
SOCIAL SECURITY

CHAPTER 283

S. B. No. 192

Introduced by Senator Bridston

SOCIAL SECURITY ACT, AMENDMENT

An Act To permit the state of North Dakota, its departments, political subdivisions and all instrumentalities and agencies of either of them, and the employees thereof, to participate in the Federal Old Age Benefits provisions of the Social Security Act, and to make the contributions therein provided for, if and when such Act is amended to permit such participation and repealing all acts or parts of acts in conflict herewith.

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

§ 1. If and when the Federal Social Security Act, being Chapter 7 of Title 42, United States Code, shall be amended to permit such participation, the State of North Dakota, all departments thereof, all political subdivisions thereof, and all instrumentalities and agencies of any of them, shall be and they are hereby authorized, in the discretion of the governing board or authority of each such department, political subdivision, instrumentality or agency, to participate in the Federal Old Age Benefits provisions of said Social Security Act, as amended, including the acceptance of all benefits provided under Title II of said Act, and the payment of employers' contributions and the deduction of employees' contributions under the provisions of Title VIII thereof, to the full extent permitted by said Social Security Act or any future amendment thereof.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1945.

CHAPTER 284

H. B. No. 62

Introduced by Representatives Fleck and Ohnstad, by request

UNEMPLOYMENT COMPENSATION ACT

An Act Amending and re-enacting the Social Security Unemployment Compensation Act by amending and re-enacting 52-01, of the North Dakota Revised Code of 1943, relating to definitions and general provisions, declaration of public policy, separability of provisions, providing for a saving clause, designation of title, and providing for repeal; 52-0201, of the North Dakota Revised Code of 1943, relating to North Dakota State Employment Service; 52-0215, of the North Dakota Revised Code of 1943, relating to reciprocal arrangements with other States and Federal Government; 52-0301, of the North Dakota Revised Code of 1943, relating to unemployment compensation fund; 52-04, of the North Dakota Revised Code of 1943, relating to contributions, period of limitations upon assessment of contributions, and administrative determinations of coverage; 52-0601, of the North Dakota Revised Code of 1943, relating to conditions required to be eligible to benefits; 52-0602, of the North Dakota Revised Code of 1943, relating to disqualification for benefits; 52-0604, of the North Dakota Revised Code of 1943, relating to amount of benefits; 52-0605, of the North Dakota Revised Code of 1943, relating to duration of benefits; 52-0616, of the North Dakota Revised Code of 1943, relating to redeterminations made by division; 52-0617, of the North Dakota Revised Code of 1943, relating to appeal from redetermination; 52-0627, of the North Dakota Revised Code of 1943, relating to judicial review of decision; 52-0702, of the North Dakota Revised Code of 1943, relating to definitions.

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

§ 1. AMENDMENT.] That 52-01 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0101. DEFINITIONS.] In this title, unless the context or subject matter otherwise requires:

1. "Annual pay roll" means the total amount of wages for employment paid by an employer during a twelve-month period ending on December thirty-first of any calendar year;
2. "Average annual pay roll" means the average of the annual pay rolls of an employer for the last three preceding twelve-months periods;
3. "Base-period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;
4. "Benefits" means the money payments payable to an individual with respect to his unemployment as provided in this chapter;
5. "Benefit year" with respect to any individual means the

one-year period beginning with the first day of the first week for which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week for 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 52-0601 shall be deemed a valid claim for the purpose of this subsection if the individual has been paid the wages for insured work required under section 52-0601, subsection 5;

