

SOCIAL SECURITY

CHAPTER 391

SENATE BILL NO. 2184

(Committee on Industry, Business and Labor)

(At the request of the Unemployment Security Bureau)

UNEMPLOYMENT COMPENSATION

AN ACT to create and enact a new subdivision of subsection 13 of section 52-01-01 of the North Dakota Century Code, relating to the unemployment compensation definition of employment, to amend and reenact subsection 1 of section 52-01-01, subsection 2 of section 52-01-01, subsection 3 of section 52-01-01, subsection 5 of section 52-01-01, subsection 9 of section 52-01-01, subdivision b of subsection 13 of section 52-01-01, subdivision g of subsection 15 of section 52-01-01, paragraph (6) of subdivision i of subsection 15 of section 52-01-01, section 52-03-01, paragraph (1) and paragraph (2) of subdivision c of subsection 1 of section 52-03-07, subsection 4 of section 52-04-06, section 52-04-10, section 52-06-19, and section 52-06-29 of the North Dakota Century Code, the beginning sentence of section 52-01-01, section 52-01-07, section 52-04-07, subsection 1 of section 52-04-12, subdivision c of subsection 1 of section 52-04-18, and section 52-04-19 of the 1971 Supplement to the North Dakota Century Code, relating to unemployment compensation provisions, such as definitions, exclusions from employment, maintenance of fund, use of Federal funds credited, tax rates, employer appeals, payment of benefits, charge back of benefits, civil collection process, change of payments by non-profit organizations on a reimbursable basis to a rated payment basis, and financing benefits for state hospitals and state institutions of higher education, and to repeal paragraph 2 of subdivision i of subsection 15 of section 52-01-01, subsection 2 and subsection 3 of section 52-04-12, paragraph (1) and paragraph (2) of subdivision b of subsection 3 of section 52-06-01, and paragraph (1) and paragraph (2) of subdivision c of subsection 3 of section 52-06-01 of the North Dakota Century Code, and subsection 7 of section 52-01-01 and subsection 5 of section 52-04-06 of the 1971 Supplement to the North Dakota Century Code, relating to unemployment compensation provisions, such as exclusion from definition of unemployment, civil collection process, removal of certain benefit ineligibility conditions, conflicting definition of division, and rate increase.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new subdivision of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

An individual's service, wherever performed within the United States, the Virgin Islands or Canada, if

- (1) Such service is not covered under the unemployment compensation law of any other State, the Virgin Islands or Canada, and
- (2) The place from which the service is directed or controlled is in this State.

SECTION 2. AMENDMENT.) Subsection 1 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Annual payroll" means the total amount of taxable wages for employment paid by an employer during a twelve-month period ending on December thirty-first of any calendar year;

SECTION 3. AMENDMENT.) Subsection 2 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Average annual payroll" means the average of the annual payrolls of an employer for the last three completed calendar years except that, for an employer who had no taxable payroll in the first of the last three completed calendar years, the average annual payroll shall be the average of the annual payrolls of such employer for the last two completed calendar years and, for an employer who had no taxable payroll in the first two of the last three completed calendar years, the average annual payroll shall be the aggregate of the annual payroll of such employer for the last completed calendar year;

SECTION 4. AMENDMENT.) Subsection 3 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. In a combined-wage claim, the base-period shall be that of the paying state;

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

5. "Benefit year" means the one-year period beginning with the day as of which an insured worker first files a request for determination of his insured status and thereafter the one-year period beginning with the day as of which the individual next files such request after the end of his last preceding benefit year. The filing of a notice of unemployment shall be deemed a request for determination of insured status if a current benefit year has not previously been established. In a combined-wage claim, the benefit year shall be that of the paying state;

SECTION 6. AMENDMENT.) Subsection 9 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. The word "contributions" and the phrase "payments in lieu of contributions" each mean money payments required to be paid into the unemployment compensation fund, the first being in respect to wages paid for insured work in employment for employers who are on a tax rated basis and the second being in respect to the reimbursement of benefits paid to employees of employers who are on a reimbursable basis, and, except when the result would be inconsistent with the provisions of unemployment compensation law pertinent to an employer on a reimbursable basis, the provisions of such law applicable to an employer on a tax rated basis shall be equally applicable to an employer on a reimbursable basis, and conversely, except when the result would be inconsistent with the provisions of unemployment compensation law pertinent to an employer on a tax rated basis, the provisions of such law applicable to an employer on a reimbursable basis shall be equally applicable to an employer on a tax rated basis.

