

SOCIAL SECURITY

CHAPTER 304

S. B. No. 70
(Rue and Solberg)

UNEMPLOYMENT COMPENSATION

AN ACT

To amend and reenact subsection 2 of section 52-0101 and subdivision a. of subsection 11 of section 52-0101, of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to definitions; section 52-0405 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to standard rate of contributions; subdivisions a. and b. of subsection 1, and subsection 4 of section 52-0406 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to contributions; section 52-0504, North Dakota Revised Code of 1943, relating to termination of coverage; section 52-0604 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the amount of benefits, qualifying wage and definitions; section 52-0633 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to recovery and recoupment.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsection 2 of section 52-0101 and subdivision a. of subsection 11 of Section 52-0101, of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. "Average annual payroll" means the average of the annual payrolls of an employer for the last three completed calendar years except that, for an employer who had no payroll in the first of the last three completed calendar years, the average annual payroll shall be the average of the annual payrolls of such employer for the last two completed calendar years and, for an employer who had no payroll in the first two of the last three completed calendar years, the average annual payroll shall be the aggregate of the annual payroll of such employer for the last completed calendar year.

11.

a. Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employ-

ment, eight or more individuals, irrespective of whether the same individuals are or were employed in each such day. After December thirty-first, 1955, the term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were employed by him in employment for some portion of the day (whether or not at the same moment of time) was four or more. For the purpose of this definition, if any week includes both December thirty-first and January first, the days up to January first shall be deemed one calendar week and the days beginning January first another such week;

§ 2. Amendment.) Section 52-0405 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

52-0405. Standard Rate Of Contributions; Reduction Of Rates.) The standard rate of contributions payable by each employer shall be two and seven-tenths percent. No employer's rate shall be reduced below the standard rate for any succeeding calendar year unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve consecutive calendar month period ending on December thirty-first of the preceding calendar year.

§ 3. Amendment.) Subdivisions a. and b. of subsection 1, and subsection 4 of section 52-0406 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

1. a. For the calendar year 1954 and for each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of December thirty-first of the preceding calendar year, to taxable wages for such preceding calendar year which have been reported to the bureau on or before January thirty-first of the succeeding calendar year. If such ratio is:
 1. Less than nine percent, the schedule of rates at column I will be in effect;

2. Nine percent but less than ten percent, the schedule of rates at column II will be in effect;
3. Ten percent or more the schedule of rates at column III will be in effect.

The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before January thirty-first of any year, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before December thirty-first of the preceding calendar year, shall be such employer's reserve ratio. The contribution rate for the ensuing calendar year of an employer whose account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year; for an employer whose account has been chargeable with benefits throughout twenty-four but less than thirty-six consecutive calendar months ending on December thirty-first of the preceding calendar year, the reserve ratio required for any given rate in the schedule shall be two-thirds of the reserve ratio shown in the schedule applicable to such contribution rate; and for an employer whose account has been chargeable with benefits throughout twelve but less than twenty-four consecutive calendar months ending on December thirty-first of the preceding calendar year, the reserve ratio required for any given rate in the schedule shall be one-third of the reserve ratio shown in the schedule applicable to such contribution rate.

Schedule of Rates:

Employer's Reserve Ratio	Column I	Column II	Column III
Less than 1%	2.7	2.7	2.7
1% but less than 2%	2.7	2.7	2.5
2% but less than 3%	2.7	2.5	2.3
3% but less than 4%	2.5	2.3	2.1
4% but less than 5%	2.3	2.1	1.9
5% but less than 6%	2.1	1.9	1.7
6% but less than 7%	1.9	1.7	1.5
7% but less than 8%	1.7	1.5	1.3
8% but less than 9%	1.5	1.3	1.1
9% but less than 10%	1.3	1.1	.9
10% but less than 11%	1.1	.9	.7
11% but less than 12%	.9	.7	.5
12% but less than 13%	.7	.5	.3
13% but less than 14%	.5	.3	.1
14% but less than 15%	.3	.1	.1
15% or over	.1	.1	.1

- b. Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section, and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within one hundred twenty days after the beginning of such year.
4. The rate of an employer who has had payroll subject to contributions in each of the three years preceding the computation date shall not be reduced unless the payroll in each such year is equal to at least twenty percent of the highest payroll in such three year period. The rate of an employer who has been subject to the law for two but less than three years shall not be reduced unless the payroll in each of the two years immediately preceding the computation date is equal to at least twenty percent of the highest annual payroll in such two-year period. This requirement shall not apply to an employer who has been subject to the law for less than two years ending on the computation date.