6. "Bureau" means the North Dakota workmen's compensation bureau;
7. "Division" means the unemployment compensation division of the workmen's compensation bureau;
8. "Calendar quarter" means the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;
9. "Contributions" means the money payments required by this title to be made into the North Dakota unemployment compensation fund by any employing unit on account of having individuals in its employ;
10. "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 of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had one or more individuals performing services for it within this state and:
 - a. 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 performing services for a single employing unit for all the purposes of this title;
 - b. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or sub-contractor is an employer by reason of subsection 11 of this section, the employing unit, for all purposes of this title, shall be deemed to employ each individual in the service of each such contractor for each day during which such individual is engaged solely in performing such work, except that each such contractor or subcontractor who is an employer by reason of subsection 11 of this section shall be liable alone for the

employer's contributions measured by wages to individuals in his service; and

- c. Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this title whether such individual was hired or paid directly by such employing unit or by such person, if the employing unit had actual or constructive knowledge of the employment;

II. "Employer" means:

- a. Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employment, eight or more individuals, irrespective of whether the same individuals are or were employed in each such day. For the purpose of this definition, if any week includes both December thirty-first and January first, the days up to January first shall be deemed one calendar week and the days beginning January first another such week;
- b. Any individual who or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another who or which at the time of such acquisition was an employer subject to the provisions of this title, or who or which acquired a part of the organization, trade or business of another which at the time of such acquisition was an employer subject to the provisions of this title if such other would have been an employer under paragraph a of this subsection if such part had constituted its entire organization, trade, or business;
- c. Any individual who or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to this title under paragraph a of this subsection;
- d. 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 a of this subsection ;
- e. Any employing unit not an employer by reason of any other paragraph of this subsection for which services in employment are performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund ;
 - f. Any employing unit which, having become an employer under any one of paragraphs a, b, c, or d, has not under chapter 5 of this title ceased to be an employer subject to this title ; or
 - g. For the effective period of its election pursuant to sections 52-0502 and 52-0503, any other employing unit which has elected to become fully subject to this title ;
12. "Employee" means every individual, whether male, female, citizen, alien, or minor, who is performing, or subsequent to January 1, 1936, has performed, services for an employer in an employment subject to this title ;
13. "Employment" means :
- a. Any service performed prior to July 1, 1941, which was employment as defined in this section prior to such date, and subject to the other provisions of this subsection, service performed after July 1, 1941, including service in interstate commerce, and service as an officer of a corporation performed for wages or under any contract of hire, written or oral, express or implied ;
 - b. An individual's entire service, performed within or both within and without this state if :
 - (1) The service is localized in this state ; or
 - (2) The service is not localized in any state but some of the service is performed in this state and 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 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 ;
 - c. Services covered by an election pursuant to chapter 5 of this title ; and
 - d. Services covered by an arrangement pursuant to sections 52-0214 and 52-0215 between the bureau and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely with-

- in this state, shall be deemed to be employment if the bureau has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work;
- e. Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this title irrespective of whether the common-law relationship of master and servant exists unless and until it is shown to the satisfaction of the bureau that:
 - (1) Such individual has been and will continue to be free from such control or direction over the performance of such services, both under his contract of service and in fact; and
 - (2) 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
 - (3) Such individual customarily is engaged in an independently established trade, occupation, profession, or business;
14. "Localized service." 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;
15. "Employment" shall not include:
- a. Agricultural labor as defined in subsection 17 of this section;
 - b. Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;
 - c. Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;
 - d. Casual labor not in the course of the employing unit's trade or business;
 - e. 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;
 - f. Service performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this title, except that to the

extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this title shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; but if this state shall not be certified for any year by the social security board under section 1603, subsection c of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the bureau from the fund in the same manner and within the same period as is provided in section 52-0414 with respect to contributions erroneously collected;

- g. Service performed in the employ of this state or of any other state, or of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is owned wholly by this state or by any one or more states or political subdivisions, and any service performed in the employ of any instrumentality of this state or of one or more states or political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the constitution of the United States from the tax imposed by section 1600 of the Federal Internal Revenue Code;
- h. Service with respect to which unemployment is payable under an unemployment compensation system established by an act of congress;
- i. Service performed:
 - (1) In any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Federal Internal Revenue Code, if:
 - (a) The remuneration for such service does not exceed forty-five dollars; or
 - (b) Such service is in connection with the collection of dues or premiums for a fraternal benefit society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association;
 - (c) Such service is performed by a student who is enrolled and regularly is attending classes at a school, college, or university;
 - (2) In the employ of an agricultural or horticultural or-

