

# SOCIAL SECURITY

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## CHAPTER 326

S. B. No. 205

(Knudson)

(at the request of)

(North Dakota Unemployment Compensation Division)

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### DEFINING "EMPLOYER" FOR UNEMPLOYMENT COMPENSATION

#### AN ACT

To amend and reenact subdivision a of subsection 11 of section 52-0101 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 304 of the North Dakota Session Laws of 1955, relating to a definition of an employer.

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

**§ 1. Amendment.)** Subdivision a of subsection 11 of section 52-0101 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 304 of the North Dakota Session Laws of 1955, is hereby amended and reenacted to read as follows:

- 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 four 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;

Approved March 6, 1957.

## CHAPTER 327

H. B. No. 612

(Stockman, Saugstad)

(at the request of)

(North Dakota Unemployment Compensation Division)

## USE OF UNEMPLOYMENT COMPENSATION FUNDS

## AN ACT

Relating to unemployment compensation funds, and amending and reenacting sections 52-0209, 52-0301 and 52-0304 of the 1953 Supplement to the North Dakota Revised Code of 1943.

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

**§ 1. Administrative Use; Regulations Governing.)**

1. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this law pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:
  - a. Specified the purposes for which money is appropriated and the amounts appropriated therefor,
  - b. Limits the period within which such money may be expended to a period ending not more than two years after the date of the enactment of the appropriation law, and
  - c. Limits the amount which may be used during a 12-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which
    - (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 12-month period and the four preceding 12-month periods exceeds
    - (2) the aggregate of the amounts used pursuant to this subsection and charged against the amounts credited to the account of this state during any of such five 12-month periods. For the purposes of this subsection, amounts used during any such 12-month period shall be charged against equiva-

lent amounts which were first credited and which are not already so charged; except that no amount used for administration during any such 12-month period may be charged against any amount credited during such a 12-month period earlier than the fourth preceding such period.

2. For the purpose of the provisions set forth at section 52-0406 any amount credited to this state's account under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment fund balance.
3. Money credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this Act and of public employment offices pursuant to this section.
4. Money requisitioned for the payment of expenses of administration pursuant to this section shall be deposited in the unemployment compensation administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The bureau shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated, or, if it remains unexpended at the end of the period specified by the law appropriating such money, it shall be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

**§ 2. Advances From The Federal Unemployment Account; Regulations Governing.)** The bureau is authorized and directed to apply for an advance to the state unemployment fund from the federal unemployment account in the unemployment trust fund and to accept the responsibility for the repayment of such advance in accordance with the conditions specified in title XII of the Social Security Act, as amended, in order to secure to this state and its citizens the advantage available under the provisions of such title.

**§ 3. Amendment.)** Section 52-0209 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**52-0209. Unemployment Compensation Administration Fund; Maintenance; Purpose; What Constitutes; Additional**

**Bond Required Of Treasurer.)** There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All money deposited or paid into this fund and the employment service account thereof shall be continuously available to the bureau for expenditure in accordance with the provisions of this law, and shall not lapse at any time or be transferred to any other fund. The fund shall consist of any money appropriated by this state in accordance with section 52-0211; all money received from the United States of America, or any agency thereof, and all money received from any other source for the administration of the North Dakota unemployment compensation law; all money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency; all amounts received pursuant to any surety bond or any insurance policy or from other sources for losses sustained by the unemployment compensation administration fund or by reason of damage to property, equipment, or supplies purchased from money in such fund; and all proceeds realized from the sale or disposition of any such property, equipment, or supplies which may no longer be necessary for the proper administration of this law. Notwithstanding any provision of this section, all money requisitioned and deposited in this fund pursuant to section 52-0307, subsection 4, shall remain a part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in section 52-0307. All moneys in this fund shall be deposited and administered, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. The fund is subject to audit by the United States treasury department, or its representatives, and no audit by the state board of auditors, or by the office of the state examiner, shall be required. The state treasurer shall give a separate and additional bond conditioned for the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the bureau and in a form prescribed by law or approved by the attorney general. The premiums for such bond shall be paid from the moneys in the unemployment compensation administration fund.

