

## CHAPTER 52-02.1 NEW JOBS TRAINING

### 52-02.1-01. Definitions.

When used in this chapter, 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, institution of higher education that is assigned primary responsibility for workforce training under section 52-08-08, 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 commerce.
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 52-02.1-03.
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" has the meaning provided in section 1-01-49. For purposes of this subsection, a primary sector business must also be an employer, excluding an employer engaged in production agriculture, which meets the following eligibility criteria:
  - a. An employer entering into an agreement, and increasing its base employment level by at least one employee, or in the case of an employer without an established base employment level in this state creating at least 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.
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 state 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.

**52-02.1-02. Job service North Dakota - Agreements.**

1. 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 chapter. Job service North Dakota may enter an agreement to establish a project with an employer which meets the following conditions:
  - a. Sets a date of commencement of the project.
  - b. 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.
  - c. Provides for a guarantee by the employer of payment for program costs.
  - d. Provides that any deferral of program cost payments may not exceed ten years from the date of commencement of the project.
  - e. 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.
  - f. Provides the maximum amount of new jobs credit from withholding or tuition and fee payments allowed for a project.
  - g. Provides that every employee participating in the new jobs training program must be paid an income of at least ten dollars per hour, plus benefits, by the end of the first year of employment under the project and for the remaining life of the loan.
2. 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 chapter. Job service North Dakota shall prepare an annual report for the governor and the legislative assembly with respect to the new jobs training program.
3. For purposes of this section and section 52-02.1-04, an employer that is not a primary sector business, but contracts to provide employees to a primary sector business, may qualify for program services if:
  - a. The employer and the primary sector business are parties to the same agreement under this section; and
  - b. The agreement under this section designates the employer as the recipient of the program services.

**52-02.1-03. New jobs credit from income tax withholding - Continuing appropriation.**

Loans made under section 52-02.1-04 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 52-02.1-04, or for reimbursing employers participating in the cost reimbursement option provided in section 52-02.1-06. 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 or the employer's self-financed training costs have been reimbursed, 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 chapter, shall govern the administration of the credit provided by this chapter.

#### **52-02.1-04. 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 development fund, incorporated, 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 52-02.1-03 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.

#### **52-02.1-05. Reports to legislative council budget section.**

Repealed by S.L. 1997, ch. 445, § 4.

#### **52-02.1-06. Cost reimbursement option.**

Program services developed and coordinated by job service North Dakota provided to primary sector businesses found eligible for loans or grants under section 52-02.1-02 must also be provided to primary sector businesses that provide self-financing as funding for new jobs training programs. Under this option, employers may be reimbursed an amount up to sixty percent of the allowable state income tax withholding generated from the new jobs positions and identified in the final agreement. Reimbursement under this option is to be made over the ten-year period of the project. The agreement requirements set forth in section 52-02.1-02 and the provisions of section 52-02.1-03 apply to this section.