- ganization exempt from income tax under section 101 (1) of the Federal Internal Revenue Code ;
- (3) In the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if:
 - (a) No part of its net earnings inures, other than through such payments, to the benefit of any private shareholder or individual ; and
 - (b) Eighty-five percent or more of the income consists of amounts collected from members for the sole purpose of making such payments (and) meeting expenses ;
 - (4) In the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if:
 - (a) Admission to membership in such association is limited to individuals who are officers or employees of the United States Government ; and
 - (b) No part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual ;
 - (5) In any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and regularly is attending classes at such school, college, or university, and the remuneration for such service does not exceed forty-five dollars, exclusive of room, board, and tuition ;
 - (6) 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, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ;
 - (7) As a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly is attending classes in a nurses' training school chartered or approved pursuant to state law ; and service performed as an interne in the employ of a hospital by an individual who has

- completed a four year's course in a medical school chartered or approved pursuant to a state law;
- (8) By an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission; or
 - (9) By an individual under the age of eighteen in delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- j. Service covered by an arrangement between the bureau and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within such agency's state;
16. "Included and excluded service." If the service performed during one-half or more of any pay-period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay-period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, the term "pay-period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration ordinarily is made to the individual by the person employing him. This subsection shall not be applicable with respect to services performed in a pay-period by an individual for the person employing him, where any of such service is excepted by paragraph h of subsection 15;
18. "Employment office" means a free public employment office or branch thereof operated by this or any other state as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices;
19. "Fund" means the unemployment compensation fund established by this title, to which all contributions required and from which all benefits provided under this title shall be paid;
20. "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia;

21. "Unemployed". An individual shall be deemed "unemployed" with respect to any week during which he performs no services and with respect to which no wages are payable to him, or with respect to 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;
22. "Wages" means all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Gratuities customarily received by an individual in the course of his work from persons other than his employing unit shall be treated as wages received from his employing unit. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules as prescribed by the bureau. The term "wages" shall not include:
 - a. For the purposes of chapter 4 of this title and of section 52-0601, subsection 5, that part of the remuneration which exceeds three thousand dollars paid to an individual by an employer with respect to employment during any calendar year after the first day of January, 1940;
 - b. The amount of any payment with respect to services performed after the first day of January, 1940, to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for such payment, on account of:
 - (1) Retirement;
 - (2) Sickness or accident disability;
 - (3) Medical and hospitalization expenses in connection with sickness or accident disability; or
 - (4) Death, if the individual in its employ has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums, or contributions to premiums, paid by his employing unit, and has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to re-

- ceive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his services with such employing unit ;
- c. The payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon an individual in its employ under section 1400 of the Federal Internal Revenue Code with respect to services performed after July 1, 1941 ; or
 - d. Dismissal payments after July 1, 1941, which the employing unit legally is not required to make ;
23. "Week" means such period of seven consecutive days, as the bureau may prescribe by regulation. The bureau by regulation may prescribe that a week shall be deem(ed) to be "in", "within", or "during" that benefit-year which includes the greater part of such week ;
24. "Base-period wages" means the wages paid to an individual during his base-period for insured work ; and
25. "Base-period employers" means the employers by whom an individual was paid his base-period wages.

52-0102. EMPLOYING UNIT TO KEEP RECORDS; REPORTS OF EMPLOYING UNIT; INSPECTION PROHIBITED: EXCEPTION.] Each employing unit shall keep true and accurate work records containing such information as the bureau may prescribe. Such records shall be open to inspection and may be copied by the bureau or its authorized representatives at any reasonable time as often as may be necessary. The bureau or the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the bureau, or he, deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, but any claimant or his legal representative at a hearing before an appeal tribunal or the bureau shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

52-0103. DISCLOSURE OF INFORMATION.] Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of this title and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or his legal representative shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this

title with respect to such claim. Subject to such restrictions as the bureau by regulations may prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this title. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the provisions of this title, and in connection with such request, may transmit any such report or return to the comptroller of the currency of the United States as provided in section 1606, subs. c of the Federal Internal Revenue Code.

