

## SOCIAL SECURITY

### CHAPTER 215

S. B. No. 159—(Committee on Insurance)

#### UNEMPLOYMENT INSURANCE ACT, AMENDMENT

An act to amend and re-enact Sections 2, 5 and 6 of Chapter 232 of the Session Laws of North Dakota for the year 1937, transition provisions for simplification, relating to base period and benefit year, and also to amend and re-enact Sections 3, 5, 12, 13 and 14 of Chapter 232 of the Session Laws of North Dakota for the year 1937 to comply with that Act of Congress known as the Railroad Unemployment Insurance Act, and amending and re-enacting Section 10 of Chapter 232 of the Session Laws of 1937, authorizing the United States Government or Social Security Board to allow the Commissioners of the North Dakota Workmen's Compensation Bureau compensation for services as administrative heads of Unemployment Compensation Division and State Employment Service, repealing all acts and parts of acts in conflict herewith and declaring an emergency.

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

#### TRANSITION PROVISIONS FROM INDIVIDUAL BENEFIT YEAR AND EXTENSIBLE BASE PERIOD TO INDIVIDUAL BENEFIT YEAR WITH FIXED INDIVIDUAL BASE PERIOD

A. As used in this section unless the context clearly requires otherwise:

(1) "Old law" means the Unemployment Compensation Law prior to its amendment by Sections 2, 5 and 6 of this act.

(2) "New law" means the Unemployment Compensation Law as amended by Sections 2, 5 and 6 of this act.

(3) "Effective date" means the date upon which the new law becomes effective.

B. Except as otherwise specifically provided in Subsection C of this section, the new law shall be exclusively applicable with respect to any individual on and after the effective date. No provision of the old law shall be construed to limit or to extend the rights of any individual as fixed by the new law, after the new law becomes exclusively applicable with respect to such individual as provided in this section.

C. (1) With respect to any individual for whom there is current a benefit year, established pursuant to the old law, which has not expired prior to the effective date, Sections 2(r) (benefit year) 2(s) (base period), 5(e) (duration of benefits), and 6(e)

(qualifying wages) of the old law, and the weekly benefit amount determined pursuant to Section 5(b) and 5(e). For the purposes of this subsection wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of Section 2(e) or Section 2(f) with respect to becoming an employer. 5(b) and 5(c) of the old law, shall be exclusively applicable until the expiration of such current benefit year, except that: (A) Notwithstanding any provision of Sections 2(s) and 5(d) of the old law to the contrary, the base period of such individual and the period usable in the determination or redetermination of his full-time weekly wage, shall in no event extend after the last day of the next to the last completed calendar quarter immediately preceding the effective date, and

(b) Notwithstanding any provision of Section 6(d) of the old or new law to the contrary, no waiting period shall be required of any such individual after the effective date and before the expiration of such current benefit year, and (c) Notwithstanding any provision of the old law to the contrary, the weekly benefit amount and the maximum total benefits payable during such current benefit year shall, if not a multiple of \$1.00, be computed to the next higher multiple of \$1.00, with respect to all weeks of unemployment occurring after the effective date.

(2) Section 2(r), 2(s), 5(b), 5(d)(1) and 5(d)(2) and 6(e) of the new law shall be exclusively applicable with respect to such individual after the expiration of such benefit year.

§ 2. DEFINITION.] As used in this act, unless the context clearly requires otherwise—

(1) "Annual pay roll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(2) "Average annual pay roll" means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever average is higher.

(b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

(c) "Bureau" means the North Dakota Workmen's Compensation Bureau consisting of three commissioners, appointed for terms of six years.

(d) "Contributions" means the payments to the State Unemployment Compensation Fund required by this act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor

thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day in each of twenty different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment eight or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit, not an employer subject to this act, and which if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection:

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, or interests, or both, would be an employer under Paragraph (1) of this subsection.

(5) Any employing unit which, having become an employer under Paragraph (1), (2), (3), or (4), has not, under Section 9, ceased to be an employer subject to this act; or

(6) For the effective period of its election pursuant to Section (9)(c) any other employing unit which has elected to become fully subject to this act.

(g) "Employee" means every individual, whether male, female, citizen, alien or minor, who is performing, or subsequent to January

1st, 1936, has performed services for an employer in an employment subject to this act.

