
SALES AND EXCHANGE

CHAPTER 302

House Bill No. 202
(Wolf, Allen and Callahan)

**REPEAL RESTRICTION AUCTIONEER'S PLACE OF BUSINESS
AND TIME FOR HOLDING AUCTION SALES****AN ACT**

To repeal sections 51-0505 and 51-0509 of the North Dakota Revised Code of 1943, relating to auction sales.

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

SECTION 1. REPEAL.) Sections 51-0505 and 51-0509 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 9, 1949.

SOCIAL SECURITY

CHAPTER 303

Senate Bill No. 120
(Senators Streibel and Lynch at the request of the
Unemployment Compensation Division of North Dakota
Workmen's Compensation Bureau)

**REGULATING UNEMPLOYMENT COMPENSATION DIVISION
AND N. D. STATE EMPLOYMENT SERVICE AS DIVISIONS OF
WORKMEN'S COMPENSATION BUREAU****AN ACT**

To amend and reenact sections 52-0201 of the 1947 Supplement to the North Dakota Revised Code of 1943, relating to unemployment compensation division and North Dakota state employment service to be divisions of bureau; regulations governing; 52-0413, priority rights to contributions upon legal dissolutions or distributions; 52-0602, relating to disqualifications for benefits; 52-0604, relating to amount of benefits.

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

SECTION 1. AMENDMENT.) Section 52-0201 of the 1047 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0201. UNEMPLOYMENT COMPENSATION DIVISION AND NORTH DAKOTA STATE EMPLOYMENT SERVICE TO BE DIVISIONS OF BUREAU; REGULATION GOVERNING.) There shall be maintained within the North Dakota workmen's compensation bureau a division to be known as the "Unemployment Compensation Division." The "North Dakota State Employment Service" also shall constitute a division of the workmen's compensation bureau, and together with the unemployment compensation division shall constitute two coordinate divisions of such bureau, each of which shall be administered by a full-time salaried director, who shall be subject to the supervision and direction of the bureau. In addition to compensation received as commissioners of the bureau, each of the three commissioners of the bureau may receive and retain as remuneration for their services under this chapter such sums as the United States government or the federal social security board may allow to them. Each division of the bureau shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budgets, and duties, except insofar as the bureau may find that such separation is impractical because of the small size of the territory served or of the volume of work performed. The bureau may appoint, fix the compensation of, and prescribe the duties of the director of the unemployment compensation division. Such appointment shall be made on a nonpartisan merit basis.

SECTION 2. AMENDMENT.) Section 52-0413 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0413. PRIORITY RIGHTS TO CONTRIBUTIONS UPON LEGAL DISSOLUTIONS OR DISTRIBUTIONS.) In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than two hundred and fifty dollars to each claimant, earned within four months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contribution then or thereafter due shall be entitled to such priority as is provided in section 64a of that act, United States Code Title II, section 104b, as amended. In any action for the recovery of delinquent or defaulted contributions, the remedies of garnishment or attachment, or both, shall be available. A judgment obtained for such contributions shall be a prior lien

over all other judgments or liens, excepting employees wages. No exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

SECTION 3. AMENDMENT.) Section 52-0602 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0602. DISQUALIFICATION FOR BENEFITS.) An individual shall be disqualified for benefits:

1. For the week in which he has left his work voluntarily without good cause and for not more than seven consecutive weeks which immediately follow such week, as determined according to the circumstances in each case;
2. For the week in which he has been discharged for misconduct connected with his work and for not more than the ten consecutive weeks which immediately follow such week, as determined according to the circumstances in each case;
3. If he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the bureau or to accept suitable work when offered him. Such disqualification shall continue for the week in which such failure occurred and for not more than the seven consecutive weeks which immediately follow such week as determined according to the circumstances in each case;
4. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that:
 - a. He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - b. He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises,

are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; and provided further, that there shall not be deemed to be a stoppage of work in any factory, establishment, or other premises unless there shall be a substantial stoppage of work in each of said factory, establishment, or other premises.

