

SOCIAL SECURITY

CHAPTER 440

HOUSE BILL NO. 1096

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

UNEMPLOYMENT COMPENSATION DEFINITIONS AND BENEFITS

AN ACT to create and enact a new subdivision to subsection 31 of section 52-01-01 and a new subdivision to subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to the definition of wages and to payment of unemployment compensation benefits; to amend and reenact section 52-01-02, subdivision b of subsection 2 of section 52-04-07, sections 52-04-09 and 52-04-10, subsection 8 of section 52-06-02, and subdivision d of subsection 2 of section 52-06-04 of the North Dakota Century Code, relating to unemployment compensation records and payment of and eligibility for unemployment compensation benefits; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 31 of section 52-01-01 of the North Dakota Century Code is created and enacted as follows:

Payments that qualify as supplemental unemployment compensation paid by an employer to former employees if those payments are paid pursuant to a plan that meets the following requirements:

- (1) Benefits are paid only to unemployed former employees who are laid off by the employer;
- (2) Eligibility for benefits depends on meeting prescribed conditions after termination;
- (3) The amount of weekly benefits payable is based upon state unemployment benefits, other compensation allowable under state law, and the amount of regular weekly pay of that former employee;
- (4) The duration of the benefits is affected by the fund level and employee seniority;
- (5) The right to benefits does not accrue until a prescribed period after termination;
- (6) Benefits are not attributable to the performance of particular services;

- (7) No employee has any right to the benefits until qualified and eligible to receive benefits; and
- (8) Benefits may not be paid in a lump sum.

SECTION 2. AMENDMENT. Section 52-01-02 of the North Dakota Century Code is amended and reenacted as follows:

52-01-02. Employing unit to keep records - Reports of employing unit - ~~Inspection~~ Public inspection prohibited - Exception - Penalty. ~~Each employing unit shall keep true and accurate work records containing such information as the bureau may prescribe. The records must be open to inspection and may be copied by the bureau or its authorized representatives at any reasonable time as often as may be necessary. The bureau or the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the bureau, or the chairman, deems necessary for the effective administration of the North Dakota Unemployment Compensation Law. In addition, the bureau or the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the workers compensation bureau deems necessary for effective administration of the North Dakota Workers' Compensation Law set forth in title 65. Such reports must be provided to the workers compensation bureau by the bureau or the chairman of any appeal tribunal. All records, including electronic records as defined in section 9-16-01, of the employers doing business in this state showing or reflecting in any way upon the amount of wage expenditure by or upon payments for services performed for those employers are always open for inspection by employees of job service North Dakota who are assigned responsibility to do so for the purpose of ascertaining the correctness of the reports, wage expenditures, the number of employees, and any other information necessary for the agency to administer this title. An employer who refuses to submit the employer's records, including electronic records as defined in section 9-16-01, for inspection by an identified and assigned employee of job service North Dakota is subject to a civil penalty of five hundred dollars for each offense. The agency shall collect the penalty by civil action in the name of the state and shall deposit any penalty collected under this section to the credit of the fund established by section 52-04-22. Information ~~thus~~ obtained pursuant to this section may not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, but any claimant or the claimant's legal representative at a hearing before ~~an appeal tribunal~~ a hearing officer or the bureau ~~agency~~ must be supplied with information from such records to the extent necessary for the proper presentation of the ~~claim~~ appeal.~~

SECTION 3. AMENDMENT. Subdivision b of subsection 2 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

- b. With benefits paid to an individual who left, during the base period, either:
 - (1) Left the employment of ~~the~~ a base-period employer voluntarily without good cause or with good cause not involving fault on the part of the base-period employer; or
 - (2) ~~who~~ Who was discharged from employment by the base-period employer for misconduct.

SECTION 4. A new subdivision to subsection 2 of section 52-04-07 of the North Dakota Century Code is created and enacted as follows:

With benefits paid to an individual who is currently employed part time with that employer when the hiring agreement between the individual and the employer has not changed since the individual commenced work for that employer. This subdivision does not apply to an employee of a temporary help firm.