(h) (1) "Employment," subject to the other provisions of this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "Employment" shall include an individual's entire service, performed within or both within and without this State if—

(a) The service is localized in this State; or

(b) The service is not localized in any State but some of the service is performed in this State and (1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (2) the base of operations or place from which such service is directed or controlled is not in any State in which some part of the service is performed but the individual's residence is in this State.

(3) Services not covered under Paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this State and the bureau approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a State if—

(a) The service is performed entirely within such State; or

(b) The service is performed both within and without such State, but the service performed without such State is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown, to the satisfaction of the bureau that—

(a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(b) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business;

(6) The term employment shall not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(2) Services performed in the employ of any other State or its political subdivisions, or of the United States Government, or of any instrumentality of any other State or States or their political subdivisions or of the United States.

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the bureau is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in Section 11(b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this act.

Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act.

No employee shall have or assert any right to unemployment benefits under the unemployment compensation law of this State with respect to unemployment occurring after June 30, 1939, based upon 'employment' as defined in the Railroad Unemployment Insurance Act.

(4) Agricultural labor;

(5) Domestic service in private home;

(6) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(7) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(i) "Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State controlled system of public employment offices.

(j) "Fund" means the Unemployment Compensation Fund es-

tablished by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

(k) "Insured work" means employment for employers.

(l) "State" includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

(m) "Unemployment." An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The bureau shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the bureau deems necessary.

(n) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration Fund established by this act, from which administrative expenses under this act shall be paid.

(o) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the bureau.

(p) "Week" means such period of seven consecutive days, as the bureau may by regulation prescribe. The bureau may by regulation prescribe that a week shall be deemed to be "in," "within," or "during" that benefit year which includes the greater part of such week.

(q) "Weekly benefit for unemployment." Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of \$3.00. Such benefit, if not a multiple of \$1.00 shall be computed to the next higher multiple of \$1.00.

(r) "Benefit year" with respect to any individual means the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52-consecutive-week period beginning with the first day of the first week with respect to which the

individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with Section 6 of this act shall be deemed to be a "valid claim" for the purposes of this subsection if the individual has earned the wages for insured work required under Section 6(e) of this act.

(s) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(t) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the bureau may by regulation prescribe.

§ 5. PAYMENT OF BENEFITS.] Beginning twenty-four months after the date when contributions first accrued under this act, benefits shall become payable from the fund; provided all benefits shall be paid through employment offices in accordance with such regulations as the bureau may prescribe. Such benefits shall be determined as follows:

(a) Individuals with Fixed Rate of Pay. The full-time weekly wage of an individual who most recently in his base period was employed in insured work at a fixed rate of pay per week or longer period, where such fixed report of pay has been reported by his employer, shall be deemed to be such fixed rate of pay computed at a rate per week; and the full-time weekly wage of an individual who most recently in his base period was employed in insured work at a wage rate per hour or longer period of less than a week and for whose occupation in the enterprise in which he last earned wages for insured work during his base period there prevailed customary scheduled full-time weekly hours shall be deemed to be the weekly wage such individual would receive if he were employed at such wage rate for such full time hours. An individual's weekly benefit amount shall be an amount equal to 50 per-cent of his full-time weekly wage as above determined, except that if such amount is more than \$15.00 the weekly benefit amount shall be \$15.00 and if less than \$5.00 the weekly benefit amount shall be \$5.00, and if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00.

(b) Weekly Benefit Amount—No Full-Time Weekly Wage. If the bureau finds that the full time weekly wage as defined in Section 5(a) hereof would be unreasonable or arbitrary or not readily determinable with respect to any individual such individual's weekly benefit amount shall be an amount equal to  $\frac{1}{26}$  of his total wages for insured work during that quarter of his base period in which such total wages were highest, except that if such amount

is more than \$15.00 the weekly benefit amount shall be \$15.00 or if less than \$5.00 such weekly benefit amount shall be \$5.00 and if not a multiple of \$1.00, shall be computed to the next highest multiple of \$1.00.

(c) Duration of Benefits. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (1) sixteen times his weekly benefit amount, and (2) one-third of the wages earned by him for insured work during his base period; provided that such total amount of benefits, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00. For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of Section 2(e) or Section 2(f) with respect to becoming an employer.

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 other State or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

(d) Benefit in Seasonal and Irregular Employment. The bureau shall make such studies of season and irregular employment as it deems feasible and present with appropriate methods of handling these claims to the 1941 session of the legislature.