§ 4. Amendment.) Section 52-0504, North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

52-0504. Termination As Employer; Regulations Governing.) Except as provided in sections 52-0502 and 52-0503, an employing unit shall cease to be an employer subject to this title only as of the first day of January of any calendar year, and only if it files with the bureau during January of such year, a written application for termination of coverage, and the bureau finds that the employing unit is not an employer as defined in this title. During January of any calendar year, the bureau on its own motion, may file an application for termination of coverage on behalf of any employer who during the preceding year was liable for contributions under the terms of this title, but who:

1. Has removed from the state;
2. Has discontinued the business conducted by it at the time it became liable under the terms of this title;
3. Has been adjudged bankrupt or has become insolvent. Such application for termination of coverage filed by

the bureau on its own motion shall be acted upon in exactly the same manner as though the application had been filed by the employer.

§ 5. **Amendment.)** Section 52-0604 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

52-0604. Amount Of Benefits: Table; Qualifying Wage; Definitions.)

1. **Weekly Benefit Amount.)** Except as provided in subsection 2 of this section an insured worker's basic weekly benefit amount shall be the amount in column B of the table in this subsection on the line on which, in column A, there appears his total wages paid for insured work in that quarter of his base period in which such total wages were highest; and his augmented benefit amount, if he has dependents, shall be the amount on the same line in the column D, E, or F of the table in this subsection which shows the number of his dependents. The number of dependents shall be determined as of the day with respect to which he first files a request for a determination of insured status in any benefit year, and shall be fixed for the duration of such benefit year, and for the duration of such benefit year no dependent who has been included in the determination shall be included as a dependent in any determination which is made on behalf of another insured worker. Any person who during the benefit year becomes married, dies, enters military service, or becomes a claimant for unemployment benefits, can not be considered a dependent for the purpose of this title, after such change in status.

No dependent's allowance shall be payable with respect to any week unless unemployment benefits are also payable with respect to such week.

Column A High Quarter Wages	Column B Basic Weekly Benefit Amount	Column C Minimum Qualifying Wage	Column D One Depen- dent	Column E Two Depen- dents	Column F Three or more Depen- dents
\$ 63.00-\$168.00	\$ 7	\$252	\$10	\$10	\$10
168.01- 192.00	8	288	11	11	11
192.01- 216.00	9	324	12	12	12
216.01- 240.00	10	360	13	13	13
240.01- 264.00	11	396	14	15	15
264.01- 288.00	12	432	15	16	16
288.01- 312.00	13	468	16	17	17
312.01- 336.00	14	504	17	19	19
336.01- 360.00	15	540	18	20	20

360.01- 384.00	16	576	19	22	22
384.01- 408.00	17	612	20	23	23
408.01- 432.00	18	648	21	24	24
432.01- 456.00	19	684	22	25	26
456.01- 480.00	20	720	23	26	27
480.01- 504.00	21	756	24	27	29
504.01- 528.00	22	792	25	28	30
528.01- 552.00	23	828	26	29	31
552.01- 576.00	24	864	27	30	33
576.01- 600.00	25	900	28	31	34
600.01- and over	26	936	29	32	35

2. **Qualifying Wage.)** To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the table in subsection 1 of this section on the line on which, in column B, there appears his basic weekly benefit amount, and such wages must have been paid in at least two quarters of his base period; however, if any individual during his base period has not been paid such an amount but has been paid wages totaling not less than the amount appearing in column C on the line immediately above, he can qualify as an insured worker and his weekly benefit amount shall be the amount appearing in column B on such line.

3. **Definitions.)** For the purposes of this title, the term "insured worker" means an individual who with respect to a base period, meets the wage and employment requirement of this chapter. For the purposes of this title a "dependent" means a claimant's unmarried child, including stepchild and adopted child, whether or not legally adopted, who is under 18 years of age and is living with the claimant or receiving regular support from the claimant.

§ 6. **Amendment.)** Section 52-0633 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

52-0633. Recovery And Recoupment.) A person who has received any amount of benefits under this title to which he is not entitled shall be liable to refund to the bureau for the fund the amount so paid, or to have such amount deducted from any future benefits payable to him under this title within the two year period following a finding that such payment occurred. Such finding shall have become final and shall specify the reason for such finding, the week or weeks for which such benefits were paid and the amount of benefits so paid. The bureau, in its discretion, may release such person from liability to refund when it finds that recovery would be con-

trary to equity and good conscience. Amounts determined collectible shall be free of interest and may be so collected by civil action in the name of the bureau.

Approved March 3, 1955.