52-0104. PENALTY FOR DISCLOSURE OF INFORMATION OR USE OF LIST OF NAMES.] Any employee, appeals referee, member of any appeals tribunal, member of the workmen's compensation bureau, or any employee of said bureau, who in violation of the provisions of section 52-0103 makes any disclosure of information obtained from any employing unit or individual in the administration of this title, or any person who has obtained any list of applicants for work, or of claimants or of recipients of benefits under this chapter, who uses or permits the use of such list for any political purpose, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not longer than ninety days, or by both such fine and imprisonment.

52-0105. DECLARATION OF PUBLIC POLICY.] As a guide to the interpretation and application of this Act, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals and welfare. Economic insecurity due to unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burdens. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature,

therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state will be promoted by providing, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

52-0106. SAVING CLAUSE.] The legislature reserves the right to amend or repeal all or any part of this title at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this title or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this title at any time.

52-0107. SEPARABILITY OF PROVISIONS.] If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

52-0108. SHORT TITLE.] This Act shall be known and may be cited as the "North Dakota Unemployment Compensation Law."

52-0109. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 2. AMENDMENT.] That 52-0201 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0201. UNEMPLOYMENT COMPENSATION DIVISION AND NORTH DAKOTA STATE EMPLOYMENT SERVICE TO BE DIVISIONS OF BUREAU; REGULATIONS 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, not to exceed the sum of twelve hundred dollars per annum. 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.

§ 3. AMENDMENT.] That 52-0215 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0215. RECIPROCAL ARRANGEMENTS WITH OTHER STATES AND FEDERAL GOVERNMENT.] The bureau may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government or both, whereby:

1. Services performed by an individual for a single employing unit, which services customarily are performed in more than one state; shall be deemed to be services performed entirely within any one of the states:
 - a. In which any part of such individual's services is performed; or
 - b. In which such individual has his residence; or
 - c. In which the employing unit maintains a place of business if there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit, are deemed to be entirely within such state;
2. Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws 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;
3. Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this title, and wages for insured work, on the basis of which an individual may become entitled to benefits under this title, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable. No such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this title upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the bureau

finds will be fair and reasonable as to all affected interests; and

4. Contributions due under this title with respect to wages for insured work, for the purposes of sections 52-0411 to 52-0414, inclusive, shall be deemed to have been paid to the fund as of the date payment was made as contributions therefore under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund of such contributions and the actual earnings thereon as the bureau finds will be fair and reasonable as to all affected interests.

§ 4. AMENDMENT.] That 52-0301 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0301. UNEMPLOYMENT COMPENSATION FUND: MAINTAINING AND ADMINISTERING; WHAT CONSTITUTES.] A Special fund, separate and apart from all public moneys or funds of this state, and known as the "Unemployment Compensation Fund," shall be maintained in the state treasury and shall be administered by the bureau exclusively for the purposes of this title. This fund shall consist of:

1. All contributions collected under this title together with any interest thereon collected pursuant to section 52-0411;
2. All fines and penalties collected pursuant to the provisions of this title;
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.

§ 5. AMENDMENT.] That 52-04 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0401. PAYMENT OF CONTRIBUTIONS BY EMPLOYER; WHEN; How.] Contributions shall accrue and become payable by each employer, for each calendar year in which he is subject to this title, with respect to wages for employment. Such contributions shall become due and shall be paid by each employer to the bureau for the fund in accordance with such regulations as the bureau may prescribe, and shall not be deducted in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

52-0402. RATES AND BASE OF CONTRIBUTIONS OF WAGES PAY-

ABLE BY EMPLOYER.] Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

1. One and eight-tenths percent with respect to employment occurring during the calendar year 1937; and
2. Two and seven-tenths percent with respect to employment occurring during the calendar years 1938, 1939, and 1940.