¹⁹⁴ **SECTION 5. AMENDMENT.** Section 52-04-09 of the North Dakota Century Code is amended and reenacted as follows:

52-04-09. Classification of employers to determine contributions - Regulations governing. An employer's rate for a calendar year must be determined on the basis of the employer's experience with contribution payments and benefit charges as of October first of the preceding year. If, when such determination is to be made, an employer has failed to file a required report or filed an insufficient report, ~~the bureau~~ job service North Dakota shall notify the employer thereof by certified mail addressed to the employer's last-known address. Unless the employer files the report or a sufficient report within fifteen days after mailing of the notice, the employer's rate for the following calendar year may not be less than the negative employer maximum rate. ~~For employers identified as belonging to industry group number 464, highway and street construction, except elevated highways, for the effective period set forth in section 52-04-05, the employer's rate for the following calendar year may not be less than the negative employer maximum rate plus one and one-half percent.~~ If, at any time, an employer has failed to file a required report or filed an insufficient report, ~~the bureau~~ job service North Dakota may, at any time, estimate the wage information required by the report on the basis of reasonably available evidence. ~~The bureau~~ Job service North Dakota shall notify the employer of the estimate by certified mail addressed to the employer's last-known address. Unless the employer files the report or a sufficient report within fifteen days after the mailing of the notice, the estimate becomes final for all purposes, except that if the amount of estimated wages is less than the actual wages, the bureau may reconsider the estimate.

SECTION 6. AMENDMENT. Section 52-04-10 of the North Dakota Century Code is amended and reenacted as follows:

52-04-10. Contributions for ensuing year - Notification - Review. The bureau shall ~~notify~~ promptly notify each employer of the employer's rate of contributions as determined for each ensuing year ~~not later than~~ by the end of the first full week of December first, but not later than December tenth, of the preceding year. Such contributions must be computed pursuant to the provisions of this chapter. Such determination becomes conclusive and binding upon the employer unless, within fifteen days after the mailing of the notice thereof to the employer's last-known address, or in the absence of the mailing, within fifteen days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reasons therefor. If the bureau grants such review, the employer must be notified promptly thereof and must be granted an opportunity for a hearing, but no employer shall have standing, in any proceeding

¹⁹⁴ Section 52-04-09 was also amended by section 1 of House Bill No. 1097, chapter 442.

involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to the provisions of chapter 52-06, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute the services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination, or decision or to any other proceeding under this chapter in which the character of these services was determined. For purposes of this section, an employer was not a party to the determination if notice of the determination and the employer's right to appeal the determination was not mailed or personally delivered to the employer. The employer must be notified promptly of the bureau's denial of the employer's application, or of the bureau's redetermination, both of which become final unless within thirty days after the mailing of notice thereof to the employer's last-known address or in the absence of mailing, within thirty days after delivery of such notice, a petition for judicial review is filed in the district court of Burleigh County. Any proceeding before the court under the terms of this section must be had in accordance with the provisions in chapter 52-06 with respect to court review.

SECTION 7. AMENDMENT. Subsection 8 of section 52-06-02 of the North Dakota Century Code is amended and reenacted as follows:

8. For the week in which the individual has filed an otherwise valid claim for benefits and:
 - a. ~~Through the date and for~~ For one year from the date on which a determination is made that such individual has made a false statement for the purposes of obtaining benefits to which the individual was not lawfully entitled. Provided, however, that this disqualification does not apply to cases in which it appears to the satisfaction of ~~the bureau~~ job service North Dakota that the ~~said~~ false statement was made by reason of a mistake or misunderstanding of law or of facts without fraudulent intent; or
 - b. For one year when the individual has been separated from the individual's last employment because of gross misconduct in connection with work.

SECTION 8. AMENDMENT. Subdivision d of subsection 2 of section 52-06-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. ~~This provision does not apply if, at the time of the claim, such ownership interest has been ceded.~~ The exceptions in subdivisions a, b, and c do not apply if, at the time of making the claim, the ownership interest described in those subdivisions has been ceded. An ownership interest is ceded within the meaning of this subdivision if:
 - (1) The appropriate official of the partnership, corporation, or limited liability company has officially filed articles of dissolution, a notice of intent to dissolve, or a notice of termination with the secretary of state, and presents proof of that filing to job service North Dakota;
 - (2) The appropriate official of the corporation has received a certificate of dissolution from the secretary of state;

- (3) The partnership, corporation, or limited liability company has sold or otherwise transferred to uninvolved third parties substantially all the assets of the partnership, corporation, or limited liability company with an intent to end the business operation and terminate or dissolve the partnership, corporation, or limited liability company. As used in this subdivision, "uninvolved third parties" excludes all relatives of the partners, directors, members of a board of governors, or substantial stockholders or holders of a substantial membership interest in a limited liability company; and excludes any corporation, limited liability company, or partnership, in which the relative holds a one-fourth or greater ownership interest. As used in this paragraph, "relative" means the following persons whether related by blood, marriage, or adoption: grandparents, parents, siblings, spouses, children, grandchildren, uncles, aunts, and first cousins; or
- (4) Substantially all of the assets of the partnership, corporation, or limited liability company have been legally seized by creditors rendering the business incapable of further operation.