**§ 4. Amendment.)** Section 52-0301 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted 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 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 52-0411;
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; and
9. All money received for the fund from any other source.

All moneys in the fund shall be mingled and undivided.

§ 5. **Amendment.**) Section 52-0304 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**52-0304. Requisitioning And Expenditure Of Funds From Various Accounts; Regulations Governing.)** Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for refunds pursuant to section 52-0101, subsection 15f. and section 52-0414, except that money credited to this state's account pursuant to section 903 of the Social Security Act, as amended, shall be used exclusively as provided in section 52-0307, subsection 3. From time to time, the bureau shall requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the state treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and re-

funds from the clearing account shall not be subject to any provision of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of a member of the bureau or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, either shall be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the bureau, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund as provided in section 52-0303.

**§ 6. Construction.)** Wherever reference in this Act is made to section 52-0307 and 52-0308, such reference is to sections 1 and 2 of this Act, respectively. Sections 1 and 2 of this Act are to be construed as a part of chapter 52-03 of the North Dakota Revised Code of 1943, as amended, and shall be numbered and classified as section 52-0307 and 52-0308, respectively.

Approved March 18, 1957.

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## CHAPTER 328

S. B. No. 139

(Thomas and Holand)

(at the request of)

(The Unemployment Compensation Division)

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### CONDITIONS REQUIRED FOR UNEMPLOYMENT COMPENSATION BENEFITS

#### AN ACT

To amend and reenact section 52-0601, subsection 3, of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to conditions required to be eligible to benefits.

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

**§ 1. Amendment.)** Section 52-0601, subsection 3, of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted 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:

3. He is able to work and is available for suitable work and actively seeking work; 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, shall be considered unavailable for work until such time as the claimant:
    - (1) Can demonstrate that he has earned remuneration for personal services equivalent to at least ten times his weekly benefit amount following the week in which the claimant voluntarily left work for an indefinite period; and
    - (2) Has not left his last work under disqualifying circumstances;
  - c. That a claimant shall be considered unable to work and unavailable for work for the four-month period immediately preceding the anticipated date of childbirth. Such period of ineligibility shall continue until such time as the claimant:
    - (1) Can demonstrate that she has earned remuneration for personal services equivalent to at least ten times her weekly benefit amount following the date of confinement, and
    - (2) Has not left her last work under disqualifying circumstances.

Approved March 6, 1957.

## CHAPTER 329

S. B. No. 45

(Legislative Research Committee)

## RETIREMENT OF PUBLIC EMPLOYEES

## AN ACT

Relating to retirement of public employees, amending and reenacting sections 52-0907, 52-0909, and 54-2354 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended, and subdivisions 3(a)4 and 2(c) of chapter 306 of the North Dakota Session Laws of 1955, making an appropriation and declaring an emergency.

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

**§ 1. Amendment.)** Section 52-0907 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**52-0907. Purposes For Which Fund May Be Used.)** All moneys which are paid or deposited into this fund are hereby appropriated and made available to the bureau to be used only for the purposes herein provided.

- A. To be used by the bureau for the payment of claims for benefits under this chapter. From and after the execution date of the agreement with the United States pursuant to chapter 306, 1955 Session Laws extending social security coverage to services covered by this chapter, no benefits shall be paid under this chapter except to:
1. Persons who are receiving benefit payments or are entitled to benefit payments, under section 52-0914, by virtue of death or retirement occurring before such agreement execution date. After such agreement execution date, no quarters of coverage within the meaning of section 52-0920(F) as amended, may be accrued.
  2. Persons who have quarters of coverage under the system and also quarters of coverage under federal social security as a result of the federal agreement executed under chapter 306 of the North Dakota Session Laws of 1955, but who are not eligible for a benefit under either insurance system. In any such case, if the bureau determines that the person would have been eligible for benefits under the system had it not been modified by this Act, then the bureau

may pay the benefit payable under chapter 52-09 as though not modified hereby.

Notwithstanding subsection A and subdivision 1 of subsection A of this section, the effective date referred to for policeman's and fireman's positions shall be on and after the day preceding the execution date of the agreement with the United States pursuant to chapter 306 of the North Dakota Session Laws of 1955 extending social security coverage to services covered by this chapter.