§ 6. BENEFIT ELIGIBILITY CONDITIONS.] An unemployed individual shall be eligible to receive benefits with respect to any week only if the bureau finds that—

(a) He has made a claim for benefits with respect to such week in accordance with such regulations as the bureau may prescribe.

(b) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the bureau may prescribe, except that the bureau may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act; provided that no such regulation shall conflict with Section 5(a) of this act.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of two weeks. Such weeks of unemployment need not be consecutive. No week shall be counted as a week of unemployment for the purposes of this subsection:—

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment, and provided further that the week or the two consecutive weeks immediately preceding a benefit year, if part of one uninterrupted period of unemployment which continues into such benefit year, shall be deemed (for the purposes of this subsection only) to be within such benefit year as well as within the preceding benefit year.

(2) If benefits have been paid with respect thereto.

(3) Unless the individual was eligible for benefits with respect thereto as provided in Sections 5 and 6 of this act, except for the requirements of this subsection and of Subsection (e) of Section 7.

(e) He has during his base period earned wages for insured work equal to not less than thirty times his weekly benefit amount.

§ 9. ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE.]

(b) Except as otherwise provided in Sub-section (c) of this section an employing unit shall cease to be an employer subject to this act only as of the first day of January of any calendar year only if it files with the bureau, prior to the 5th day of January of such year, a written application for termination of coverage, and the bureau finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this act. For the purpose of this sub-section, the two or more employing units mentioned in Paragraph (2) or (3) or (4) of Section 2(f) shall be treated as a single employing unit.

COMPLIANCE WITH THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

§ 3. (a) UNEMPLOYMENT COMPENSATION FUND. ESTABLISHMENT AND CONTROL.] There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an unemployment compensation fund, which shall be administered by the bureau exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to Section 14 of this act; (2) all fines and penalties collected pursuant to the provisions of this act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposit. The State Treasurer shall be ex-officio the treasurer and custodian of the fund, who shall administer

such fund in accordance with the directions of the bureau and shall issue his warrants upon it in accordance with such regulations as the bureau shall prescribe. He shall maintain within the fund three separate accounts; (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the bureau, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 15 of this act may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the bureau. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from the State's account in the Unemployment Trust Fund. Except as otherwise herein provided moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the bureau, in the Bank of North Dakota, but no public deposit insurance charge or premium shall be paid out of the fund. The Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the bureau and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals. Moneys shall be requisitioned from this State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the bureau. The bureau shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to this State's account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody. All warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the counter-signature of a member of the bureau or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be de-

ducted from estimates for, and may be utilized for the payment, of benefits during succeeding periods, or, in the discretion of the bureau, shall be re-deposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in Sub-section (b) of this Section.

(d) Management of Funds upon Discontinuance of Unemployment Trust Fund. The provisions of Subsections (a), (b), and (c) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such moneys, properties, or securities in a manner approved by the bureau in accordance with the provisions of this act; provided, that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America or the State of North Dakota. Provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the bureau.

(e) Notwithstanding any requirements of the foregoing subsections of this section, the bureau shall, prior to whichever is the later of (i) 30 days after the close of this session of the legislature and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is the later of (i) 30 days after the close of this session of the legislature and (ii) January 1, 1940, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said Unemployment Trust Fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liqui-

dating amount. The Social Security Board shall determine both such amounts after consultation with the bureau and the Railroad Retirement Board. The preliminary amount shall consist of that proportion of the balance in the Unemployment Compensation Fund as of June 30, 1939, as the total amount of contributions collected from 'employers' (as the term 'employer' is defined in Section 1(a) of the Railroad Unemployment Insurance Act) and credited to the Unemployment Compensation Fund bears to all contributions theretofore collected under this act and credited to the Unemployment Compensation Fund. The liquidating amount shall consist of the total amount of contributions collected from 'employers' (as the term 'employer' is defined in Section 1(a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this act during the period of July 1, 1939, to December 31, 1939, inclusive."

