

SOCIAL SECURITY

CHAPTER 353

S. B. No. 157
(Hernett, Kee, George)
(By request)

UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

AN ACT

To amend and reenact subsection 2 of section 52-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to definitions; section 52-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to standard rate of contributions; reduction of rates; section 52-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to variations in standard rate of contributions; how determined; section 52-0409 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to classification of employers to determine contributions; regulations governing; and section 52-0411 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to unpaid contributions to bear interest; interest collected paid into unemployment compensation fund.

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

§ 1. Amendment.) Subsection 2 of section 52-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

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

§ 2. Amendment.) Section 52-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0405. Standard Rate of Contributions; Reduction of Rates.) The standard rate of contributions payable by each employer shall be three and seven-tenths percent. No em-

ployer's rate shall be reduced below the standard rate for any succeeding calendar year unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate of not less than three percent if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve consecutive calendar month period ending on December thirty-first of the preceding calendar year if he has an employer reserve ratio of at least five percent.

§ 3. Amendment.) Section 52-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0406. Variations in Standard Rate of Contributions; How Determined.) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

1. For the calendar year 1960 and for each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of December thirty-first of the preceding calendar year, to taxable wages for such preceding calendar year which have been reported to the bureau on or before January thirty-first of the succeeding calendar year. If such ratio is:
 - a. Less than three percent, the schedule of rates at column I will be in effect;
 - b. Three percent but less than five percent, the schedule of rates at column II will be in effect;
 - c. Five percent but less than six percent, the schedule of rates at column III will be in effect;
 - d. Six percent but less than seven percent, the schedule of rates at column IV will be in effect;
 - e. Seven percent but less than eight percent, the schedule of rates at column V will be in effect;
 - f. Eight percent but less than nine percent, the schedule of rates at column VI will be in effect;
 - g. Nine percent but less than ten percent, the schedule of rates at column VII will be in effect;
 - h. Ten percent or more, the schedule of rates at column VIII will be in effect.

For the calendar year 1960, the schedule of rates to be in effect will not be more than the schedule of rates at column V. If the fund reserve ratio decreases during the calendar year 1960 or any calendar year thereafter, the schedule of rates will not

be advanced by more than one column for any calendar year, except that the schedule of rates at column I will be in effect for each calendar year that the fund reserve ratio is less than three percent on December thirty-first of the preceding calendar year. The percent of the average annual pay roll by which the cumulative contributions paid by an employer on or before January thirty-first of any year, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before December thirty-first of the preceding calendar year, shall be such employer's reserve ratio. The contribution rate for the ensuing calendar year of an employer whose account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

(See next page for "Schedule of Rates-Fund Reserve Ratio")

Schedule of Rates—Fund Reserve Ratio

EMPLOYERS' RESERVE RATIO	Col. I— Less Than 3%	Col. II— 3% But Less Than 5%	Col. III— 5% But Less Than 6%	Col. IV— 6% But Less Than 7%	Col. V— 7% But Less Than 8%	Col. VI— 8% But Less Than 9%	Col. VII— 9% But Less Than 10%	Col. VIII— 10% and Over
Minus Balance	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%
0% but less than 1%	3.0%	3.0%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%
1% but less than 2%	3.0%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%
2% but less than 3%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%	2.3%
3% but less than 4%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%	2.3%	2.1%
4% but less than 5%	3.0%	2.7%	2.7%	2.7%	2.7%	2.3%	2.1%	1.9%
5% but less than 6%	2.7%	2.7%	2.7%	2.7%	2.5%	2.1%	1.9%	1.7%
6% but less than 7%	2.7%	2.7%	2.7%	2.7%	2.3%	1.9%	1.7%	1.5%
7% but less than 8%	2.7%	2.7%	2.7%	2.5%	2.1%	1.7%	1.5%	1.3%
8% but less than 9%	2.7%	2.7%	2.7%	2.3%	1.9%	1.5%	1.3%	1.1%
9% but less than 10%	2.7%	2.7%	2.5%	2.1%	1.7%	1.3%	1.1%	0.9%
10% but less than 11%	2.7%	2.7%	2.3%	1.9%	1.5%	1.1%	0.9%	0.7%
11% but less than 12%	2.7%	2.5%	2.1%	1.7%	1.3%	0.9%	0.7%	0.5%
12% but less than 13%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.5%	0.3%
13% but less than 14%	2.7%	2.1%	1.7%	1.3%	0.9%	0.5%	0.3%	0.3%
14% but less than 15%	2.7%	1.9%	1.5%	1.1%	0.7%	0.3%	0.3%	0.3%
15% and less than 16%	2.7%	1.7%	1.3%	0.9%	0.5%	0.3%	0.3%	0.3%
16% and over	2.7%	1.5%	1.1%	0.7%	0.3%	0.3%	0.3%	0.3%

2. Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within one hundred twenty days after the beginning of such year.
3. If the total benefits chargeable against an employer's account for all periods prior to January first of such calendar year, including benefits paid on or before January first, with respect to weeks of unemployment compensated prior to January first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before January thirty-first with respect to wages paid prior to January first of the same year, his contribution rate for the ensuing calendar year shall be the standard rate;
4. The rate of an employer who has had pay roll subject to contributions in each of the three years preceding the computation date shall not be reduced unless the pay roll in each such year is equal to at least twenty percent of the highest pay roll 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 unless the pay roll in each of the two years immediately preceding the computation date is equal to at least twenty percent of the highest annual pay roll in such two-year period. This requirement shall not apply to an employer who has been subject to the law for less than two years ending on the computation date.

§ 4. **Amendment.**) Section 52-0409 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0409. Classification of Employers to Determine Contributions; Regulations Governing.) For the year 1942 and for each calendar year thereafter, the bureau shall classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record as of January first of that calendar year. If as of the date such classification of employers is made, the bureau

finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the bureau finds incorrect or insufficient, the bureau shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the bureau at the time, and shall notify the employing unit thereof by registered mail addressed to its last known address. Unless such employing unit shall file the report, or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of such notice, his rate may not be less than the standard rate for the ensuing calendar year.

§ 5. **Amendment.**) Section 52-0411 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0411. Unpaid Contributions to Bear Interest; Interest Collected Paid Into Unemployment Compensation Fund.) Contributions unpaid on the date on which they are due and payable as prescribed by the bureau shall bear interest at the rate of one-half of one percent per month plus \$10.00 from and after such date until the payment plus the accrued interest is received by the bureau; except that in case of willful failure to file the reports and pay the contributions required by this chapter, there shall be added in addition to the interest, five percentum of the contributions if the failure is for not more than sixty days with an additional five percentum for each additional sixty days or fraction thereof during which such failure continues but not exceeding twenty-five per centum in the aggregate, exclusive of interest. The amount added pursuant to the provisions of this section shall be collected at the same time and in the same manner and as a part of the contributions and shall be paid into the unemployment trust fund.

Approved March 17, 1959.

CHAPTER 354

H. B. No. 725
(Wheeler, Vinje, Larson)
(By request)

UNEMPLOYMENT COMPENSATION FUNDS

AN ACT

To amend and reenact section 52-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to administrative use; regulations governing; and section 52-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to advances from the federal unemployment account; regulations governing.

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

§ 1. **Amendment.**) Section 52-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0307. 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 period 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 five 12-month periods. For the purposes of this section, amounts used during any such 12-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 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 sections 52-0209, 52-0301, 52-0304, 52-0307, and 52-0308 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. Amendment.) Section 52-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0308. Advances From the Federal Unemployment Account; Regulations Governing.) The governor of this state 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.

Approved March 12, 1959.

CHAPTER 355

H. B. No. 810

(Vinje, Anderson of McHenry, Magnuson, Fossum)
(By request)

UNEMPLOYMENT COMPENSATION COVERAGE

AN ACT

To amend and reenact section 52-0503 of the North Dakota Revised Code of 1943, relating to employment not included within title may be deemed subject to the provisions of this title when.

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

§ 1. Amendment.) Section 52-0503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0503. Employment Not Included Within Title May Be Deemed Subject to Provisions of Title When.) Any employing unit for which services are performed that do not constitute employment as defined in this title may file with the bureau a written election that all such services with respect to which payments are not required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the bureau, such services shall be deemed to constitute employment subject to the provisions of this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the bureau a written notice to that effect. The bureau in its discretion may on its own motion terminate any election agreement under this section upon thirty days notice to the employer. The rate of contri-

bution for employment covered by an election under this section shall be seven percent of the wages paid after 1959, unless the employer qualifies for a rate of contribution of less than the standard rate, as provided in chapter 52-04.

Approved March 12, 1959.