- B. To be used by the bureau to pay refunds provided for in section 52-0910, and to pay a prior service refund to any person who is not receiving any other payment under this chapter, who is employed on the date of the federal-state agreement covering services performed under this chapter and executed pursuant to chapter 306 of the North Dakota Session Laws of 1955, or who was eligible to vote in the public employees' referendum held on December 20, 1956, pursuant to authorization of chapter 306, or to any employee or his survivor who has nineteen or more quarters of coverage on the date of such federal-state agreement in an amount equal to the employee's individual contribution made between the dates July 1, 1947 and December 31, 1954, after such person makes written application therefor to the bureau.
- C. Contributions may be paid for employers and employees to the United States pursuant to chapter 306 of the North Dakota Session Laws of 1955, and pursuant to any federal-state agreement executed thereunder, and to provide coverage under federal social security retroactive to December 31, 1954 and up to July 1, 1957 for employees subject to that agreement. Such amounts are to be transferred and paid into the social security contribution fund established by chapter 306 of the North Dakota Session Laws of 1955.
- D. For the purposes of making payments under this section, if the balance in the old age survivors' fund becomes insufficient to pay current obligations, the bureau is authorized to borrow necessary amounts from the Bank of North Dakota and to repay such loans from the employer tax set forth in section 52-0909 as amended.

**§ 2. Amendment.)** Section 52-0909 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended by chapter 307 of the North Dakota Session Laws of 1955, is hereby amended and reenacted to read as follows:

**52-0909. Rate Of Contribution.)** In addition to all other taxes there is hereby levied upon each employer, as defined in

section 52-0920, and also upon each employee, as defined in section 52-0920, a tax, equal to one and one-half per centum of the wages paid before July 1, 1955, and two per centum 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 such tax shall be equal to three percent. After June 30, 1957 there shall be no tax hereunder upon the employee.

In order to pay the tax provided in this section, in addition to appropriations already made and to be made, the sum of five hundred and fifty-one thousand two hundred seventy-five dollars, or so much thereof as may be necessary for the payment of such tax, is hereby appropriated out of the general fund and out of the individual special funds as specified below in the amounts set opposite each office or department:

<b>Office or Department</b>	<b>Amount</b>
Governor	
General fund .....	\$ 800.00
Lieutenant governor	
General fund .....	80.00
Supreme court	
General fund .....	3,600.00
Supreme court, reporter and librarian	
General fund .....	160.00
Judges of district court	
General fund .....	700.00
Secretary of state	
General fund .....	2,500.00
State auditor	
General fund .....	4,260.00
State treasurer	
General fund .....	2,650.00
State treasurer—liquor control	
General fund .....	820.00
Commissioner of insurance	
General fund .....	4,600.00
Commissioner of insurance—fire marshal	
General fund .....	900.00
Attorney general	
General fund .....	4,275.00

Department of public instruction	
General fund .....	9,350.00
Department of agriculture and labor	
General fund .....	6,200.00
Public service commission	
General fund .....	6,800.00
Aeronautics commission	
General fund .....	1,100.00
Land commissioner	
General fund .....	6,000.00
Tax commissioner	
General fund .....	14,875.00
Board of administration	
General fund .....	17,000.00
State seed department	
General fund .....	12,750.00
State library commission	
General fund .....	3,400.00
State printer	
General fund .....	600.00
Adjutant general	
General fund .....	2,000.00
Legislative research committee	
General fund .....	1,700.00
State budget director	
General fund .....	820.00
State examiner	
General fund .....	8,500.00
State securities commission	
General fund .....	300.00
Board of higher education	
General fund .....	650.00
School for blind	
General fund .....	4,800.00
School for deaf	
General fund .....	7,435.00
Grafton state school	
General fund .....	53,125.00
Tuberculosis sanatorium	
General fund .....	32,000.00
State hospital	
General fund .....	106,250.00
State training school	
General fund .....	18,900.00