CHAPTER 305

H. B. No. 816
(Strand, Brooks, Sorlie)

JUDICIAL REVIEW OF WORKMEN'S COMPENSATION BUREAU

AN ACT

To amend and reenact section 52-0627 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to judicial review of decision; petition for; filing petition.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 52-0627 of the 1953 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

52-0627. Judicial Review Of Decision; Petition For; Filing Petition.) A party to proceedings before the bureau may obtain a judicial review of the decision of the bureau by filing a petition for such review within thirty days after the date of mailing the bureau's decision to such party at his last known address, or in the absence of mailing, within thirty days after delivery of the decision to such party. The petition for review shall be filed in the district court of Burleigh County, and shall be verified and shall state the grounds upon which review is sought. All other parties to the proceeding before the bureau shall be parties respondent. The bureau shall be deemed to be a party to any such proceeding. If the bureau is a party respondent the petition shall be served upon it by leaving with it or its chairman or any other representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer or petition, the bureau shall certify and file with the court a verified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the bureau's findings, conclusions, and decision therein. Upon the filing of a petition for review by the bureau or upon the service of the petition upon it, the bureau forthwith shall send by registered mail to each other party to the proceeding a copy of such

petition and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this section the finding of the bureau as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. Such proceedings shall be heard by the court and shall be given precedence over all other civil cases except cases arising under the workmen's compensation statute of this state. An appeal may be taken from the decision of the district court of Burleigh County to the supreme court of the state of North Dakota in the same manner as is provided in civil cases. Upon the final termination of such judicial proceeding, the bureau shall enter an order in accordance with the mandate of the court.

Approved March 7, 1955.

CHAPTER 306

H. B. No. 736

(Gumeringer, Hammer, Wolf, Leet and Saumur)

OASIS COVERAGE

AN ACT

To provide for the coverage under the old age and survivors insurance provisions of title II of the federal Social Security Act, as amended, of all officers and employees of the state of North Dakota and political subdivisions within the state who are under the provisions of chapter 52-09, entitled, Old Age and Survivors Insurance, or who may by election come under the provisions of such chapter, and of all officers and employees of political subdivisions who are under locally administered retirement systems, and making an appropriation for administration.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Declaration Of Policy.) In order to extend to employees of the state and political subdivisions within the state, and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act, it is hereby declared the policy of the legislative assembly, subject to the limitations of this Act, that such steps be taken as to provide such protection to employees of the state and political subdivisions within the state on as broad a basis as is permitted under the Social Security Act. It is the policy also of the legislative assembly that the protection afforded

employees in positions covered by a retirement system on the date an agreement under this Act is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

§ 2. Definitions.) For the purposes of this Act:

- a. The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contribution Act, would not constitute "wages" within the meaning of that Act;
- b. The term "employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the state and the secretary of health, education, and welfare. Service which under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with section 218(d) (3) of that Act shall be included in the term "employment" if and when the governor issues, with respect to such service, a certificate to the secretary of health, education and welfare pursuant to section 7(b) of this Act.
- c. The term "employee" includes an officer of a state or political subdivision;
- d. The term "state agency" means the unemployment compensation division of the North Dakota workmen's compensation bureau;
- e. The term "secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of states and their political subdivisions;
- f. The term "political subdivision" includes an instrumentality of a state, of one or more of its political subdivisions,

or of a state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivisions;

- g. The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements pursuant thereto, as such Act has been and may from time to time be amended; and
- h. The term "Federal Insurance Contributions Act" means subchapters A and B of chapter 21 of the Federal Internal Revenue Code of 1954, as such codes have been or may be from time to time amended; and the term "employees tax" means the tax imposed by section 3101 of such code of 1954.
- i. The term "employer" means the state of North Dakota, and all its political subdivisions, and all of their departments and instrumentalities.

§ 3 (a). Federal-State Agreement.) The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this Act, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the state or any political subdivision with respect to services specified in such agreement which constitute "employment" as defined in section 2 of this Act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

1. Benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of title II of the Social Security Act;
2. The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as

defined in section 2 of this Act, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act;

3. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into, except that an agreement or modification entered into after December 31, 1954 and prior to January 1, 1958 shall be effective with respect to services performed after December 31, 1954; or after a later date specified in such modification;
4. All services which constitute employment as defined in section 2 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;
5. All services which (A) constitute employment as defined in section 2, (B) are performed in the employ of a political subdivision of the state, and (C) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 5, shall be covered by the agreement;
6. The agreement shall include all services described in either paragraph (4) or paragraph (5) of this subsection and performed by individuals to whom section 218 (c) (3) (C) of the Social Security Act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of the retirement system; and
7. The agreement shall include all services described in either paragraph (4) or paragraph (5) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education and welfare pursuant to section (7(b) of this Act.

b. Interstate Instrumentalities.) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the secre-

tary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under section 4(a) if they were covered by an agreement made pursuant to subsection (a) of this section, and (3) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) and other provisions of this Act.