52-0403. RATE AND BASE OF CONTRIBUTIONS OF WAGES PAID BY EMPLOYER.] Each employer shall pay contributions equal to the following percentages of wages paid by him with respect to employment:

1. Two and seven-tenths percent with respect to employment occurring during the calendar year 1941 and during each calendar year thereafter, except as otherwise provided in sections 52-0404 to 52-0410, inclusive; and
2. After December 31, 1941, the percentage shall be determined pursuant to sections 52-0404 to 52-0410, inclusive.

52-0404. SEPARATE ACCOUNT OF EMPLOYERS CONTRIBUTIONS KEPT.] The bureau shall maintain a separate account for each employer showing his contributions, and shall credit his account with all the contributions paid by him since January 1, 1937. The provisions of this title shall not be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

52-0405. STANDARD RATE OF CONTRIBUTIONS; REDUCTION OF RATES.] The standard rate of contributions payable by each employer shall be two and seven-tenths percent. No employer's rate shall be reduced below the standard rate for any succeeding calendar year unless and until his account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on December thirty-first of the preceding calendar year.

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 an employer's contributions paid on or before January thirty-first of any year subsequent to December thirty-first, 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 seven percent of his average annual pay roll;

- b. Two and four-tenths percent, if such excess equals or exceeds seven but is less than eight percent of his average annual pay roll ;
 - c. Two percent, if such excess equals or exceeds eight but is less than nine percent of his average annual pay roll ;
 - d. One and one-half percent, if such excess equals or exceeds nine percent but is less than ten percent of his average annual pay roll ;
 - e. One percent, if such excess equals or exceeds ten percent of his average annual pay roll.
 - f. Eight-tenths of one percent, if such excess equals or exceeds twelve percent of his average annual pay roll.
 - g. One-half of one percent, if such excess equals or exceeds fifteen percent of his average annual payroll.
2. If the total benefits chargeable against an employers 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 unemployment 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 pay roll subject to contribution in each of the three years preceding the computation date equal to at least twenty percent of the highest annual pay roll in the three-year period.

52-0407. BENEFITS PAID CHARGEABLE TO ACCOUNTS OF BASE-PERIOD EMPLOYERS; HOW DETERMINED.] Benefits paid to an individual shall be charged against the accounts of his base-period employers. The amount of benefits so chargeable against each base-period employer's account shall bear the same ratio to the total benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of the base-period wages paid to the individual by all his base-period employers.

52-0408. REORGANIZED EMPLOYING UNITS CONSIDERED SINGLE EMPLOYING UNIT; WHEN.] For the purpose of establishing benefit experience and fixing contributions to be paid an employing unit which in any manner succeeds to or acquired substantially all of the organization, trade, business, or the assets thereof, of any employing unit shall upon request be substituted to the position and all rights of the predecessor employing unit with respect to such predecessor employing unit's separate account, actual contributions and benefit experience, annual pay roll, or otherwise, as if no change with respect to such separate account, contributions and benefit experience, pay rolls or otherwise had occurred. The bureau upon notification thereof shall forthwith transfer to such succeeding employing unit all rights, accounts, contributions, benefit experience and all ratings of such predecessor employing unit in accordance with such regulations as the bureau may prescribe; provided that if good cause can be shown to the bureau why such transfer would be inequitable, the bureau may refuse the same.

