

SOCIAL SECURITY

CHAPTER 311

H. B. No. 714
(Fitch and Dahl)

MERIT SYSTEM AND PERSONNEL—AGREEMENTS FOR FREE EMPLOYMENT SERVICE

AN ACT

To amend and reenact section 52-02-06 of the North Dakota Century Code, relating to bureau to appoint and make rules and regulations governing personnel; and section 52-08-04, relating to director and employees of employment service—appointment—agreements for free employment service.

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

§ 1. **Amendment.)** Section 52-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-06. Merit System and Personnel.)

1. In accordance with chapter 54-42 of the North Dakota Century Code and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of such officers, employees, and other persons as may be necessary in the performance of its duties under the Act; provided, that in co-operation with the North Dakota Merit System the bureau shall take such action as may be necessary to meet the personnel standards promulgated by the Secretary of Labor pursuant to the Social Security Act and the Wagner-Peyser Act, both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of this title upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled "An Act to prevent pernicious political activities", as amended (United States Code, title 18, section 61 (a)) and that such violation warrants the removal of such person from his employment.

§ 2. **Amendment.)** Section 52-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-08-04. Merit System and Personnel—Agreements for Free Employment Service.)

1. In accordance with chapter 54-42 of the North Dakota Century Code and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of such officers, employees, and other persons as may be necessary in the performance of its duties under the Act; provided, that in cooperation with the North Dakota Merit System the bureau shall take such action as may be necessary to meet the personnel standards promulgated by the Secretary of Labor pursuant to the Social Security Act and the Wagner-Peyser Act, both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of this title upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled "An Act to prevent pernicious political activities", as amended (United States Code, title 18, section 61 (a)) and that such violation warrants the removal of such person from his employment.
3. The bureau may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

Approved March 3, 1961.

CHAPTER 312

H. B. No. 558

(Stockman, Neukircher)

SOCIAL SECURITY, CONTRIBUTIONS, REDUCTION

AN ACT

To amend and reenact section 52-04-05 of the North Dakota Century Code, relating to standard rate of contributions, reduction of rates, and declaring an emergency.

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

§ 1. **Amendment.)** Section 52-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***52-04-05. Standard Rate of Contributions — Reduction of Rates.)** For the calendar year 1960 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be three and seven-tenths percent. No employer's rate shall be reduced below the standard rate for any 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.

§ 2. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved January 18, 1961.

***Note:** Section 52-04-05 was also amended by section 1 of chapter 313 of the 1961 S.L.

CHAPTER 313

S. B. No. 231

(George, Kee, Reichert, Witteman)

RATES

AN ACT

To amend and reenact section 52-04-05 of the North Dakota Century Code as amended by House Bill 558 of the Thirty-seventh Legislative Assembly of North Dakota, relating to standard rate of contributions—reduction of rates; subsection 1 of section 52-04-06 of the North Dakota Century Code, relating to variations in standard rate of contributions—how determined, and section 52-06-04 of the North Dakota Century Code, relating to the schedule of benefits and qualifying wages.

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

§ 1. **Amendment.)** Section 52-04-05 of the North Dakota Century Code as amended by House Bill 558 of the Thirty-seventh Legislative Assembly of North Dakota is hereby amended and reenacted to read as follows:

***52-04-05. Standard Rate of Contributions — Reduction of Rates.)** For the calendar year 1962 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be four and two-tenths percent. No employer's rate shall be reduced below the standard rate for any 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.

§ 2. **Amendment.)** Subsection 1 of section 52-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 52-04-05 was also amended by section 1 of chapter 312 of the 1961 S.L.

52-04-06. Variations in Standard Rate of Contributions—How Determined.) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

1. For the calendar year 1960 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:
 - a. Less than three percent, the schedule of rates at column I will be in effect;
 - b. Three percent but less than four percent, the schedule of rates at column II will be in effect;
 - c. Four percent but less than five percent, the schedule of rates at column III will be in effect;
 - d. Five percent but less than seven percent, the schedule of rates at column IV will be in effect;
 - e. Seven percent but less than eight percent, the schedule of rates at column V will be in effect;
 - f. Eight percent but less than nine percent, the schedule of rates at column VI will be in effect;
 - g. Nine percent but less than ten percent, the schedule of rates at column VII will be in effect;
 - h. Ten percent or more, the schedule of rates at column VIII will be in effect.