SECTION 7. AMENDMENT.) Subdivision b of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. An individual's entire service, performed within or both within and without this state if the service is localized in this state;

SECTION 8. AMENDMENT.) Subdivision g of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 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 3301 of the Federal Internal Revenue Code, except that this provision shall not apply to coverage pursuant to subsection 13 of section 52-01-01, and section 52-05-03;

SECTION 9. AMENDMENT.) Paragraph (6) 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:

- (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, except as provided in subdivision g of subsection 13 of section 52-01-01;

SECTION 10. AMENDMENT.) Section 52-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-03-01. 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 the North Dakota Unemployment Compensation Law. This fund shall consist of:

1. All contributions collected under the North Dakota Unemployment Compensation Law together with any interest thereon collected pursuant to section 52-04-11;

2. All fines and penalties collected pursuant to the provisions of the North Dakota Unemployment Compensation Law;
3. Interest earned upon any moneys in the fund;
4. Any property or securities acquired through the use of moneys belonging to the fund;
5. All earnings of such property or securities;
6. All money recovered on losses sustained by the fund;
7. All money received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the Social Security Act as amended;
8. All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act as amended;
9. All money received from the Federal government as reimbursements pursuant to section 204 of the Federal-State Extended Compensation Act of 1970; and
10. All money received for the fund from any other source.

All moneys in the fund shall be mingled and undivided.

SECTION 11. AMENDMENT.) Paragraph (1) and paragraph (2) of subdivision c of subsection 1 of section 52-03-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same twelve-month period and the twenty-four preceding twelve-month periods exceeds
- (2) the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such twenty-five twelve-month periods. For the purposes of this section, amounts used during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount used for administration during

any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the twenty-fourth preceding such period.

SECTION 12. AMENDMENT.) Subsection 4 of section 52-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The rate of an employer who has had payroll subject to contributions in each of the three years preceding the computation date shall not be reduced below the standard rate for any calendar year unless the payroll in each such year is equal to at least twenty percent of the highest payroll in such three-year period. The rate of an employer who has been subject to the law for two but less than three years shall not be reduced below the standard rate for any calendar year unless the payroll in each of the two years immediately preceding the computation date is equal to at least twenty percent of the highest annual payroll in such two-year period;

SECTION 13. AMENDMENT.) Section 52-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-10. CONTRIBUTIONS FOR ENSUING YEAR - NOTIFICATION - REVIEW.) 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 52-06 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 proceeding 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

thirty days after the mailing of notice thereof to his last known address or in the absence of mailing, within thirty 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 52-06 with respect to court review.

SECTION 14. AMENDMENT.) Section 52-06-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-19. REVIEW OF DECISION OF APPEAL TRIBUNAL BY THE BUREAU.) The bureau, on its own motion, and within the time specified in section 52-06-15, may initiate a review of the decision of the appeal tribunal or may allow an appeal from such decision upon an application filed within such time by any party entitled to notice of such decision. An appeal filed by such parties shall be allowed as a matter of right if such decision was not unanimous, or if the examiner's determination was not affirmed by the appeal tribunal. Upon a review on its own motion, or upon an appeal, the bureau upon the basis of the evidence previously submitted in such case or upon the basis of such additional evidence as it may direct to be taken, may affirm, modify, or reverse the findings and conclusions of the appeal tribunal. The bureau may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings removed to the bureau prior to the completion of a fair hearing shall be heard by the bureau in the same manner as proceedings before an appeal tribunal. The bureau shall notify promptly the parties to any proceeding before it of its decision, including its findings and conclusions in support thereof. Such decision shall be final unless within thirty days after the mailing of a notice thereof to the party's last known address, or in the absence of such mailing, within thirty days after service of such notice, a proceeding for a judicial review is initiated pursuant to section 52-06-27. Upon a denial by the bureau of an application for appeal from the decision of the appeal tribunal, the decision of the appeal tribunal shall be deemed to be a decision of the bureau within the meaning of this section for the purposes of judicial review and shall be subject to judicial review within the time and in the manner provided with respect to decisions of the bureau, except that the time for initiating such review shall run from the date of notice of the order by the bureau denying the application for appeal.