52-0409. CLASSIFICATION OF EMPLOYERS TO DETERMINE CONTRIBUTIONS; REGULATIONS GOVERNING.] For the year 1942 and for each calendar year thereafter, the bureau shall classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record as of January first of that calendar year. If, as of the date such classification of employers is made, the bureau finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the bureau finds incorrect or insufficient, the bureau shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the bureau at the time, and shall notify the employing unit thereof by registered mail addressed to its last known address. Unless such employing unit shall file the report, or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of such notice, the bureau shall compute such employing unit's rate of contributions on the basis of such estimates and the rate thus determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information.

52-0410. CONTRIBUTIONS FOR ENSUING YEAR; NOTIFICATION OF; REVIEW OF.] The Bureau shall notify promptly each employer of his rate of contributions as determined for each ensuing year not later than March thirty-first of such ensuing year. Such contributions shall be computed pursuant to the provisions of this chapter. Such determination shall become conclusive and binding upon the employer unless, within fifteen days after the mailing of the notice thereof to his last known address, or in the absence of the

mailing, within fifteen days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reasons therefor. If the bureau grants such review, the employer shall be notified promptly thereof and shall be granted an opportunity for a hearing, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to the provisions of chapter 6 of this title except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute the services performed in employment for him and only in the event that he was not a party to such determination, redetermination, or decision or to any other proceedings under this chapter in which the character of these services was determined. The employer shall be notified promptly of the bureau's denial of his application, or of the bureau's redetermination, both of which shall become final unless within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after delivery of such notice, a petition for judicial review is filed in the district court of Burleigh County. Any proceeding before the court under the terms of this section shall be had in accordance with the provisions in chapter 6 of this title with respect to court review.

52-0411. UNPAID CONTRIBUTIONS TO BEAR INTEREST; INTEREST COLLECTED PAID INTO UNEMPLOYMENT COMPENSATION FUND.] Contributions unpaid on the date on which they are due and payable as prescribed by the bureau shall bear interest at the rate of one-half of one percent per month from and after such date until the payment plus the accrued interest is received by the bureau; except that in case of willful failure to file the reports and pay the contributions required by this chapter, there shall be added in addition to the interest five per centum of the contributions if the failure is for not more than sixty days, with an additional five per centum for each additional sixty days or fraction thereof during which such failure continues but not exceeding twenty-five per centum in the aggregate, exclusive of interest. The amount added pursuant to the provisions of this section shall be collected at the same time and in the same manner and as a part of the contributions and shall be paid into the unemployment trust fund.

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

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 benefits 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, contributions then or thereafter due shall be entitled to such priority as is provided in section 64a of that act, United States Code Title 11, section 104b, as amended.

52-0414. ADJUSTMENT AND REFUND OF CONTRIBUTIONS.] Not later than one year after the date on which any contributions or interest thereon became due, if an employer has 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.

52-0415. REFUND OF MONEYS NOT AUTHORIZED BY PROVISIONS OF TITLE.] Nothing in this title shall be construed to authorize any refund of moneys due and payable under the law and regulations in effect at the time such moneys were paid.

52-0416. PERIOD OF LIMITATIONS UPON ASSESSMENT OF CONTRIBUTIONS.] The amount of contributions imposed by this title shall be assessed within three years after the return was filed, and no proceedings in court for the collection of such contributions shall be begun after the expiration of such period; provided, however, that in the case of a false or fraudulent return, or the willful failure to file a return with intent to evade the payment of contributions,

the contributions may be assessed or a proceeding in court for the collection of such contributions shall be begun at any time.

52-0417. ADMINISTRATIVE DETERMINATIONS OF COVERAGE.] The division may, upon its own motion or upon application of an employing unit, and after notice and opportunity for hearing, make findings of fact and on the basis thereof, determinations with respect to whether an employing unit constitutes an employer and whether services performed for or in connection with the business of an employing unit constitute employment. Appeal from any such determination may be taken to the bureau within fifteen days after the mailing of notice of such findings and determination to the employing unit, or, in the absence of mailing, within fifteen days after the delivery of such notice. Proceedings in such appeals shall be had in the same manner as in appeals from a decision of an appeal tribunal. A determination of the division, in the absence of appeal therefrom, and a determination of the bureau upon an appeal, together with the record of the proceeding under this section shall be admissible in any subsequent proceeding under this title, and if supported by substantial evidence and in the absence of fraud shall be conclusive, except as to errors of law, upon any employing unit which was a party to the proceeding under this section.