5. For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided, that if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.
6. For any week of unemployment if such individual has left his most recent work for the purposes of attending an educational institution; or if the individual is a student registered for full attendance at and is regularly attending an established school, college or university, or is on vacation within the school term; provided, however, that this disqualification shall not apply if such individual is unemployed through no fault of his own and is attending school only because of lack of work and is willing to quit school to accept full-time work.
7. For any week in which he is partially or totally unemployed by reason of a disciplinary suspension of not more than thirty days by his employer for misconduct connected with his employment, and the bureau so finds.
8. For one year from the date on which such individual has made a false statement for the purposes of obtaining benefits to which he was not lawfully entitled. Provided, however, that this disqualification shall not apply to cases in which it shall appear to the satisfaction of the bureau that the said false statement was made by reason of a mistake or misunderstanding of law or of facts without fraudulent intent.
9. For the purposes of this section an employer's account shall not be charged when benefits are paid without any disqualification to an individual who has left his

most recent work for good cause not involving fault on the part of the employer or when benefits are paid for unemployment immediately after expiration of the period of disqualification for leaving work voluntarily without good cause; or when separation from employment is due to discharge for misconduct.

10. The waiting period described in section 52-0601 of this title shall be required to be served after the expiration of the disqualification herein mentioned.

SECTION 4. AMENDMENT.) Section 52-0604 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0604. AMOUNT OF BENEFITS; TABLE.)

1. An individual's weekly benefit amount shall be the amount appearing in Column B in the table in this section on the line on which, in Column A of such table, there appears the total wages paid to such individual for insured work in that quarter of his base period in which such total wages were highest.

Column A wages paid in highest quarter of base period	Column B weekly benefit amount	Column C Qualifying wages in base period	Column D Maximum total benefits in benefit year
\$ 35.00-\$115.00	\$ 5.00	\$140.00	\$100.00
115.01- 138.00	6.00	168.00	120.00
138.01- 161.00	7.00	196.00	140.00
161.01- 184.00	8.00	224.00	160.00
184.01- 207.00	9.00	252.00	180.00
207.01- 230.00	10.00	280.00	200.00
230.01- 253.00	11.00	308.00	220.00
253.01- 276.00	12.00	336.00	240.00
276.01- 299.00	13.00	364.00	260.00
299.01- 322.00	14.00	392.00	280.00
322.01- 345.00	15.00	420.00	300.00
345.01- 368.00	16.00	448.00	320.00
368.01- 391.00	17.00	476.00	340.00
391.01- 414.00	18.00	504.00	360.00
414.01- 437.00	19.00	532.00	380.00
437.01-and over	20.00	560.00	400.00

2. With respect to any week for which a benefit is paid to an individual in accordance with the provisions of subsection 1 of section 52-0604 there shall be added to such benefit a dependents' allowance equal to the

amount in the table of this subsection, in the column which shows the number of such individual's dependents, if any, and on the line on which in Column A of such table there appears his weekly benefit amount. As used in this subsection dependent means an unmarried child (including stepchild or adopted child, whether or not legally adopted) of an individual claiming benefits under this act who is under 18 years of age and living with such individual or receiving regular support from him, who receives no remuneration in excess of \$5.00 in the claim week. Dependents allowances shall be in addition to the unemployment compensation benefits otherwise payable and shall not be considered a part of an individual's maximum benefit amount as shown in subsection 1 of this section. No dependents allowance shall be payable with respect to any week unless an unemployment benefit is also payable with respect to such week. If both the husband and wife receive benefits with respect to a week of unemployment, only one of them shall be entitled to dependents allowance with respect to any dependent. Dependents allowances paid in accordance with this paragraph shall not be chargeable to the employer's account for experience rating purposes set forth at section 52-0406.

DEPENDENTS' ALLOWANCE

Column A weekly benefit amount	Column B 1 dependent	Column C 2 dependents	Column D 3 dependents
\$ 5	\$2	\$2	\$2
6	2	3	3
7	2	3	3
8	2	4	4
9	2	4	4
10	2	4	4
11	2	4	5
12	2	4	5
13	2	4	6
14	2	4	6
15	2	4	6
16	2	4	6
17	2	4	6
18	2	4	6
19	2	4	6
20	2	4	6

Approved March 8, 1949.

CHAPTER 304

House Bill No. 31
(Legislative Research Committee)
at the request of the
(Unemployment Compensation Division)

EMPLOYERS CONTRIBUTIONS TO
UNEMPLOYMENT COMPENSATION FUND

AN ACT

To amend and reenact section 52-0406 of the 1947 Supplement of the North Dakota Revised Code of 1943, relating to rate of contributions made by employers to unemployment compensation fund.