SECTION 15. AMENDMENT.) Section 52-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-29. PAYMENT OF BENEFITS.) Benefits shall be promptly paid in accordance with a determination or redetermination regardless of any appeal or pending appeal. If a determination allowing benefits is affirmed in any amount by an appeals referee or is so affirmed by the bureau or if a decision of an appeals referee allowing benefits is affirmed in any amount

by the bureau, such benefits shall be promptly paid regardless of any further appeal and no injunction, supersedeas, stay, or other writ or process suspending the payment of such benefits shall be issued by any court but if such decision is finally reversed, no employer's account shall be charged with benefits so paid pursuant to the erroneous determination, except on those employer accounts which make payments in lieu of contributions, and benefits shall not be paid for any subsequent weeks of unemployment involved in such reversal. Benefits due and payable to a deceased or judicially declared incompetent person may be paid in accordance with such regulations as the bureau shall prescribe, to the person or persons, payment to whom the bureau finds would effectuate the purposes of the North Dakota Unemployment Compensation Law. Such regulations need not conform to the statutes applicable to the descent and distribution of decedent's estates. A receipt from the person or persons to whom the bureau makes payment shall fully discharge the fund and the bureau from liability for such benefits.

SECTION 16. AMENDMENT.) The beginning sentence of section 52-01-01 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-01. DEFINITIONS.) In the North Dakota Unemployment Compensation Law, unless the context or subject matter otherwise requires:

SECTION 17. AMENDMENT.) Section 52-01-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-07. SHORT TITLE.) Chapters 52-01 through 52-07.1 shall be known and may be cited as the "North Dakota Unemployment Compensation Law." Any reference within chapters 52-01, 52-02, 52-03, 52-04, 52-05, and 52-06 by the use of words "this title" shall be synonymous with and shall refer only to the North Dakota Unemployment Compensation Law.

SECTION 18. AMENDMENT.) Section 52-04-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-07. BENEFITS PAID CHARGEABLE TO ACCOUNTS OF BASE-PERIOD EMPLOYERS.)

1. 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 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.
2. Notwithstanding the provisions of subsection 1 of this section, an employer's account shall not be charged

- a. with benefits paid to individuals for unemployment that is directly caused by a major natural disaster declared by the President pursuant to section 102(1) of the Disaster Relief Act of 1970, if such individuals would have been eligible for disaster unemployment assistance with respect to that unemployment but for their receipt of unemployment insurance benefits, or
 - b. as provided under section 52-06-29.
3. Subsection 2 of this section shall not apply to benefit payments which are financed under a reimbursable method.

SECTION 19. AMENDMENT.) Subsection 1 of section 52-04-12 of the 1971 Supplement to the North Dakota Century Code shall be amended and reenacted to read as follows:

Collection process of the bureau shall also be by civil action for collection of any money owing to the bureau from any source and for whatever reason, inclusive of interest thereon, penalties and delinquency fees when there is provision for such additional assessments. Costs of the action allowed by statute shall be added when judgment is awarded against the debtor, unless waived. When the debtor is a nonresident of this state and the cause of action accrued subsequent to July 1, 1963, and prior to July 1, 1969, jurisdiction thereof by service of process shall be governed by the provisions of this section as it appeared in chapter 334 of the 1963 North Dakota Session Laws and the Supplement to the North Dakota Century Code from July 1, 1963, to July 1, 1969, and when the cause of action accrued subsequent to July 1, 1969, and prior to August 1, 1971, jurisdiction thereof by service of process shall be governed by the provisions of chapter 293 of the 1969 North Dakota Session Laws and chapter 28-06.1 of the Supplement to the North Dakota Century Code, and when the cause of action accrued subsequent to August 1, 1971, jurisdiction thereof by service of process shall be governed by the amended provisions of Rule 4 of the North Dakota Rules of Civil Procedure adopted and promulgated by the Supreme Court under date of June 28, 1971.