Approved March 26, 2003
Filed March 26, 2003

CHAPTER 441

HOUSE BILL NO. 1115

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

INFORMATION SHARING WITH CENSUS BUREAU

AN ACT to create and enact a new subsection to section 57-38-57 of the North Dakota Century Code, relating to provision of income tax return information to the United States census bureau; to amend and reenact section 52-01-03 of the North Dakota Century Code, relating to the provision of unemployment insurance data to the United States census bureau; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-01-03 of the North Dakota Century Code is amended and reenacted as follows:

52-01-03. Disclosure of information.

1. Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of the North Dakota Unemployment Compensation Law and determinations as to the benefit rights of any individual must be held confidential and may not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or claimant's legal representative must be supplied with information from the records of the ~~job~~ unemployment insurance division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding under the North Dakota Unemployment Compensation Law with respect to the claim.
2. Subject to restrictions as the bureau by rule may prescribe, the information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under the North Dakota Unemployment Compensation Law. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the North Dakota Unemployment Compensation Law, and in connection with the request, may transmit any report or return to the comptroller of the currency of

the United States as provided in subsection c of section 3305 of the federal Internal Revenue Code. The bureau shall request and exchange information for purposes of income and eligibility verification to meet the requirements of section 1137 of the Social Security Act. Job service North Dakota may enter into memoranda of understanding with the United States census bureau to furnish unemployment insurance data to the census bureau and for sharing of information with job service North Dakota.

3. The bureau may provide the workers compensation bureau, the ~~state commissioner of labor~~ commissioner, the department of commerce, the state tax commissioner, and the North Dakota occupational information coordinating committee with information obtained pursuant to the administration of the North Dakota Unemployment Compensation Law. Any information so provided may be used only for the purpose of administering the duties of the workers compensation bureau, the ~~state commissioner of labor~~ commissioner, the state department of commerce, the state tax commissioner, and the North Dakota occupational information coordinating committee.
4. The bureau may provide any state agency or a private entity with the names and addresses of employing units for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3.
5. Whenever the bureau obtains information on the activities of a contractor doing business in this state of which officials of the secretary of state, workers compensation bureau, or the state tax commissioner may be unaware and that may be relevant to duties of those officials, the bureau shall provide any relevant information to those officials for the purpose of administering their duties.
6. The bureau shall request and exchange information as required of ~~the bureau~~ it under federal law with any specified governmental agencies. Any information so provided may be used only for the purpose of administering the duties of such governmental agencies.

¹⁹⁵ **SECTION 2.** A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner, upon written request from the secretary of commerce of the United States, may furnish officers and employees of the bureau of census, an individual taxpayer's identification number and county of residence as reported on the individual's return. However, any information obtained may be used only for the purpose of establishing migration methodologies in estimating the annual shifts in the state's population. A person who receives return information under this subsection may not disclose the return information to any person

¹⁹⁵ Section 57-38-57 was also amended by section 5 of House Bill No. 1243, chapter 454.

other than the taxpayer to whom it relates except in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

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

Approved March 26, 2003

Filed March 26, 2003

CHAPTER 442

HOUSE BILL NO. 1097

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

UNEMPLOYMENT INSURANCE TAX RATE SETTING

AN ACT to amend and reenact section 52-04-09 of the North Dakota Century Code, relating to the setting of unemployment insurance tax rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁶ **SECTION 1. AMENDMENT.** Section 52-04-09 of the North Dakota Century Code is amended and reenacted as follows:

52-04-09. Classification of employers to determine contributions - Regulations governing. An employer's rate for a calendar year must be determined on the basis of the employer's experience with contribution payments and benefit charges as of October first of the preceding year. If when such determination is to be made, an employer has failed to file a required report or filed an insufficient report, ~~the bureau~~ job service North Dakota shall notify the employer thereof by certified mail addressed to the employer's last-known address. Unless the employer files the report or a sufficient report within fifteen days after mailing of the notice, the employer's rate for the following calendar year ~~may not be less than the negative employer maximum rate.~~ For employers identified as belonging to industry group number 161, highway and street construction, except elevated highways, for the effective period set forth in section 52-04-05, the employer's rate for the following calendar year may not be less than the negative employer maximum rate plus one and one-half percent. must be set as follows:

1. Experience-rated positive employers must be assigned the negative employer minimum rate.
2. Experience-rated negative employers must be assigned the negative employer maximum rate.
3. New positive nonconstruction employers must be assigned the negative employer minimum rate.
4. New positive construction employers must be assigned the negative employer maximum rate.
5. New negative employers must be assigned the negative employer maximum rate.