§ 4. Contributions By Employees Of The State And Of Political Subdivisions.)

- a. Every employee of the state or of a political subdivision and every employer shall be required to pay for the period of such coverage, into the contribution fund established by section 6, contributions, with respect to wages, as defined in section 2 of this Act, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employees liability shall arise in consideration of the employees retention in the service of the state or of a political subdivision or his entry upon such service, after the enactment of this Act;
- b. The employees' contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution;
- c. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

§ 5. Plans For Coverage Of Employees Of Political Subdivisions.)

- a. Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of title II of the Social Security Act, in conformity with applicable provisions of such Act, to employees of such political subdivision.

Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless,

1. It is in conformity with the requirements of the Social Security Act and with the agreement entered into under section 3;
 2. It provides that all services which constitute employment as defined in section 2 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;
 3. It specifies the source or sources from which the funds necessary to make the payments required by paragraph (1) of subsection (c) and by subsection (d) are expected to be derived and contains a reasonable assurance that such sources will be adequate for such purpose;
 4. It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;
 5. It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the secretary of health, education and welfare may from time to time find necessary to assure the correctness and verification of such reports; and
 6. It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act;
- b. The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (a), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

- c. 1. Each political subdivision as to which a plan has been approved under this section shall pay into the social security contribution fund, with respect to wages, as defined in section 2 of this Act, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under section 3;
2. Each political subdivision required to make payments under paragraph (1) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this Act, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in section 2 of this Act, not exceeding the amount of employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the social security contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (1) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor;
- d. Delinquent payments due under paragraph 1 subsection (c) shall bear interest at the rate of six per centum per annum and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

§ 6. Social Security Contributions Fund.)

- a. There is hereby established a special fund to be known as the social security contribution fund. Such fund shall consist of and there shall be deposited in such fund: (1) all contributions, interest, and penalties collected under sections 4 and 5; (2) all moneys appropriated thereto under this Act; (3) any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; (4) interest earned upon any moneys in the fund; and (5) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received from the fund from

any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of this Act, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this Act;

- b. The social security contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this Act. Withdrawals from such fund shall be made for, and solely for (A) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under section 3; (B) payment of refunds provided for in section 4(c) of this Act; and (C) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality;
- c. From the social security contribution fund the custodian of the fund shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 3 and the Social Security Act;
- d. The treasurer of the state of North Dakota shall be ex-officio treasurer and custodian of the social security contribution fund and shall administer such fund in accordance with the provisions of this Act and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.
- e. (1) There are hereby authorized to be appropriated annually to the contribution fund, in addition to the contributions collected and paid into the contribution fund under sections 4 and 5, to be available for the purposes of section 6 (b) and (c) until expended, such additional sums as are found to be necessary in order to make the payments to the secretary of the treasury which the state is obligated to make pursuant to an agreement entered into under section 3;
- (2) The state agency shall submit to each regular session of the legislative assembly, at least 90 days in

advance of the beginning of such session, an estimate of the amounts authorized to be appropriated to the social security contribution fund by paragraph (1) of this subsection for the next appropriation period;

§ 7. Referenda And Certification.)

- a. With respect to employees of the state and political subdivisions who are under the provisions of chapter 52-09 entitled Old Age and Survivor Insurance or who may by election come under the provisions of such chapter the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision who are under a locally administered retirement system he shall authorize a referendum upon request of the governing body of such subdivision; and with respect to employees covered by any other retirement system, he may authorize a referendum; and in either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d) (3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this Act. The notice of referendum required by section 218 (d) (3) (C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this Act.
- b. Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d) (3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare.

§ 8. Administrative Appropriation.) For the purpose of administering the provisions of this Act for the biennium beginning July 1, 1955 and ending June 30, 1957, there is hereby appropriated from the old age and survivor trust fund the sum of \$2,000.00 or so much thereof as may be necessary and not otherwise appropriated.

§ 9. Rules And Regulations.) The state agency shall make and publish such rules and regulations, not inconsistent with the provisions of this Act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this Act. Such regulations shall require the employers to make such reports in such form and containing such information as the state agency may from time to time request, and shall require employers to comply with such provisions as the state agency or the secretary of health, education and welfare may from time to time find necessary to assure the correctness and verification of such reports.