§ 6. AMENDMENT.] That 52-0601 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0601. CONDITIONS REQUIRED TO BE ELIGIBLE TO BENEFITS.] An unemployed individual shall be eligible to receive benefits with respect to any week only if the bureau finds that:

1. He has made a claim for benefits with respect to such week in accordance with such regulations as the bureau may prescribe.
2. 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 it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title; provided, that no such regulation shall conflict with section 52-0603 of this title.
3. He is able to work and is available for suitable work and actively seeking employment; provided,
 - a. That subject to such limitations and conditions as the bureau may prescribe an unemployed individual shall not be ineligible by reason of unavailability for work during

- a period of vocational training in a vocational training program maintained by a federal, state or other public agency when his unavailability is due solely to requirements with respect to attendance at and completion of such training.
- b. That any claimant who, because of marital obligations or approaching marriage, has voluntarily left work for an indefinite period, to engage in the occupation of a homemaker, shall be considered unavailable for work until availability is shown by some evidence in addition to registration for work and statement of availability, such as (but not limited to) the fact that the conditions which led to leaving work have terminated; or arrangements have been made for the care of the household by others; or conditions require claimant's contribution to the economic support of the household; or the claimant has had some work or made efforts to secure work;
 - c. That a woman shall be considered unable to work for the period of twelve weeks before the anticipated date of childbirth and four weeks after childbirth unless it is shown by facts such as a licensed physician's certificate or by her work record during previous periods of pregnancy that she is able to work during such period.
4. He has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this subsection:
 - a. 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;
 - b. If benefits have been paid with respect thereto;
 - c. Unless the individual was eligible for benefits with respect thereto as provided in this section and section 52-0602 of this title.
 5. He has during his base-period been paid wages for insured work equal to not less than twenty-eight times his weekly benefit amount.

§ 7. AMENDMENT.] That 52-0602 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

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

- i. 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 *unemployment* [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 purposes 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 other 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 dis-

qualification 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.

The waiting period described in section 52-0602 [52-0601] of this title shall be required to be served after the expiration of the disqualification herein mentioned.

§ 8. AMENDMENT.] That 52-0604 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0604. AMOUNTS OF BENEFITS; TABLE.] 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	Column B	Column C	Column D
Wages paid in highest quarter of base period	Weekly benefit amount	Qualifying wages in base period	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

§ 9. AMENDMENT.] That 52-0605 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0605. DURATION OF BENEFITS.] Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to twenty times his weekly benefit amount.

§ 10. AMENDMENT.] That 52-0616 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0616. REDETERMINATIONS MADE BY DIVISION; WHEN; NOTICE.] The division may reconsider a determination of a claim whenever it finds:

1. That an error in computation or identity has occurred in connection therewith; or
2. That wages of the claimant pertinent to such determination but not considered in connection therewith have been newly discovered; or
3. That benefits have been allowed or denied or the amount of benefits fixed on the basis of a misrepresentation of facts.

No such redetermination shall be made after one year from the day of the original determination, except that a reconsidered determination involving a finding that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosure or misrepresentations of fact may be made within two years from the date of the determination. Notice of any such redetermination shall be given promptly to the parties entitled to the notice or original determination, and in the manner prescribed in section 52-0612.

§ 11. AMENDMENT.] That 52-0617 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0617. APPEAL FROM REDETERMINATION; REGULATIONS GOVERNING.] If the amount of benefits is increased upon such redetermination, an appeal from the redetermination, solely with respect to the matters involved in such increase, may be filed in the manner and subject to the limitations provided in this chapter. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection with an appeal from any determination upon a subsequent claim for benefits which may be affected in amount or duration by such redetermination. Subject to the same limitations and for the same reasons, the division may reconsider the determination in any case in which the final decision has been rendered by an appeal tribunal, the bureau, or a court, and may apply to that body or court which rendered such final decision to issue a revised decision.