¹⁹⁶ Section 52-04-09 was also amended by section 5 of House Bill No. 1096, chapter 440.

If, at any time, an employer has failed to file a required report or filed an insufficient report, ~~the bureau~~ job service North Dakota may, at any time, estimate the wage information required by the report on the basis of reasonably available evidence. ~~The bureau~~ Job service North Dakota shall notify the employer of the estimate by certified mail addressed to the employer's last-known address. Unless the employer files the report or a sufficient report within fifteen days after the mailing of the notice, the estimate becomes final for all purposes, except that if the amount of estimated wages is less than the actual wages, ~~the bureau~~ job service North Dakota may reconsider the estimate.

Approved March 12, 2003

Filed March 12, 2003

CHAPTER 443

HOUSE BILL NO. 1098

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

UNEMPLOYMENT INSURANCE BENEFIT DETERMINATION FINALITY

AN ACT to amend and reenact section 52-06-21 of the North Dakota Century Code, relating to unemployment insurance benefit determinations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-06-21 of the North Dakota Century Code is amended and reenacted as follows:

52-06-21. Conclusiveness of determinations and decisions. ~~Except insofar as reconsideration of any determination is had under the provisions of the North Dakota Unemployment Compensation Law, any Any right, fact, or matter in issue directly passed upon or necessarily involved in a determination or redetermination which has become final, or ~~in~~ which has become final following a decision or appeal under the North Dakota Unemployment Compensation Law which has become final, is conclusive for all the purposes of the North Dakota Unemployment Compensation Law as between the bureau, the claimant, and all employing units who had notice of such determination, redetermination, or decisions. ~~Subject to appeal proceedings and judicial review as provided in the North Dakota Unemployment Compensation Law, any Any determination, redetermination, or decision as to rights to benefits is conclusive for all the purposes of the North Dakota Unemployment Compensation Law and is not which has become final and conclusive in accordance with this section is not subject to collateral attack by any employing unit, irrespective of notice. As used in this section, "collateral attack by any employing unit" includes a collateral attack by a reimbursing or contributory base period employer on a final and conclusive determination of benefits involving a different employer provided that an employer challenging the propriety of charging any benefits paid as a result of a final determination, redetermination, or decision is entitled to receive data and information from job service North Dakota concerning the monetary basis for the claimant's right to the benefits at issue. Provided further, that at any hearing on the challenge, job service North Dakota is not required to call or subpoena the claimant or the claimant's last or most recent employer as a witness.~~~~

Approved March 13, 2003

Filed March 13, 2003

CHAPTER 444**HOUSE BILL NO. 1099**

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

**SHARED WORK UNEMPLOYMENT COMPENSATION
REPEAL**

AN ACT to repeal chapter 52-06.1 of the North Dakota Century Code, relating to shared work unemployment compensation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 52-06.1 of the North Dakota Century Code is repealed.

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

Approved March 12, 2003
Filed March 12, 2003

CHAPTER 445**SENATE BILL NO. 2109**

(Education Committee)

(At the request of the State Board of Higher Education)

WORKFORCE TRAINING FUNDS DISTRIBUTION

AN ACT to repeal section 52-08-12 of the North Dakota Century Code, relating to distribution of workforce training funds by the state board for vocational and technical education to state board of higher education institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁷ **SECTION 1. REPEAL.** Section 52-08-12 of the North Dakota Century Code is repealed.

Approved March 21, 2003

Filed March 21, 2003

¹⁹⁷ Section 52-08-12 was also amended by section 91 of House Bill No. 1183, chapter 138.

CHAPTER 446

HOUSE BILL NO. 1063

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

OASIS ADMINISTRATION

AN ACT to create and enact a new section to chapter 52-09 and a new section to chapter 52-10 of the North Dakota Century Code, relating to administration of the old-age and survivor insurance system and authority of the executive director of job service North Dakota; to amend and reenact section 52-09-03, subsection 4 of section 52-09-07, and subsections 6 and 9 of section 52-09-20 of the North Dakota Century Code, relating to administration of the old-age and survivor insurance system, primary insurance benefits under the old-age and survivor insurance system, authority of the executive director of job service North Dakota, and legislative appropriations for the expenses of administration; to repeal section 52-09-04 of the North Dakota Century Code, relating to the previous authority of the employment security bureau; and to provide for implementation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-09 of the North Dakota Century Code is created and enacted as follows:

Administration of chapter - Definition. The retirement board responsible for managing the public employees retirement system under chapter 54-52 shall administer this chapter and the retirement system described in this chapter. The state treasurer shall manage the old-age and survivors' insurance trust fund as provided in section 52-09-06. As used in this chapter, the terms "bureau" and "agency" mean the retirement board of the public employees retirement system, or that board's designated staff.