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

SECTION 1. AMENDMENT.) Section 52-0406 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0406. 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. If the total of all employer's contributions paid on or before January thirty-first of any year subsequent to December 31, 1941, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the total benefits which were chargeable to his account and were paid on or before December thirty-first of the preceding year with respect to weeks of unemployment compensated prior to such first day of January, his contribution rate for the ensuing calendar year shall be:
 - a. Two and seven-tenths percent, if such excess is less than four percent of his average annual payroll;
 - b. Two and five-tenths percent, if such excess equals or exceeds four percent but is less than five percent of his average annual payroll;
 - c. Two and twenty-five hundredths percent, if such excess equals or exceeds five percent but is less than six percent of his average annual payroll;
 - d. Two percent, if such excess equals or exceeds six percent but is less than seven percent of his average annual payroll;

- e. One and seventy-five hundredths percent, if such excess equals or exceeds seven percent but is less than eight percent of his average annual payroll;
 - f. One and one-half percent, if such excess equals or exceeds eight percent but is less than nine percent of his average annual payroll;
 - g. One and twenty-five hundredths percent, if such excess equals or exceeds nine percent but is less than ten percent of his average annual payroll;
 - h. One percent, if such excess equals or exceeds ten percent but is less than eleven percent of his average annual payroll;
 - i. Seventy-five hundredths of one percent, if such excess equals or exceeds eleven percent but is less than twelve percent of his average annual payroll;
 - j. One-half of one percent, if such excess equals or exceeds twelve percent but is less than thirteen percent of his average annual payroll;
 - k. Twenty-five hundredths of one percent, if such excess equals or exceeds thirteen percent of his average annual payroll.
2. If the total benefits chargeable against an employer's account for all periods prior to January first of such calendar year, including benefits paid on or before January first, with respect to weeks of employment compensated prior to January first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before January thirty first with respect to wages paid prior to January first of the same year, his contribution rate for the ensuing calendar year shall be two and seven-tenths percent;
 3. No employer's rate for the period of twelve months commencing January first of any calendar year shall be less than two and seven-tenths percent unless the total assets of the fund, excluding contributions not yet paid at the beginning of such calendar year, exceed the total benefits paid from the fund within the last preceding calendar year; and no employer's rate shall be less than two percent unless such assets at such time were at least twice the total benefits paid from the fund within such last preceding year;
 4. No employer's rate shall be reduced below the standard rate for any calendar year unless and until he has had payroll subject to contribution in each of the three years preceding the computation date equal to at least twenty percent of the highest annual payroll in the three-year period.

Approved February 21, 1949.

CHAPTER 305

Senate Bill No. 121

(Streibel and Lynch at the request of the
Unemployment Compensation Division of North Dakota
Workmen's Compensation Bureau.)

CIVIL ACTION TO COLLECT UNEMPLOYMENT
CONTRIBUTIONS OR INTEREST

AN ACT

To amend and reenact section 52-0412 of the 1947 Supplement to the North Dakota Revised Code of 1943, of the Unemployment Compensation Law, relating to civil action to collect contributions or interest; priority of action on calendar; providing for judgments.

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

SECTION 1. AMENDMENT.) Section 52-0412 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0412. CIVIL ACTION TO COLLECT CONTRIBUTIONS OR INTEREST; PRIORITY OF ACTION ON CALENDAR; PROVIDING FOR JUDGMENTS.

1. After due notice, if any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by a civil action in the name of the bureau and the employer adjudged in default shall pay the cost of such action. Civil actions brought under this section to collect contributions or interest thereon, from an employer shall be heard by the court at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under chapter 6 of this title and cases arising under the workmen's compensation law of this state.
2. If any contributions payable by an employer under this act, or any portion thereof, are not paid within sixty (60) days after the same becomes due, the bureau may issue a certificate under its official seal, setting forth the amount of contributions due and interest accrued, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the employer owing the same, found within his county, for the payment of the amount thereof, with the added penal-

ties, interest and costs of executing the same and to return such certificates to the bureau and to pay to the bureau the money collected by virtue thereof by a time to be therein specified, not more than ninety (90) days from the date of the certificate. The said sheriff shall, within five days after the receipt of the certificate, file with the clerk of the district court of his county a copy thereof and thereupon the said clerk of the district court shall enter in the judgment docket, in the column for judgment debtors, the name of the employer mentioned in the certificate, and in the appropriate columns the amount of contributions due and the penalties for which the certificate is issued and the date when such copy is filed and thereupon the amount of such certificate so docketed shall become a lien upon the title to and interest in real property or chattels real of the employer against whom it is filed in the same manner as judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the certificate, to be collected in the same manner.

