

SOCIAL SECURITY

CHAPTER 331

S. B. No. 150

(Brooks, Hernet, Mutch, Reichert)

SOCIAL SECURITY DEFINITIONS

AN ACT

To repeal subdivision d of subsection 11 of section 52-01-01 of the North Dakota Century Code, relating to affiliation of employing units; to amend and reenact subsection 12 of section 52-01-01 of the North Dakota Century Code, relating to definition of employee; to amend and reenact subdivision e of subsection 13 of section 52-01-01 of the North Dakota Century Code, relating to definition of employment; to amend and reenact subsection (8) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code to include real estate salesmen and securities salesmen remunerated solely by commissions in employment excluded from unemployment compensation; and to amend and reenact subsection 20 of section 52-01-01 of the North Dakota Century Code, relating to definition of state.

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

§ 1. **Repeal.**) Subdivision d of subsection 11 of section 52-01-01 of the North Dakota Century Code is hereby repealed.

§ 2. **Amendment.**) Subsection 12 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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, and includes an officer of a corporation, but such term does not include—
 - a. any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or
 - b. any individual (except an officer of a corporation) who is not an employee under such common-law rules.

§ 3. **Amendment.**) Subdivision e of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this title unless and until it is shown to the satisfaction of the bureau that such individual, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or such individual (except an officer of corporation) is not an employee under such common-law rules.

§ 4. Amendment.) Subsection (8) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- i. Service performed:

- (8) By an individual for a person as an insurance agent, as an insurance solicitor, as a real estate salesman, or as a securities salesman, if all such services performed by such individual for such persons is performed for remuneration solely by way of commission; or

§ 5. Amendment.) Subsection 20 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. "State" includes, in addition to the states of the United States of America, Puerto Rico and the District of Columbia;

Approved March 9, 1963.

CHAPTER 332

S. B. No. 265
(Wartner)

UNEMPLOYMENT COMPENSATION PUBLIC POLICY

AN ACT

To create and enact section 52-01-05 of the North Dakota Century Code, relating to declaration of public policy as guide to interpretation and application of unemployment compensation insurance law.

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

§ 1.) Section 52-01-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-01-05. Declaration of Public Policy.) Involuntary unemployment creates a hardship on the unemployed worker and his family and leads to a state of economic insecurity. Relief from problems of involuntary unemployment imposes a state-wide burden of serious consequence to the people of the state of North Dakota which can best be met by unemployment insurance for the working man who becomes unemployed through no fault of his own. The legislature, therefore, declares that the public good and general welfare of the citizens of the state requires that for laboring people genuinely attached to the labor market there be a systematic and compulsory setting aside of financial reserves to be used as compensation for loss of wages during periods when they become unemployed through no fault of their own.

Approved March 6, 1963.

CHAPTER 333

S. B. No. 151

(Brooks, Hernet, Mutch, Reichert)

RATE OF CONTRIBUTION

AN ACT

To create and enact subsection 5 of section 52-04-06 of the North Dakota Century Code, relating to rate of contributions in the event quarterly taxable payroll exceeds established average annual payroll, and declaring an emergency.

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

§ 1.) Subsection 5 of section 52-04-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Whenever an employer has a quarterly taxable payroll in excess of its established average annual payroll, the tax rate for such employer shall be the standard rate of contributions in effect that year, beginning the first day of the calendar quarter in which such employer's quarterly taxable payroll exceeded its average annual payroll and for the remainder of that calendar year.

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

Approved March 9, 1963.

CHAPTER 334

H. B. No. 770

(Brown, Aamoth)

ACTIONS TO RECOVER CONTRIBUTIONS

AN ACT

To amend and reenact subsection 1 of section 52-04-12 of the North Dakota Century Code, relating to civil actions to collect contributions for unemployment compensation insurance by providing for service on nonresident employers by service on the secretary of state.

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

§ 1. **Amendment.**) Subsection 1 of section 52-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-12. Civil Action to Collect Contributions, Interest, Penalties, Delinquency Fees—Service on Nonresident Employers—Priority of Action on Calendar—Providing for Judgments.)

1. After due notice, if any employer defaults in any payment of contributions, interest thereon, penalties or delinquency fees, the amount due shall be collected by a civil action and the employer adjudged in default shall pay the cost of such action. If the employer is a nonresident of this state, or a foreign corporation doing business in this state, service of the summons may be made upon any agent, representative, or foreman of said employer in this state, and where there is no agent, representative, or foreman upon whom service can be made, then service upon the secretary of state shall constitute personal service upon such nonresident employer who is in default in such payments, or service may be made in any other manner provided for by law. 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.

Approved March 9, 1963.