SECTION 2. AMENDMENT. Section 52-09-03 of the North Dakota Century Code is amended and reenacted as follows:

52-09-03. Administration. ~~The agency charged with administering the provisions of the North Dakota Unemployment Compensation Law~~ is vested with authority to administer the old-age and survivor insurance system. Expenses for the administration of the system must be within the limits of legislative appropriation ~~and funds must be expended by warrant checks prepared by the office of management and budget after approval by the office of the budget.~~

SECTION 3. AMENDMENT. Subsection 4 of section 52-09-07 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~The legislative assembly may appropriate moneys from this~~ the old-age and survivors' fund to be used by the bureau for the purposes of administration of this chapter and may also appropriate from this fund funds for the administration of chapter 52-10. Appropriations from the old-age and survivors' fund for the expenses of administration of chapter 52-10 must be appropriated to job service North Dakota. The bureau and job service North Dakota shall maintain complete and accurate

records of all appropriations under this subsection and expenditures made from those appropriations. ~~All disbursements for administrative expenses from the fund must be paid by warrant checks prepared by the bureau.~~

SECTION 4. AMENDMENT. Subsections 6 and 9 of section 52-09-20 of the North Dakota Century Code are amended and reenacted as follows:

52-09-20. Definitions. When used in this chapter:

6. "Employment" means any service performed after June 30, 1947, under an employer-employee relationship, under the provisions of this chapter, except:
 - a. Any service performed in the employ of any employer which has as of July 1, 1947, its own retirement plan.
 - b. Any service performed by an employee of the legislative assembly during a legislative session.
 - c. ~~The director of job service North Dakota is hereby authorized to enter into an agreement with the federal security agency, social security administration bureau of old-age and survivors' insurance to provide coverage for national guard state civilian employees under the old-age and survivors' insurance provisions of the Social Security Act as provided in section 218 of the Social Security Act amendments of 1950 [Pub. L. 81-734; 64 Stat. 514; 42 U.S.C. 418]. For the purposes of the agreement, the director is authorized to make such collections, contributions, and reports as may be required by the federal agency under the terms of the agreement.~~
 - d. Any service performed by an undergraduate student while regularly attending a public school, college, or university for such public school, college, or university.
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, ~~2004~~ 2003, eight hundred ~~twenty-six~~ seventy-nine dollars and ~~sixty-four~~ ninety-six cents; or
 - (2) Effective August 1, ~~2002~~ 2004, eight hundred ~~fifty-three~~ nine hundred ~~six~~ sixty-two dollars and ~~thirty~~ sixty-two cents.

SECTION 5. A new section to chapter 52-10 of the North Dakota Century Code is created and enacted as follows:

Authority of executive director - Social security coverage for national guard employees. The executive director of job service North Dakota may enter into an agreement with the federal security agency, social security administration bureau of old-age and survivor insurance to provide coverage for national guard state civilian employees under the old-age and survivor insurance provisions of the Social Security Act as provided in section 218 of the Social Security Act amendments of 1950 [Pub. L. 81-734; 64 Stat. 514; 42 U.S.C. 418]. For purposes of the agreement, the executive director may make such collections, contributions, and reports as may be required by the federal agency under the terms of the agreement.

SECTION 6. REPEAL. Section 52-09-04 of the North Dakota Century Code is repealed.

SECTION 7. IMPLEMENTATION. The old age and survivors' insurance trust fund is an identified funding source for the public employees retirement system, subject to the appropriation provided in Senate Bill No. 2024.

Approved March 7, 2003

Filed March 7, 2003

CHAPTER 447**HOUSE BILL NO. 1064**

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

JOB SERVICE RETIREMENT PLAN TRANSFERRED TO PERS

AN ACT to amend and reenact subsection 1 of section 52-11-01 and subsection 7 of section 54-52-04 of the North Dakota Century Code, relating to the retirement plan for employees of job service North Dakota and authority of the public employees retirement system board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Job service North Dakota and the~~ The North Dakota national guard ~~are~~ is authorized ~~either jointly or severally~~ to establish an employee retirement ~~programs~~ program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. ~~Job service North Dakota~~ The public employees retirement system board is authorized to administer the retirement plan established in 1961 and frozen to new entrants in 1980; for employees of job service North Dakota. The public employees retirement system board shall fund the administrative expenses of administering that retirement plan from the funds in that plan.

SECTION 2. AMENDMENT. Subsection 7 of section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate. The board shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.