3. The remedies provided for in subsection 2 of this section shall be in addition to all other remedies.

Approved February 26, 1949.

CHAPTER 306

Senate Bill No. 122

(Streibel and Lynch at the request of the
Unemployment Compensation Division of North Dakota
Workmen's Compensation Bureau)

ADJUSTMENT AND REFUND OF UNEMPLOYMENT
CONTRIBUTIONS

AN ACT

To amend and reenact section 52-0414 of the 1947 Supplement to the North Dakota Revised Code of 1943, relating to adjustment and refund of contributions.

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

SECTION 1. AMENDMENT.) Section 52-0414 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0414. ADJUSTMENT AND REFUND OF CONTRIBUTIONS.) Not later than three years after the date on which any contributions or interest thereon was paid, if the employer that paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the bureau shall determine that such contributions or interest or any portion thereof was collected erroneously, the bureau shall allow such employer to make an adjustment thereof without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made, the bureau shall refund said amount, without interest, from the fund. For like cause and within the same period, an adjustment or refund may be made on the bureau's own initiative.

Approved February 26, 1949.

CHAPTER 307

Senate Bill No. 98
(Rue and Streibel)

DEFINING EMPLOYMENT, OLD AGE & SURVIVOR INSURANCE

AN ACT

To amend and reenact subdivision B of section 52-0920 of the 1947 Supplement to the North Dakota Revised Code of 1943, relating to term "employment" and exceptions thereto, as said term is used in Title 52, Chapter 9, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subdivision B of section 52-0920 of the 1947 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 Act, except:

1. Any service performed in the employ of any employer which has as of the effective date of this Act 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.

SECTION 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 February 10, 1949.

CHAPTER 308

House Bill No. 32

(Legislative Research Committee)

(at the request of the Unemployment Compensation Division)

RATES, OVERPAYMENTS, REFUNDS, OLD AGE AND
SURVIVOR INSURANCE

AN ACT

To amend and reenact sections 52-0909, 52-0910 and 52-0921 of the 1947 Supplement to the North Dakota Revised Code of 1943, relating to taxes levied under the old age survivor insurance system and refunds thereof.

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

SECTION 1. AMENDMENT.) Section 52-0909 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0909. RATE OF CONTRIBUTIONS.) 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 per centum of the wages 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.

SECTION 2. AMENDMENT.) Section 52-0910 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0910. OVERPAYMENTS.) In any case in which the bureau finds the employer or employee has paid taxes, which have been erroneously paid, and has filed an application for an adjustment thereof, the bureau shall make such adjustment, compromise, or settlement and make such refund of such payments as it finds just and equitable in the premises. Refunds so made shall be charged to the fund to which the erroneous collections have been credited and shall be paid to the claimant without interest. Any claim for such refund may be made within three years of date of payment and not thereafter. For like time and cause, adjustments, compromises or refunds may be made by the bureau on its own initiatives.

SECTION 3. AMENDMENT.) Section 52-0921 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0921. REFUNDS.)

- A. Any individual or any widow, child, or parent of a deceased individual whose employment has been insufficient to establish benefit rights under this law and who is neither fully nor currently insured may upon request withdraw from the fund the total of the employee's individual contributions paid to said fund without interest.
- B. Request for refunds from the fund may be made within thirty (30) days after the date of mailing or delivery of a final statement of wages paid to the employee and not thereafter.

Approved March 8, 1949.

CHAPTER 309

House Bill No. 343
(Brickner by request)

DEFINING 'EMPLOYER', OLD AGE AND SURVIVOR
INSURANCE SYSTEM

AN ACT

To amend and reenact subdivision (1) of subsection C of section 52-0920 of the 1947 Supplement to the North Dakota Revised Code of 1943, providing for the general welfare of public employees by establishing an old age and survivor insurance system, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subdivision (1) of subsection C of section 52-0920 of the 1947 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

- C. (1) The term "employer" means the state of North Dakota, the counties, municipalities, and all of the political subdivisions thereof and all of their departments and instrumentalities all hereinafter called political subdivisions excepting only those whose employees are now or may hereafter be covered by a retirement plan in which event such political subdivision may by election come under the provisions of this chapter in accordance with the regulations prescribed by the bureau.

SECTION 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 March 10, 1949.