SECTION 20. AMENDMENT.) Subdivision c of subsection 1 of section 52-04-18 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Any nonprofit organization which makes an election in accordance with subdivision a or subdivision b of this subsection will continue to be liable for payments

in lieu of contributions until it files with the bureau a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective, and it shall thereafter be treated as a new or newly covered employer for the purpose of rate computation.

SECTION 21. AMENDMENT.) Section 52-04-19 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-19. FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE HOSPITALS OR STATE INSTITUTIONS OF HIGHER EDUCATION.) Benefits paid to employees based on service attributable to employment in state hospitals or of state institutions of higher education shall be financed in accordance with the provisions of this section. For the purpose of this section and section 52-01-01, subsection 11, subdivision h, an institution of higher education means an educational institution defined in section 52-01-01, subsection 28 and a state hospital means an institution defined in section 52-01-01, subsection 29.

1. "Liability for contributions and election of reimbursement." An employing unit which, pursuant to section 52-01-01, subsection 11, subdivision h, is, or becomes, subject to the North Dakota Unemployment Compensation Law on or after January 1, 1972, shall pay contributions under the provisions of chapter 52-04, unless it elects as hereafter provided to pay to the bureau for the unemployment fund:
 - a. An amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such state hospital or such state institution of higher education, to individuals for weeks of unemployment which begin during the effective period of such election. Payments in lieu of contributions shall be made at the end of each calendar quarter or at the end of any other period determined by the bureau. Election and changes in the method of financing shall be in the same manner provided for in section 52-04-18.

SECTION 22. REPEAL.) Paragraph (2) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby repealed.

SECTION 23. REPEAL.) Subsection 2 and subsection 3 of section 52-04-12 of the North Dakota Century Code is hereby repealed.

SECTION 24. REPEAL.) Subdivision b of subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby repealed.

SECTION 25. REPEAL.) Subdivision c of subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby repealed.

SECTION 26. REPEAL.) Subsection 7 of section 52-01-01 of the 1971 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 27. REPEAL.) Subsection 5 of section 52-04-06 of the 1971 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 28, 1973

CHAPTER 392

SENATE BILL NO. 2186
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

RATE OF UNEMPLOYMENT TAX

AN ACT to amend and reenact section 52-04-03 of the 1971 Supplement to the North Dakota Century Code, relating to rate of unemployment tax and wages subject to tax; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-04-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-03. RATES AND BASE OF CONTRIBUTIONS OF WAGES PAID BY EMPLOYER.)

1. Subject to the exceptions and modifications provided for in this section and elsewhere in this chapter each employer shall pay contributions to the fund equal to two and seven-tenths percent of wages paid by him to any one individual employee during a calendar year with respect to employment, which also includes service constituting employment under the employment security law of any other state as defined in the North Dakota Unemployment Compensation Law or of the federal government. "Employment", as so inclusive, shall be applicable throughout to chapter 52-04.
2. The amount of an individual's wages paid to him in a calendar year by each employer and subject to tax shall not be in excess of three thousand dollars for the years prior to 1968, nor in excess of three thousand three hundred dollars for 1968, nor in excess of three thousand four hundred dollars for 1969, nor in excess of three thousand eight hundred dollars for 1970, nor in excess of four thousand dollars for 1971, nor in excess of four thousand four hundred dollars for 1972, and not in excess of four thousand two hundred dollars for 1973.
3. For the year 1974 and for any year thereafter the maximum amount of an individual's wages subject to

tax, paid by each employer, shall be in such amount as may be determined by either of the following:

- a. When the unemployment trust fund at the beginning of any such calendar year equals or exceeds one and a half times the highest amount of unemployment compensation benefits paid in any calendar year the amount of an individual's wages subject to tax for such year shall be in the same amount that is subject to tax under the federal unemployment tax act, or
- b. When the unemployment trust fund at the beginning of any such calendar year does not equal one and a half times the highest amount of unemployment compensation benefits paid in any calendar year the amount of an individual's wages subject to tax for such year shall be in an amount that is equal to seventy percent of a statewide average annual wage determined by the bureau on or before each first day of December by the following computation:

the total wages reported on contribution reports for the third and fourth quarters of the preceding calendar year and the first and second quarters of the current calendar year shall be divided by the average monthly number of covered workers for the same four quarters, whose number shall be determined by dividing by twelve the total covered employment reported on contribution reports for those quarters, and the quotient obtained by dividing the total wages by the average monthly number of covered workers, rounded to the nearest multiple of one hundred, shall be the statewide average annual wage, and

- (1) When the taxable wage base is determined under subdivision b and such computation results in the calculation of a taxable wage base that is one hundred dollars or more higher than the taxable wage base of the federal unemployment compensation act, then, notwithstanding such higher taxable wage base, the taxable wage base shall not be increased in any one year more than one hundred dollars over the taxable wage base of the preceding year.
4. Notwithstanding any of the provisions of subsection 3 the amount of an individual's wages subject to tax shall always be at least equal to the amount that is subject to tax under the federal unemployment tax act.

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

CHAPTER 393

SENATE BILL NO. 2174
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

LIMITATIONS ON ACTIONS BY
EMPLOYMENT SECURITY BUREAU

AN ACT to amend and reenact section 52-04-16 of the North Dakota Century Code, relating to limitation of time to start civil actions for collection of money owing to the employment security bureau.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-16. LIMITATIONS ON ACTIONS BROUGHT BY BUREAU.)
Actions brought under section 52-04-12 of the Amendments to the North Dakota Century Code must be commenced within six years after the cause of action has accrued; provided, however, that in the case of a false or fraudulent return, or the willful failure to file a return with intent to evade any payment, proceedings in court may be begun at any time.

Approved March 3, 1973

CHAPTER 394

SENATE BILL NO. 2173
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION BENEFITS

AN ACT to amend and reenact section 52-06-04 of the 1971 Supplement to the North Dakota Century Code, relating to schedule of unemployment compensation benefits, qualifying wages and definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-06-04 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-04. WEEKLY BENEFIT AMOUNT - AVERAGE ANNUAL WAGE - AVERAGE WEEKLY WAGE - MINIMUM WEEKLY BENEFIT AMOUNT - MAXIMUM WEEKLY BENEFIT AMOUNT - QUALIFYING WAGE - "INSURED WORKER" AND "INSURED WORK" DEFINED.)

1. The procedures, provisions and conditions of this section shall determine the "weekly benefit amount" of those individuals who establish a benefit year on and after the first day of July of 1973:
 - a. For the purpose of this section the bureau shall each year, on or before the first day of June, determine the average annual wage paid to insured workers and, from that determination, an "average weekly wage", by the following computation:

the total wages reported on contribution reports for the preceding calendar year shall be divided by the average monthly number of covered workers, whose number shall be determined by dividing by twelve the total covered employment reported on contribution reports for the preceding calendar year, and the quotient obtained by dividing the total wages by the average monthly number of covered workers shall be the average annual wage; and such quotient shall be divided by fifty-two and the amount thus obtained, rounded to the

nearest cent, shall be the "average weekly wage";

- b. An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (if not a multiple of one dollar, to be computed to the next higher multiple of one dollar) of his total wages for insured work paid during the quarter of his base period in which his wages were the highest, but in no case to be less than a "minimum weekly benefit amount" of fifteen dollars nor more than a "maximum weekly benefit amount" as hereinafter provided:
 - (1) Fifty-five percent of the "average weekly wage", rounded to the next higher multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after the first day of July of 1973.
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 the North Dakota Unemployment Compensation Law 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".