CHAPTER 335

S. B. No. 154

(Brooks, Hernett, Mutch, Reichert)

DISQUALIFICATION FOR BENEFITS

AN ACT

To amend and reenact subsections 1, 2 and 3 of section 52-06-02 of the North Dakota Century Code to provide a uniform term and condition of disqualification for unemployment compensation benefits and to impose a disqualification for unemployment compensation benefits for failure to return to customary self employment; to repeal subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to nonchargeability of unemployment compensation benefits to accounts of base period employers.

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

§ 1. Amendment.) Subsections 1, 2 and 3 of section 52-06-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. For the week in which he has filed an otherwise valid claim for benefits after he has left his last employment voluntarily without good cause, and thereafter until such time as he:
 - (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
 - (b) Has not left his last work under disqualifying circumstances.
2. For the week in which he has filed an otherwise valid claim for benefits after he has been discharged for misconduct in connection with his last employment and thereafter until such time as he:
 - (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
 - (b) Has not left his last work under disqualifying circumstances.
3. If he has failed, without good cause, either to accept suitable employment; to apply for suitable employment; or to return to his customary self-employment (if any) when so directed to do so by the bureau or its authorized representative. Such disqualification shall continue for the week in which such failure occurred and thereafter until such time as he:

- (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
- (b) Has not left his last work under disqualifying circumstances.

§ 2. **Repeal.**) Subsection 2 of section 52-04-07 of the North Dakota Century Code is hereby repealed.

Approved March 9, 1963.

CHAPTER 336

S. B. No. 152

(Brooks, Hernet, Mutch, Reichert)

AMOUNT OF BENEFITS

AN ACT

To amend and reenact subsections 1, 2 and 3 of section 52-06-04 of the North Dakota Century Code, relating to schedule of unemployment compensation benefits, qualifying wages, definitions; and to amend and reenact section 52-06-05 of the North Dakota Century Code, relating to maximum potential unemployment compensation benefits, and declaring an emergency.

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

§ 1. **Amendment.**) Subsections 1, 2 and 3 of section 52-06-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

52-06-04. Weekly Benefit Amount — Qualifying Wage — Definitions.)

1. An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (computed to the next higher multiple of one dollar) of total wages for insured work paid during that quarter of his base period in which such total wages were highest, but not less than \$15.00 nor more than the amount determined as follows: On or before the 15th day of May of each year the total wages reported on contribution reports for the preceding calendar year shall be divided by the average monthly number of covered workers (determined by dividing the total covered employment reported on contribution reports for the preceding calendar year by 12) to determine the average annual wage. The average annual wage thus obtained shall be divided by 52 and the

average weekly wage thus determined rounded to the nearest cent. One-half of this amount rounded to next higher dollar shall constitute the maximum "weekly benefit amount" paid any individual whose benefit year commences on or after the first day of the first full calendar week in July of such year and prior to the first day of the first full calendar week of July of the next following year.

2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of his base period totaling not less than 40 times the weekly benefit amount and not less than \$600.00. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which he filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times his current weekly benefit amount.
3. For the purpose of this title, the term "insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of this chapter and "insured work" means employment for "employers".

§ 2. Amendment.) Section 52-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. Maximum Potential Benefits.) The maximum potential benefits for any insured worker in a benefit year shall be equal to eighteen times his weekly benefit amount when his qualifying wages are 40 times his weekly benefit amount but less than 55 times his weekly benefit amount; and 22 times his weekly benefit amount when his qualifying wages are 55 times his weekly benefit amount but less than 70 times his weekly benefit amount; and 26 times his weekly benefit amount when his qualifying wages are 70 times or over his weekly benefit amount.

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

Approved March 16, 1963.

CHAPTER 337

H. B. No. 555

(Wastvedt, Haugland, Neukircher, Diehl, Haugen, Overbo)
(Anderson (Richland), Burvee)

USE OF OASIS FUND

AN ACT

To create and enact subdivision 3 of subsection A of section 52-09-07 of the North Dakota Century Code, relating to purposes for which funds may be used.

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

§ 1.) Subdivision 3 of subsection A of section 52-09-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. Persons who had terminated covered employment, as defined in subsection B of section 52-09-20 of this chapter, before such agreement execution date because of physical disability and who are not entitled to benefits from any other public retirement or disability plan but who would have been eligible under section 52-09-14, and dependents and survivors of such fully insured persons whenever entitled and eligible. The insured, or his survivors, shall submit a medical diagnostic opinion establishing that his employment was terminated because of physical disability and that such disability has prevented re-employment.

Approved March 4, 1963.