State penitentiary	
General fund .....	20,200.00
Economic development board	
General fund .....	1,300.00
Livestock sanitary board	
General fund .....	8,500.00
State historical society	
General fund .....	2,550.00
Public health department	
General fund .....	12,750.00
Coal mine inspector	
General fund .....	550.00
State laboratories	
General fund .....	14,800.00
State soil conservation	
General fund .....	1,000.00
State water conservation	
General fund .....	3,800.00
State geological survey	
General fund .....	6,000.00
North Dakota Indian affairs commission	
General fund .....	300.00
State highway patrol	
General fund .....	1,100.00
Civil defense	
General fund .....	700.00
Alcoholic commission	
General fund .....	350.00
N. D. twine and cordage plant	
Twine plant operating fund .....	6,500.00
State auditor, gasoline tax division	
Motor vehicle fuel tax fund.....	5,300.00
Attorney general licensing	
Attorney general license fund.....	3,200.00
Vocational education	
State equalization fund .....	2,125.00
State equalization fund	
State equalization fund .....	1,300.00
Board school district reorganization	
State equalization fund .....	300.00
Special education of exceptional children	
State equalization fund .....	600.00
State school construction	
State equalization fund .....	300.00

Division of vocational rehabilitation	
State equalization fund .....	2,400.00
Public service commission,	
automobile transportation division	
Automobile transportation fund .....	2,200.00
State seed department, board of administration	
Seed department fund .....	1,800.00
Old age and survivors' insurance system,	
unemployment compensation division	
Old age survivors' fund .....	1,500.00
Poultry improvement board	
Poultry improvement fund .....	1,500.00
State hail insurance	
State hail insurance board fund .....	5,000.00
State fire and tornado	
State fire and tornado fund .....	1,000.00
State bonding fund	
State bonding fund .....	500.00
Banking department	
Bank of North Dakota fund.....	20,000.00
Collection and land department	
Bank of North Dakota fund.....	6,400.00
Judge A. M. Christianson project	
Bank of North Dakota fund.....	650.00
Unemployment compensation division	
(social security)	
Old age and survivors' trust fund.....	1,100.00
Commissioner of veterans affairs	
Veterans aid fund .....	2,000.00
Veterans aid commission	
Veterans aid fund .....	500.00
N. D. soldiers home	
Veterans aid fund .....	5,300.00
Public welfare board	
Public welfare fund .....	19,000.00
Registrar of motor vehicles	
Motor registration fund .....	8,500.00
Workmen's compensation bureau	
Workmen's compensation fund .....	10,600.00
Game and fish department	
Game and fish fund .....	25,500.00
Teachers insurance and retirement	
Teachers insurance and retirement fund.....	2,000.00

Department of public instruction	
State equalization, department of public instruction surplus property .....	400.00

§ 3. **Amendment.)** Section 54-2354 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2354. Retirement Pay.)** When eligible for retirement, each employee shall be entitled to the payment of a wage equal to one-half of the average monthly salary or wages paid such employee during the ten years next preceding his or her retirement. Such monthly retirement wage shall be paid out of the salaries and wages account of the institution formerly employing such person. Only employees eligible for retirement or retired under section 54-2353 prior to July 1, 1957, shall be entitled to payments under this section.

§ 4. **Amendment.)** "c." of section 2 of chapter 306 of the North Dakota Session Laws of 1955 is hereby amended and reenacted to read as follows:

- c. The term "employee" includes an officer of a state or political subdivision as well as all persons employed in and by regulatory boards, commissions or councils recognized and established by the statutes of the state of North Dakota, except part-time elected persons or persons hired on a fee basis, if excluded by the federal-state agreement;

§ 5. **Amendment.)** Subdivision 3(a)4 of chapter 306 of the North Dakota Session Laws of 1955 is hereby amended and reenacted to read as follows:

4. All services which constitute employment as defined in section 2 and are performed in the employ of the state by employees of the state, shall be covered by the agreement; all services which constitute employment as defined in section 2 and are performed in the employ of any municipality except elected officials, shall be covered by the agreement, notwithstanding the provisions of section 5, which provides for plans for coverage of employees;

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

Approved March 18, 1957.