Approved March 28, 1973

CHAPTER 395

SENATE BILL NO. 2185
(Committee on Industry, Business and Labor)
(At the request of the Unemployment Security Bureau)

EXTENDED UNEMPLOYMENT COMPENSATION
BENEFIT DEFINITIONS

AN ACT to amend and reenact section 52-07.1-03 of the 1971 Supplement to the North Dakota Century Code, relating to definitions in chapter 52-07.1 which provides for extended unemployment compensation benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-07.1-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-07.1-03. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Extended benefit period" means a period which begins with the third week after whichever of the following weeks occurs first: a week for which there is a national "on" indicator, or a week for which there is a state "on" indicator; and ends with either of the following weeks, whichever occurs later: the third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or the thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.
2. There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 percent.
3. There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 percent.

4. There is a "state 'on' indicator" for this state for a week if the bureau determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
 - a. Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
 - b. Equaled or exceeded four percent.
5. There is a "state 'off' indicator" for this state for a week if the bureau determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
 - a. Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
 - b. Was less than four percent.
6. "Rate of insured unemployment", for purposes of subsections 4 and 5 of this section, means the percentage derived by dividing:
 - a. The average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the bureau on the basis of its reports to the United States secretary of labor, by
 - b. The average monthly employment covered under the North Dakota Unemployment Compensation Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

Computations provided for in this subsection shall be made by the bureau in accordance with regulations provided by the United States secretary of labor.

7. "Regular benefits" means benefits payable to an individual under chapter 52-06 of the North Dakota Century Code or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85), other than extended benefits.

8. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in his eligibility period.
9. "Additional benefits" means benefits payable to exhaustees by reasons of conditions of high unemployment or by reason of other special factors under the provisions of any state law.
10. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.
11. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:
 - a. Has received, prior to such week, all of the regular benefits that were available to him under chapter 52-06 of the North Dakota Century Code or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided, that for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him, although, as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
 - b. Having established a benefit year, no regular compensation is payable to him during such year because his wage credits were cancelled or his right to regular compensation was totally reduced as the result of the application of a disqualification; or
 - c. Has a benefit year which has expired prior to such week and has insufficient wages or employment or both on the basis of which he could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular compensation by reason of a state law provision which requires

that an individual who has received benefits during a benefit year must have had work since the beginning of such year in order to qualify for benefits in his next benefit year; and

- d. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits thereunder he shall be considered an exhaustee.
12. "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

Approved March 15, 1973

CHAPTER 396

HOUSE BILL NO. 1295
(Murphy, Olin, R. Christensen)

SOCIAL SECURITY LEVY LIMITATIONS

AN ACT to amend and reenact subsection C of section 52-09-08 of the North Dakota Century Code, to provide a limitation on levies for social security.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection C of section 52-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- C. The political subdivision is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter, up to a maximum levy of forty mills on each dollar of the net assessed taxable valuation of the political subdivision, over and above any levy limitations now prescribed by law for such political subdivisions. Any obligations under this chapter over and above the amount raised by the maximum levy permitted in this section shall be paid out of the general fund of the political subdivision.

Approved March 3, 1973

CHAPTER 397

HOUSE BILL NO. 1504
(Dornacker)

PRIMARY INSURANCE BENEFIT
UNDER NORTH DAKOTA OASIS

AN ACT to amend and reenact subsection D of section 52-09-20 of the North Dakota Century Code, relating to the determination of the primary insurance benefit under the North Dakota old age and survivor insurance system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection D of section 52-09-20 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- D. The term "primary insurance benefit" means an amount equal to the sum of the following:
- (1) (a) Fifty per centum of the amount of an individual's average monthly wage if such average monthly wage does not exceed seventy-five dollars, or (b) if such average monthly wage exceeds seventy-five dollars, fifty per centum of seventy-five dollars, plus fifteen per centum of the amount by which such average monthly wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars, and
 - (2) An amount equal to one per centum of the amount computed under subdivision (1) multiplied by the number of years in which two hundred dollars or more of wages were paid to such individual.
 - (3) From and after April 1, 1973, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions (1) and (2) of this subsection plus eighty dollars. Where the primary insurance benefit thus computed is less than eighty dollars, such benefit shall be eighty dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 3, 1973