CHAPTER 356

H. B. No. 589

(Dahl, Dick, Idso, Magnuson, Hilleboe,
Lindberg, Loewen, Stockman)

UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

AN ACT

To amend and reenact section 52-0413 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the lien of a judgment obtained in an action brought for the recovery of delinquent or defaulted unemployment compensation contributions and restricting the priority of such judgment lien to the same priority held by other judgments.

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

§ 1. **Amendment.)** Section 52-0413 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0413. Priority Rights to Contributions Upon Legal Dissolutions or Distributions.) In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefits of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than two hundred and fifty dollars to each claimant, earned within four months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64a of that Act, United States Code Title II, section 104b, as amended. In any action for the recovery of delinquent and defaulted contributions, the remedies of garnishment or attachment, or both, shall be available. No exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

Approved March 11, 1959.

CHAPTER 357

S. B. No. 158
(Hernett, Kee, George)
(By request)

SOCIAL SECURITY BENEFITS

AN ACT

To create and enact subsection 9 of section 52-0602, North Dakota Revised Code of 1943, relating to disqualification for benefits; and to amend and reenact section 52-0603 of the North Dakota Revised Code of 1943, relating to benefits payable when; section 52-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to schedule of benefits, qualifying wages and definitions; section 52-0605 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to maximum potential benefits.

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

§ 1.) Subsection 9 of section 52-0602 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

52-0602. Disqualification for Benefits.)

9. For any week for which such individual is receiving or has claimed and will receive retirement payments under a retirement plan to whose financing any employing unit has substantially contributed or under any retirement system supported in whole or in part by public contributions or under both. If the retirement payment referred to is less than the benefits which would otherwise be due, claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such retirement payment raised to the next higher multiple of one dollar.

§ 2. **Amendment.)** Section 52-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0603. Benefits Payable When.) Beginning twenty-four months after the date when contributions first accrued under this title, benefits shall become payable from the fund. Benefits shall be paid through public employment offices in accordance with such regulations as the bureau may prescribe.

§ 3. **Amendment.)** Section 52-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0604. Schedule of Benefits; Qualifying Wage; Definitions.)

1. **Schedule of Benefits.** Subject to the other provisions of this title an insured worker's weekly benefit amount shall be the amount in column B of the table in this subsection on the line on which, in column A, there appears his total wages paid for insured work in that quarter of his base period in which such total wages are highest.

COLUMN A High Quarterly Wages	COLUMN B Weekly Benefit Amount	COLUMN C Minimum Qualifying Wages
\$ 97.50 - \$260	\$10	\$ 390
260.01 - 286	11	429
286.01 - 312	12	468
312.01 - 338	13	507
338.01 - 364	14	546
364.01 - 390	15	585
390.01 - 416	16	624
416.01 - 442	17	663
442.01 - 468	18	702
468.01 - 494	19	741
494.01 - 520	20	780
520.01 - 546	21	819
546.01 - 572	22	858
572.01 - 598	23	897
598.01 - 624	24	936
624.01 - 650	25	975
650.01 - 676	26	1014
676.01 - 702	27	1053
702.01 - 728	28	1092
728.01 - 754	29	1131
754.01 - 780	30	1170
780.01 - 806	31	1209
806.01 - and over	32	1248

2. **Qualifying Wage.** To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the table in subsection 1 of this section on the line on which, in column B, there appears his weekly benefit amount, and such wages must have been paid in at least two quarters of his base period; however, if any individual during his base period has not been paid such an amount but has been paid wages totaling not less than the amount appearing in column C on the line

immediately above he can qualify as an insured worker and his weekly benefit amount shall be the amount appearing in Column B on such line.

3. **Definitions.** 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 requirement of this chapter.

§ 4. **Amendment.)** Section 52-0605 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0605. Maximum Potential Benefits.) The maximum potential benefits for any insured worker in a benefit year shall be equal to twenty-four times his weekly benefit amount.

Approved March 17, 1959.

CHAPTER 358

S. B. No. 135

(Vendsel, Klefstad, O'Brien)

WEEKLY BENEFITS FOR UNEMPLOYMENT

AN ACT

To amend and reenact section 52-0606 of the North Dakota Revised Code of 1943, relating to weekly benefits for unemployment.

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

§ 1. **Amendment.)** Section 52-0606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0606. Weekly Benefit for Unemployment.) Each eligible individual who is unemployed with respect to any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages, if any, payable to him with respect to such week which is in excess of one-half of his weekly benefit amount. Such benefit, if not a multiple of one dollar, shall be computed to the next higher multiple of one dollar.