§ 12. AMENDMENT.] That 52-0627 of the North Dakota Re-

vised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0627. JUDICIAL REVIEW OF DECISION; PETITION FOR; FILING PETITION.] Within the time specified in section 52-0619, the bureau, or any party to proceedings before the bureau, may obtain a judicial review thereof by filing in the district court of Burleigh County a petition for a review of such decision and in such proceeding any other party to the proceeding before the bureau shall be made a party respondent. The petition for review shall be verified and shall state the grounds upon which such review is sought. The bureau shall be deemed to be a party to any such proceeding. If the bureau is a party respondent the petition shall be served upon it by leaving with it or its chairman or any other representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer or petition, the bureau shall certify and file with the court a verified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the bureau's findings, conclusions, and decision therein. Upon the filing of a petition for review by the bureau or upon the service of the petition upon it, the bureau forthwith shall send by registered mail to each other party to the proceeding a copy of such petition, and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this section the findings of the bureau as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. Such proceedings shall be heard by the court and shall be given precedence over all other civil cases except cases arising under the workmen's compensation statute of this state. An appeal may be taken from the decision of the district court of Burleigh County to the supreme court of the State of North Dakota in the same manner as is provided in civil cases. Upon the final termination of such judicial proceeding, the bureau shall enter an order in accordance with the mandate of the court.

§ 13. AMENDMENT.] That 52-0702 of the North Dakota Revised Code of 1943 is hereby amended and re-enacted to read as follows:

52-0702. DEFINITIONS.] In this chapter, unless the context or subject matter otherwise requires:

1. "Military service" means active service in the United States army, navy, marine corps, or coast guard, or any organized branch thereof, or similar branches of the military or naval forces of the allies of the United States;
2. "War service claimant" means an individual who entered military service after October 1, 1940, and who continued in such service for not less than thirty consecutive days.

and whose military service was terminated before July 1, 1947, and who at some time within eighteen months after the last day of such active service has filed a claim for benefits under this chapter;

3. "Benefit year" means the one-year period beginning on the day on which a claimant files a claim for benefits under this chapter and is found to be eligible for payment of benefits. Any war service claimant who had a current benefit year at the time of his entry into military service may elect to continue such benefit year for the period beginning on the day on which he files a claim for benefits under this chapter, and continuing thereafter for as long a period as the benefit year current at the time of his entry into military service had to run;
4. "Base period" shall be the four completed calendar quarters prior to his entry into military service plus any uncompleted calendar quarter prior to such entry.

Approved March 10, 1945.

CHAPTER 285

S. B. No. 182

Introduced by Senators Day, Brunsdale and Page

UNEMPLOYMENT COMPENSATION LAW, AMENDMENT

An Act To amend and re-enact subsection 17 of Section 52-0101 of the North Dakota Revised Code of 1943 defining the term "agricultural labor" in the unemployment compensation law.

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

§ 1. AMENDMENT.] That subsection 17 of Section 52-0101 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

52-0101. Subsection 17: "Agricultural Labor" includes all service performed:

a. On a farm, in the employ of any person, in connection with cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, and the raising of and caring for bees, poultry, and fur-bearing animals and wildlife;

b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and

equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

c. In connection with the production or harvesting of maple sugar or maple syrup or any commodity defined as an agricultural commodity in section 15 (g) of the Federal Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; and

d. In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to preparations of such fruits and vegetables for market. Nor shall such service on fruits and vegetables be deemed other than "agricultural labor" by reason of the employer being partly or wholly a commercial handler of the commodity, or by reason of the "market" for which the same is being prepared is for seed or further processing, or because the operations are not incident to farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Approved March 10, 1945.