

CHAPTER 52-03

UNEMPLOYMENT COMPENSATION FUND

52-03-01. Unemployment compensation fund - Maintaining and administering - What constitutes. A special fund, separate and apart from all public moneys or funds of this state, known as the "unemployment compensation fund", must be administered by the bureau exclusively for the purposes of the North Dakota unemployment compensation law. This fund must consist of:

1. All contributions collected under the North Dakota unemployment compensation law.
2. All fines collected pursuant to the provisions of the North Dakota unemployment compensation law.
3. Interest earned upon any moneys in the fund.
4. Any property or securities acquired through the use of moneys belonging to the fund.
5. All earnings of such property or securities.
6. All money recovered on losses sustained by the fund.
7. All money received from the federal unemployment account in the unemployment trust fund in accordance with title XII of the Social Security Act [42 U.S.C. 1321 et seq.], as amended.
8. All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended.
9. All money received from the federal government as reimbursements pursuant to section 204 of the Federal-State Extended Compensation Act of 1970 [Pub. L. 91-373; 84 Stat. 708-712; 26 U.S.C. 3304 note].
10. All money received for the fund from any other source.

All moneys in the fund must be mingled and undivided.

52-03-02. State treasurer to be treasurer of unemployment compensation and federal advance interest repayment funds - Issuance of warrants - Additional bond of treasurer. Repealed by S.L. 1995, ch. 480, § 9.

52-03-03. Accounts to be kept within unemployment compensation fund. The bureau shall maintain within the unemployment compensation fund the following separate accounts:

1. The clearing account.
2. The unemployment trust fund account.
3. A benefit account.

All moneys payable to the fund, upon receipt thereof by the bureau, must be deposited immediately in the clearing account. Refunds payable pursuant to section 52-04-14 may be paid from the clearing account. After the clearance thereof, all other moneys in the clearing account must be deposited immediately with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the Social Security Act [42 U.S.C. 1104], as amended, notwithstanding any provisions of law in this state relating to the deposit, administration, release,

or disbursement of moneys in the possession or custody of this state to the contrary. The benefit account must consist of all moneys requisitioned from the state's account in the unemployment trust fund. Except as otherwise provided in the North Dakota unemployment compensation law, moneys in the clearing and benefit accounts must be deposited by the bureau in separate interest-bearing accounts at the Bank of North Dakota, but no public deposit insurance charge or premium may be paid out of the fund.

52-03-04. Requisitioning and expenditure of funds from various accounts. Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for refunds pursuant to subdivision f of subsection 18 of section 52-01-01 and section 52-04-14, except that money credited to this state's account pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended, must be used exclusively as provided in subsection 3 of section 52-03-07. From time to time, the bureau shall requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the bureau shall deposit such moneys in the benefit account and shall pay benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account are not subject to any provision of law requiring specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, either must be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the bureau, must be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund as provided in section 52-03-03.

52-03-05. Reimbursements paid and received. Reimbursements paid from the fund pursuant to subsection 3 of section 52-02-15 must be deemed to be benefits for the purpose of this chapter and chapter 52-06. The bureau may make to other state or federal agencies, and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to section 52-02-15.

52-03-06. Discontinuance of unemployment trust fund - Management of funds. The provisions of this chapter, to the extent that they relate to the unemployment trust fund, are operative only as long as such unemployment trust fund continues to exist and as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein belonging to the unemployment compensation fund of this state must be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the bureau in accordance with the provisions of the North Dakota unemployment compensation law. Such moneys must be invested in bonds or other interest-bearing obligations of the United States or of the state of North Dakota. Such investments must be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of the securities or other properties belonging to the unemployment compensation fund only under the direction of the bureau.

52-03-07. Administrative use.

1. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this law pursuant to a specific appropriation by the legislative assembly; provided, that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

- a. Specifies the purposes for which money is appropriated and the amounts appropriated therefor;
 - b. Limits the period within which such money may be expended to a period ending not more than two years after the date of the enactment of the appropriation law; and
 - c. Limits the amount which may be used during a twelve-month period beginning on July first and ending on the next June thirtieth to an amount which does not exceed the amount by which:
 - (1) The aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended, during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds
 - (2) The aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such thirty-five 12-month periods. For the purposes of this section, amounts used during any such twelve-month period must be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount used for administration during such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the thirty-fourth preceding such period.
2. For the purpose of the provisions set forth in section 52-04-06, any amount credited to this state's account under section 903 of the Social Security Act [42 U.S.C. 1103], as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund must be excluded from the unemployment fund balance.
 3. Money credited to the account of this state pursuant to section 903 of the Social Security Act [42 U.S.C. 1103], as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of sections 52-02-09, 52-03-01, 52-03-04, 52-03-07, and 52-03-08 and of public employment offices pursuant to this section. Notwithstanding this subsection, moneys credited with respect to federal fiscal years 2000, 2001, and 2002 must be used solely for the administration of the unemployment compensation program and the moneys are not otherwise subject to the requirements of subsection 1 when appropriated by the legislative assembly. Moneys are hereby appropriated for the federal fiscal years identified in this subsection for purposes of administration of the unemployment compensation program.
 4. Money requisitioned for the payment of expenses of administration pursuant to this section must be deposited in the job service administration fund, but, until expended, must remain a part of the unemployment compensation fund. The bureau shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated, or, if it remains unexpended at the end of the period specified by the law appropriating such money, it must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

52-03-08. Advances from the federal unemployment account. The governor of this state is authorized and directed to apply for an advance to the state unemployment fund from the federal unemployment account in the unemployment trust fund and to accept the responsibility for the repayment of such advance in accordance with the conditions specified in title XII of the

Social Security Act [42 U.S.C. 1321 et seq.], as amended, in order to secure to this state and its citizens the advantage available under the provisions of such title.