§ 12. RECIPROCAL BENEFIT ARRANGEMENTS.] (a) The Bureau is hereby authorized to enter into arrangements with the appropriate agencies of other States or the Federal Government whereby individuals performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 2(h) of this act or under similar provisions in the unemployment compensation laws of such other States shall be deemed to be engaged in employment performed entirely within this State or within one of such other States and whereby potential rights to benefits accumulated under the unemployment compensation laws of several States or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the bureau finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(b) The bureau is also authorized to enter into arrangements with the appropriate agencies of other States or of the Federal Government (1) whereby wages or service, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another State or of the Federal Government, shall be deemed to be wages for employment by employers for the purposes of Section 5 and Section 6(e) of this act, provided such other State agency or agency of the Federal Government has agreed to reimburse the fund for such portion of benefits paid under this act upon the basis of such wages or services as the bureau finds will be fair and reasonable as to all affected interests, and (2) whereby the bureau will reimburse other State or Federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other States or of the Federal Government upon the basis of employment or wages for employment by employers, as the bureau finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for

the purposes of Sections 5(e) and 3 of this act, but no reimbursement so payable shall be charged against any employer's account for the purposes of Section 4 of this act. The bureau is hereby authorized to make to other State or Federal agencies and receive from such other State or Federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

§ 13. EMPLOYMENT SERVICE.] (a) State Employment Service. The North Dakota State Employment Service is hereby established in the Workmen's Compensation Bureau as a division thereof. The bureau, through such division, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act, and for the purpose of performing such duties as are within the purview of the act of Congress entitled "An Act to Provide for the Establishment of a National Employment System and for Co-operation with the States in the Promotion of Such System, and for Other Purposes, approved June 6, 1933 as amended. The said division shall be administered by a full time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States, having powers or duties under the provisions of the said act of Congress, as amended, and to do and perform all things necessary to secure to the State the benefits of the said act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said act, and this State will observe and comply with the requirements thereof. The North Dakota State Employment Service is hereby designated and constituted the agency of this State for the purpose of said act. The bureau is directed to appoint the director, other officers, and employees of the North Dakota State Employment Service. Such appointments shall be made in accordance with regulations prescribed by the director of the United States Employment Service. 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.

(b) Financing. All moneys received by this State under the said act of Congress, as amended shall be paid into the special "Employment Service Account" in the Unemployment Compensation Administration Fund, and said moneys are hereby made available to the North Dakota State Employment Service to be expended as provided by this section and by said act of Congress. For the purpose of establishing and maintaining free public employment offices, the bureau is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation

law, with any political subdivision of this State, or with any private, nonprofit organization, and as a part of any such agreement the bureau may accept moneys, service, or quarters as a contribution to the employment service account.

§ 14. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND. SPECIAL FUND.] There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the bureau. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, the Railroad Retirement Board and the United States Employment Service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balances in this fund shall not lapse at any time but shall be continuously available to the bureau for expenditure consistent with this act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the bureau and in a form prescribed by law or approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Compensation Fund under Section 3 of this act, shall be paid from the moneys in the Unemployment Compensation Administration Fund. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be paid into this fund and the employment service account thereof, on the same basis as expenditures are made for such services or facilities from such fund and account.

§ 10. ADMINISTRATIVE ORGANIZATION.] There is hereby created in the North Dakota Workmen's Compensation Bureau a division to be known as the Unemployment Compensation Division. The North Dakota State Employment Service, as created by Chapter 161 of the Session Laws of 1935, is hereby transferred together with all its records, contracts, agreements and funds, and established as a division of the Workmen's Compensation Bureau and shall with the Unemployment Compensation Division, constitute two coordinate divisions of such bureau, each of which shall be administered by a full time salaried director, who shall be subject to supervision and direction of the bureau. Upon passage and approval of this act the Workmen's Compensation Bureau shall have all of

the powers and duties heretofore placed in the Commissioner of Agriculture and Labor in Sub-sections 5, 6, 7, 8 and 9 of Chapter 161 of the 1935 Session Laws. Each of the three commissioners of the bureau shall be entitled to receive and retain as remuneration for their services under this act, such sums as the United States Government or the Federal Social Security Board may allow to them not to exceed the sum of six hundred (\$600.00) dollars per annum in addition to compensation they now receive as commissioner of the bureau. Each division of the bureau as herein created 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 in so far 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 is authorized to appoint, fix the compensation of, and prescribe the duties of the director of the Unemployment Compensation Division, provided that such appointment shall be made on a nonpartisan merit basis, and to appoint, fix the compensation of, and prescribe the duties of the director of the North Dakota State Employment Service Division in accordance with the provisions of Section 13 of this act.

REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

EMERGENCY.] This act is hereby declared to be an emergency measure and shall take effect from and after the approval.

Approved March 15, 1939.