any kind for the cost of such second opinion.

This subsection does not apply if the individual left the most recent employment because of an injury or illness caused or aggravated by the employment; no benefits may be paid under this exception unless the individual leaves employment upon a physician's written notice or order, the individual has notified the employer of the physician's requirement, and there is no reasonable alternative but to leave employment.

For the purpose of this subsection, an individual who left the most recent employment in anticipation of discharge or layoff must be deemed to have left employment voluntarily and without good cause attributable to the employer.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and voluntarily quit without good cause attributable to the employer or with any employer, in insured work, for whom the claimant last worked and earned wages equal to or exceeding eight times the individual's weekly benefit amount.

This subsection does not apply if the individual leaves work which is two hundred road miles [321.87 kilometers] or more, as measured on a one-way basis, from the individual's home to accept work which is less than two hundred road miles [321.87 kilometers] from the individual's home provided the work is a bona fide job offer with a reasonable expectation of continued employment.

This subsection does not apply if the individual voluntarily leaves most recent employment to accept a bona fide job offer with a base-period employer who laid off the individual and with whom the individual has a demonstrated job attachment. For the purposes of this exception, "demonstrated job attachment" requires earnings in each of six months during the five calendar quarters before the calendar quarter in which the individual files the claim for benefits.

2. For the week in which the individual has been discharged for misconduct in connection with the individual's most recent employment and thereafter until such time as the individual:
 - a. Can demonstrate that the individual has earned remuneration for personal services in employment from and after the date of the unemployment compensation claim filing, equivalent to at least ten times the individual's weekly benefit amount as determined under section 52-06-04; and

- b. Has not left the individual's most recent employment under disqualifying circumstances.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and was discharged for misconduct in connection with the claimant's employment or with any employer, in insured work, for whom the claimant last worked and earned wages equal to or exceeding ten times the claimant's weekly benefit amount.

Approved March 19, 2009
Filed March 19, 2009

CHAPTER 449**HOUSE BILL NO. 1121**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System Board)

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

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 August 1, 2005, nine hundred thirty-three dollars and twenty-eight cents; or~~
- (2) ~~Effective August 1, 2006~~ 2009, ~~nine hundred fifty-nine dollars~~ one thousand seven dollars and ninety-four cents.

Approved April 8, 2009
Filed April 9, 2009