CHAPTER 398

SENATE BILL NO. 2171
(Committee on Education)

(At the request of the Employment Security Bureau)

EXCLUSION OF STUDENTS FROM
SOCIAL SECURITY COVERAGE

AN ACT to create and enact a new section of chapter 52-10 of the North Dakota Century Code, relating to authorization to exclude from social security coverage, under section 218 of the Act, service performed in the employ of a public school, college, or university by certain students.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section of chapter 52-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

The state agency, with the approval of the governor, is hereby authorized to modify at any time prior to January 1, 1974, the agreement of December 5, 1955, between the state and the secretary of health, education and welfare, whereby under section 218 the insurance system established by the Social Security Act was extended to services performed by individuals as employees of the state or any political subdivision thereof, to effect the exclusion of service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

Approved March 10, 1973

CHAPTER 399

SENATE BILL NO. 2187
(Committee on State and Federal Government)
(At the request of the Employment Security Bureau)

SALE OF EMPLOYMENT SECURITY
BUREAU TRACTS

AN ACT authorizing the state of North Dakota acting by the North Dakota employment security bureau to sell and convey in separate transactions for each tract of land: lot thirteen in block nineteen of the original townsite of Williston, Williams County, North Dakota; all of lot eighteen in block twenty-four of the original townsite of Jamestown, Stutsman County, North Dakota; the westerly sixty-five feet and the northerly ten feet of the east seventy-five feet of lot eight in block twenty of the original town of Mandan, Morton County, North Dakota; and lots eight and nine of block twenty-eight of Robert's Second Addition to the City of Fargo, less the east seven and one-half feet, Cass County, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) The state of North Dakota acting by the North Dakota employment security bureau is hereby authorized to sell and convey in separate transactions for each tract of land: lot thirteen in block nineteen of the original townsite of Williston, Williams County, North Dakota; all of lot eighteen in block twenty-four of the original townsite of Jamestown, Stutsman County, North Dakota; the westerly sixty-five feet and the northerly ten feet of the east seventy-five feet of lot eight in block twenty of the original town of Mandan, Morton County, North Dakota; and lots eight and nine of block twenty-eight of Robert's Second Addition to the City of Fargo, less the east seven and one-half feet, Cass County, North Dakota.

SECTION 2.) The North Dakota employment security bureau may cause the above described tracts of land to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2 of the North Dakota Century Code. Proceeds from such sales shall be used as authorized and directed by federal law and regulations thereunder.

Approved February 25, 1973

CHAPTER 400

SENATE BILL NO. 2188
(Committee on State and Federal Government)
(At the request of the Employment Security Bureau)

STATUTORY CORRECTIONS IN
UNEMPLOYMENT COMPENSATION LAW

AN ACT to authorize the North Dakota legislative council to make corrections in the North Dakota Unemployment Compensation Law to be submitted to the publisher of the North Dakota Century Code for inclusion in the publication of Replacement Volume Ten.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) The North Dakota legislative council is hereby authorized to delete the words "this title" wherever they appear in chapters 52-01, 52-02, 52-03, 52-04, 52-05, and 52-06 of the North Dakota Century Code or of the Supplement thereto and to insert in lieu of each deletion the words "the North Dakota Unemployment Compensation Law", to delete the word "title" where it appears in the captions of sections 52-04-15, 52-05-02, and 52-05-03 of the North Dakota Century Code or of the Supplement thereto and to insert in lieu of each deletion the word "law", and to delete the word "title" where it appears in the introductory table of contents of chapter 52-05 of the North Dakota Century Code or of the Supplement thereto and to insert in lieu of each deletion the word "law", and to transmit those chapters of the North Dakota Century Code with such changes therein to the publisher of the North Dakota Century Code with instructions that Replacement Volume Ten, when published, shall be as so corrected.

Approved February 6, 1973