CHAPTER 338

S. B. No. 138
(Thompson, Lips)

OASIS CONTRIBUTIONS

AN ACT

To amend and reenact section 52-09-09 of the North Dakota Century Code, as amended by chapter 314, Session Laws 1961, pertaining to rate of contribution.

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

§ 1. Amendment.) Section 52-09-09 of the North Dakota Century Code, as amended by chapter 314, Session Laws 1961, is hereby amended and reenacted to read as follows:

52-09-09. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one and one-half percentum of the wages paid before July 1, 1955, and two percentum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959, up to July 1, 1961 such tax shall be equal to three and one-half percent, and after June 30, 1961, and until July 1, 1963, such tax shall be equal to three percent, and after June 30, 1963 such tax shall be equal to two percent. After June 30, 1957, there shall be no tax hereunder upon the employee.

Approved March 5, 1963.

CHAPTER 339

S. B. No. 140
(Thompson, Lips)

GOVERNMENT EMPLOYEE CONTRIBUTIONS

AN ACT

To amend and reenact section 52-10-04 of the North Dakota Century Code, as amended by chapter 316, Session Laws of 1961, pertaining to contributions by employees of the state and of political subdivisions.

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

§ 1. **Amendment.**) Section 52-10-04 of the North Dakota Century Code, as amended by chapter 316, Session Laws of 1961, is hereby amended and reenacted to read as follows:

52-10-04. Contributions by Employees of the State and of Political Subdivisions.) a. Every employee of the state or of a political subdivision and every employer shall be required to pay for the period of such coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or his entry upon such service, after the enactment of this chapter;

b. The employees' contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution;

c. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe;

d. In addition to the contributions required in subsection a of this section, every employer shall be required to pay for the period of coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages as defined in section 52-10-02, equal to one-tenth of one percent after June, 1959. The purpose of this contribution is to provide a fund out of which the legislature may appropriate for the

administration of chapter 52-10 and chapter 52-09 of the North Dakota Century Code. The unemployment compensation division will maintain complete and accurate records of all contributions under this subsection, and appropriations made therefrom. If on the 1st day of June in any year the accumulated contributions under this subsection, less appropriations, exceeds \$100,000.00, or more, the tax shall be suspended during the succeeding year, and until such year in which, on the 1st day of June of the previous year, the accumulated contributions, less appropriations, are less than \$100,000.00, at which time the tax shall be reimposed and collected as herein provided.

Approved March 5, 1963.

CHAPTER 340

S. B. No. 176

(Lips, Reichert, Longmire, Redlin)

STATE EMPLOYEES' MEDICAL AND LIFE INSURANCE PLANS

AN ACT

To provide for the general welfare of state employees by authorizing the state of North Dakota and all of its departments and agencies to enter into a group hospitalization and medical care plan and group life insurance in accordance with the provisions of this Act.

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

§ 1. Formulation of Plan.) Any department, board or agency of the state of North Dakota, hereinafter referred to as agency, may upon its own behalf or in conjunction with any other agency or agencies enter into a group hospitalization and medical care plan and group life insurance to promote the economy and efficiency of employment in the state's service by making available hospitalization and medical care and group life insurance protection to state employees and their families, thereby enabling the employees to care for themselves and their dependents in times of accident or illness, and which by its protection will improve state employment within the state, reduce excessive personnel turnover and offer suitable attraction to high grade men and women to enter the service of state employment.

§ 2. Adoption of Employees' Group Hospitalization and Medical Care Plan.) The provisions of this chapter shall become operative as to any agency qualified to adopt the same by:

1. The adoption by the agency of a plan which may or may not include group life insurance, in compliance with this chapter; and
2. The concurrence in such plan by the employees of said agency by a majority vote thereof.

Thereafter all participating employees of the agency shall be bound by the provisions of such plan without further action by the agency or by the employees of such agency.

§ 3. Employees' Contribution.) Every regular agency employee shall, at the time of employment, state in writing whether or not he desires to become a member of the employees' hospitalization and medical care and life insurance group and if his statement is in the affirmative he shall be included as a member in said group. Each member shall be assessed and required to pay annually the amount of the employee contribution as set forth in the group contract, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 4. Agency Contribution.) Each agency is authorized to pay towards such hospitalization and medical care and group life insurance coverage from its funds appropriated for payroll and salary a sum equal to five dollars per month for each participating employee.

§ 5. Optional Coverage for Employees' Family.) Each participating employee may elect to include his wife and all minor children within the coverage of said hospitalization and medical care plan and in such event such an employee shall be assessed and required to pay the entire annual cost of such additional coverage, and such assessment shall be deducted and retained out of his salary in equal monthly installments.

Approved March 19, 1963.