§ 10. Studies And Reports.) The state agency shall make studies concerning the problem of old-age and survivors insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this Act and shall submit a report to the legislative assembly at the beginning of each regular session, covering the administration and operation of this Act during the preceding calendar year, including such recommendations for amendments to this Act as it considers proper.

§ 11. Separability.) If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 12. Repeal.) All acts or parts of acts which are inconsistent with the provisions of this Act are hereby repealed.

Approved March 11, 1955.

CHAPTER 307

H. B. No. 669
(Baker)

OASIS; CONTRIBUTIONS; DEFINITIONS

AN ACT

To amend and reenact section 52-0909 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the rate of contributions and subsection B of section 52-0920 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to definitions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 52-0909 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0909. Rate Of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-0920, and also upon each employee, as defined in section 52-0920, a tax, equal to one and one-half per centum of the wages paid before July 1, 1955; two per centum of the wages paid after June, 1955, up to 1960; two and one-half per centum of the wages paid after 1959, up to 1965; three per centum of the wages paid after 1964, up to 1970; three and one-half per centum of the wages paid after 1969, up to 1975; and four per centum of the wages paid after 1974, to be paid by each employer and each employee. The tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid.

§ 2. Amendment.) Subsection B of section 52-0920 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

B. The term "employment" means any service performed after June 30, 1947, under an employer employee relationship, under the provisions of this chapter, except:

- (1) Any service performed in the employ of any employer which has as of the effective date of this chapter its own retirement plan.
- (2) Any service performed in any calendar quarter in which the remuneration for such service does not exceed the sum of fifty dollars (\$50.00), unless there are

other calendar year quarters in which remuneration does exceed the sum of fifty dollars (\$50.00), and excepting any service performed by an employee of the legislative assembly during a legislative session.

- (3) The director of the North Dakota unemployment compensation division 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 survivor insurance provisions of the Social Security Act as provided in section 218 of the Social Security Act amendments of 1950. (Public Law 734, 81st Congress). 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.
- (4) Any service performed by an undergraduate student while regularly attending a college or university for such college or university.

Approved March 7, 1955.

CHAPTER 308

H. B. No. 861
(Delayed Bills Committee)

OASIS—WAGES; MONTHLY WAGE; FULLY INSURED INDIVIDUAL

AN ACT

To amend and reenact subsections A., E., and F., of Section 52-0920, of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to definitions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsections A., E., and F., of section 52-0920, of the 1953 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

- A. The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any

medium other than cash; except that such term shall not include—

- (1) That part of the remuneration which, after remuneration equal to \$4,200 has been paid to an individual with respect to employment during any calendar year after 1946, is paid to such individual with respect to employment during such calendar year.

E. The term “average monthly wage” means the quotient obtained by dividing the total wages paid an individual before the quarter in which he died or became entitled to receive primary insurance benefits, whichever first occurred by three times the number of quarters elapsing after July 1, 1947, and before such quarter in which he died or became so entitled, excluding any quarter prior to the quarter in which he attained the age of twenty-one during which he was paid less than fifty dollars in wages. For the purpose of determining the average monthly wage as provided in this section, an individual employee may at his option disregard or “drop out” not to exceed ten quarters of employment in instances where the total quarterly wages received from employment subject to this chapter did not exceed three hundred dollars and where such wages were received in quarters prior to July 1, 1951. Such quarters of employment as may be dropped out or disregarded by the employee may be considered, however, in determining whether such employee has a sufficient number of quarters of covered employment to become eligible for benefits under this chapter.

F. The term “fully insured individual” means any individual with respect to whom it appears to the satisfaction of the bureau that:

- (1) He had not less than one quarter of coverage for each of two of the quarters elapsing after July 1, 1947, and up to but excluding the quarter in which he retired after he had obtained the age of sixty-five, or died, whichever first occurred; or
- (2) He had at least forty quarters of coverage. As used in this subsection, and in subsection (G) of this section, the term quarter and the term “calendar quarter” mean a period of three calendar months ending on March 31, June 30, September 30, or December 31; and the term “quarter of coverage” means a calendar quarter in which the individual has been paid not less than \$50 in wages. When the number of quarters specified in paragraph (1) of this subsection is an odd number, for purposes of such paragraph such number shall be reduced by one. In any case where an individual has

been paid in a calendar year \$4,200 or more in wages, each quarter of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual dies or becomes entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or becomes so entitled.

Approved March 10, 1955.