If the fund reserve ratio decreases during the calendar year 1960 or any calendar year thereafter, the schedule of rates will not be advanced by more than one column for any calendar year, except that the schedule of rates at column I will be in effect for each calendar year that the fund reserve ratio is less than three percent on December thirty-first of the preceding calendar year. 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 eligible under section 52-04-05 will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

Schedule of Rates—Fund Reserve Ratio

EMPLOYERS' RESERVE RATIO	Col. I— Less Than 3%	Col. II— 3% But Less Than 4%	Col. III— 4% But Less Than 5%	Col. IV— 5% But Less Than 7%	Col. V— 7% But Less Than 8%	Col. VI— 8% But Less Than 9%	Col. VII— 9% But Less Than 10%	Col. VIII— 10% and Over
Minus Balance								
0% but less than 1%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%
1% but less than 2%	4.1%	4.1%	3.9%	3.9%	3.6%	2.7%	2.7%	2.7%
2% but less than 3%	4.1%	3.9%	3.9%	3.7%	3.3%	2.7%	2.7%	2.5%
3% but less than 4%	3.9%	3.9%	3.7%	3.5%	3.0%	2.7%	2.5%	2.3%
4% but less than 5%	3.9%	3.7%	3.5%	3.3%	2.7%	2.5%	2.3%	2.1%
5% but less than 6%	3.7%	3.5%	3.3%	3.1%	2.5%	2.3%	2.1%	1.9%
6% but less than 7%	3.5%	3.3%	3.1%	2.9%	2.5%	2.1%	1.9%	1.7%
7% but less than 8%	3.3%	3.1%	2.9%	2.7%	2.3%	1.9%	1.7%	1.5%
8% but less than 9%	3.1%	2.9%	2.7%	2.5%	2.1%	1.7%	1.5%	1.3%
9% but less than 10%	2.9%	2.7%	2.5%	2.3%	1.9%	1.5%	1.3%	1.1%
10% but less than 11%	2.7%	2.5%	2.3%	2.1%	1.7%	1.3%	1.1%	0.9%
11% but less than 12%	2.7%	2.3%	2.1%	1.9%	1.5%	1.1%	0.9%	0.7%
12% but less than 13%	2.7%	2.1%	1.9%	1.7%	1.3%	0.9%	0.7%	0.5%
13% but less than 14%	2.7%	1.9%	1.7%	1.5%	1.1%	0.7%	0.5%	0.3%
14% but less than 15%	2.7%	1.7%	1.5%	1.3%	0.9%	0.5%	0.3%	0.3%
15% but less than 16%	2.7%	1.5%	1.3%	1.1%	0.7%	0.3%	0.3%	0.3%
16% and over	2.7%	1.3%	1.1%	0.9%	0.5%	0.3%	0.3%	0.3%
	2.7%	1.1%	0.9%	0.7%	0.3%	0.3%	0.3%	0.3%

§ 3. Amendment.) Section 52-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-04. Schedule of Benefits—Qualifying Wage—Definitions.)

1. Subject to the other provisions of this title an insured worker's 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 are highest.

COLUMN A High Quarterly Wages	COLUMN B Weekly Benefit Amount	COLUMN C Minimum Qualifying Wages
\$ 97.50-\$260	\$10	\$ 390
260.01- 286	11	429
286.01- 312	12	468
312.01- 338	13	507
338.01- 364	14	546
364.01- 390	15	585
390.01- 416	16	624
416.01- 442	17	663
442.01- 468	18	702
468.01- 494	19	741
494.01- 520	20	780
520.01- 546	21	819
546.01- 572	22	858
572.01- 598	23	897
598.01- 624	24	936
624.01- 650	25	975
650.01- 676	26	1014
676.01- 702	27	1053
702.01- 728	28	1092
728.01- 754	29	1131
754.01- 780	30	1170
780.01- 806	31	1209
806.01- 832	32	1248
832.01- 858	33	1287
858.01- 884	34	1326
884.01- 910	35	1365
910.01- and over	36	1404

2. 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 weekly benefit amount, and such wages must have been paid in at least two quarters of his base period; however, if an 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.

However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which he filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times his current weekly benefit amount.

3. For the purpose of this title, the term "insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of this chapter.

Approved March 17, 1961.

CHAPTER 314

S. B. No. 153

(Redlin, Reichert)

RATE OF CONTRIBUTIONS, DEFINITIONS

AN ACT

To amend and reenact section 52-09-09 of the North Dakota Century Code, relating to rate of contribution; and subsection B of section 52-09-20 of the North Dakota Century Code, relating to definitions.

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

§ 1. **Amendment.)** Section 52-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-09. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one and one-half per centum of the wages paid before July 1, 1955, and two per centum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above 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. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after

June 30, 1959, up to July 1, 1961 such tax shall be equal to three and one-half percent, and after June 30, 1961 such tax shall be equal to three percent. After June 30, 1957, there shall be no tax hereunder upon the employee.

§ 2. Amendment.) Subsection B. of section 52-09-20 of the North Dakota Century Code 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 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 public school, college or university for such public school, college or university.

Approved March 15, 1961.

CHAPTER 315

H. B. No. 726

(Fitch, Baldwin, Aamoth)

EMPLOYER TAX PAYMENTS

AN ACT

To amend and reenact section 52-09-13 of the North Dakota Century Code, relating to employer tax payments.

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

§ 1. **Amendment.)** Section 52-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-13. Employer Payments—Manner of Payment.)

1. The employer taxes shall be paid in such manner, at such times and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the taxpayer, as may be prescribed by the bureau.
2. Notwithstanding section 52-09-09, the nine institutions of higher education under the board of higher education are authorized to make lump sum payments to the old age and survivors' insurance fund. The payments, when accepted, are to be considered as full and complete for a fiscal year. Such payment to be made in advance, by August 1, each year. Computations for this payment will be made on the basis of the authorized payroll as approved by the state board of higher education, at the legal rate of contributions provided by section 52-09-09, on all positions listed in such payroll which would normally be included in computations for payment to the old age and survivors' insurance fund.

Approved March 11, 1961.

CHAPTER 316

S. B. No. 189
(Erickson, Longmire, Johnson)

PUBLIC EMPLOYEES

AN ACT

To amend and reenact section 52-10-03 of the North Dakota Century Code, relating to federal-state agreement interstate instrumentalities; section 52-10-04 of the North Dakota Century Code, relating to contributions by employees of the state and of political subdivisions; to create and enact subsection e. of section 52-10-05 of the North Dakota Century Code, relating to the plans for coverage of employees of political subdivisions; and to amend and reenact section 52-10-07 of the North Dakota Century Code, relating to referenda and certification.

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

§ 1. **Amendment.)** Section 52-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-03. Federal-State Agreement — Interstate Instrumentalities.) a. 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 chapter, 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 52-10-02. 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 52-10-02, 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 last day of the sixth calendar year preceding the 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, 1955 and prior to January 1, 1960 shall be effective with respect to services performed after December 31, 1955; or after a later date specified in such modification;
4. All services which constitute employment as defined in section 52-10-02 and are performed in the employ of the state by employees of the state, shall be covered by the agreement; all services which constitute employment as defined in section 52-10-02 and are performed in the employ of any municipality except elected officials, shall be covered by the agreement, notwithstanding the provisions of section 52-10-05, which provides for plans for coverage of employees;
5. All services which (A) constitute employment as defined in section 52-10-02 (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 52-10-05, shall be covered by the agreement;
6. The agreement shall include all services described in either subdivision 4 or 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 subdivision 4 or 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 subsection b of section 52-10-07.

b. 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 secretary 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 subsection a of section 52-10-04 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 chapter.

§ 2. **Amendment.**) Section 52-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-04. 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 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, 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 employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or his entry upon such service, after the enactment of this chapter;

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;

d. In addition to the contributions required in subsection a of this section, every employer shall be required to pay for the period of coverage, into the contribution fund established

by section 52-10-06, contributions, with respect to wages as defined in section 52-10-02, equal to one tenth of one percent after June, 1959. The purpose of this contribution is to provide a fund out of which the legislature may appropriate for the administration of chapter 52-10 and chapter 52-09 of the North Dakota Century Code.

§3.) Subsection e. of section 52-10-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

- e. (1) Where the state, or any political subdivision as defined in section 52-10-02, is liable for an amount due under an agreement pursuant to this chapter, the state, or such political subdivision shall remain so liable until the secretary of health, education and welfare is satisfied that the amount due has been paid to the secretary of the treasury.
- (2) Notwithstanding subdivision e (1) of this section, the state, or any political subdivision as defined in section 52-10-02, shall not be liable for an amount due under an agreement pursuant to this chapter, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—
 - (a) three years, three months, and fifteen days after the year in which such wages were paid, or
 - (b) three years after the date on which such amount became due, or
 - (c) three years, three months, and fifteen days after January 1, 1962,unless prior to the expiration of such period the secretary of health, education and welfare makes an assessment of the amount due from the state, or any political subdivision.

§ 4. **Amendment.)** Section 52-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-07. 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 refer-

endum 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 chapter. 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 chapter.

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, or an official designated by the governor to act in his behalf in respect to this subsection, shall so certify to the secretary of health, education, and welfare.

Approved March 4, 1961.