Approved March 16, 1959.

CHAPTER 359

S. B. No. 195
(Baeverstad, Nesvig, Wenstrom)
(By request)

OLD AGE AND SURVIVOR INSURANCE AND SOCIAL SECURITY

AN ACT

To amend and reenact section 52-0907 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to purposes for which fund may be used; section 52-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to default in taxes; interest; action to collect; levy of tax by political subdivisions; section 52-0909 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to rate of contribution; section 52-0915 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to deductions from and additions to benefits; subsection A. of section 52-0920 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to definitions; to enact subsection d. of section 52-1004 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to contributions by employees of the state and of political subdivisions; to amend and reenact subsection d. of section 52-1005 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to plans for coverage of employees of political subdivisions and to amend and reenact section 52-1009 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to studies and reports, and declaring an emergency.

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

§ 1. Amendment.) Section 52-0907 of the 1957 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, and to dependents and survivors of such fully insured persons when-

ever entitled and eligible. After such agreement execution date, no quarters of coverage within the meaning of section 52-0920 (F) as amended, may be accrued.

2. Persons not entitled to benefits from any other public retirement plan but who would have been eligible under section 52-0914 before 1960, and dependents and survivors of such fully insured persons whenever entitled and eligible.

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. 1. 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.
 2. No refund will be paid if the application was received after 1959. No contribution will be refunded if the wages are used to determine benefit eligibility. If such wages were used for a benefit determination the person must repay the amount of the refund or the bureau may deduct the amount from any benefit payment due to the person.
- 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 52-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0908. Default in Taxes; Interest; Action to Collect; Levy of Tax by Political Subdivisions.) Taxes unpaid on the date on which they are due and payable as prescribed by the bureau, shall bear interest at the rate of one-half of one percentum per month from and after such date until payment plus accrued interest is received by the bureau, provided that the bureau may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue with respect to taxes required. In no case shall the amount of interest imposed hereby be less than five dollars. Interest collected pursuant to this section shall be paid into the old age and survivors' fund.

- A. If within thirty days after due notice, the employer defaults in payment of taxes or interest thereon, the amount due shall be collected by civil action in the name of the bureau and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect taxes or interest thereon 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.
- B. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision.
- C. The political subdivision is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter, over and above any levy-limitations now prescribed by law for such political subdivisions.

§ 3. Amendment.) Section 52-0909 of the 1957 Supplement to the North Dakota Revised Code of 1943 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 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 such tax shall be equal to three and one-half percent. After June 30, 1957 there shall be no tax hereunder upon the employee.

§ 4. Amendment.) Section 52-0915 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0915. Deductions From and Additions to Benefits.)

- A. Whenever the total of benefits under section 52-0914, payable for a month with respect to an individual's wage, is more than \$20 and exceeds (1) \$150.00, or (2) an amount equal to 80 percentum of his average monthly wage as defined in section 52-0920 (E), whichever of such amounts is least, such total of benefits shall, prior to any deductions under subsection (D) be reduced to such least amount or to \$20 whichever is the greater.
- B. Whenever the benefit or total of benefits under section 14 (52-0914), payable for a month with respect to an individual's wages, is less than \$10 such benefit or total of benefits shall, prior to any deductions under subsection (D) be increased to \$10.
- C. Whenever a decrease or increase of the total of benefits for a month is made under subsection (A) or (B) of this section, each benefit, except the primary benefit, shall be proportionately decreased or increased as the case may be.
- D. Deductions, in such amounts and at such time or times as the bureau shall determine, shall be made from any payment or payments under this chapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits for any month in which:
 - (1) a child under eighteen and over sixteen years of age, failed to attend school regularly and the bureau finds that attendance was feasible; or
 - (2) a widow entitled to a widow's current insurance benefit did not have in her care a child of her deceased husband entitled to receive a child's insurance benefit;

- (3) such individual rendered services for the state of North Dakota or any of its political subdivisions or instrumentalities for wages of more than one hundred dollars.
- E. If more than one event occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefits shall be deducted.
- F. Any individual in receipt of benefits subject to deduction under subsection (D) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event enumerated therein, shall report such occurrence to the bureau prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (D).
- G. A wife or child entitled to a wife's or child's insurance benefit will not be entitled to a benefit for any month in which the individual, with respect to whose wages such benefit was payable, rendered services for the state of North Dakota or any of its political subdivisions or instrumentalities, for wages of more than one hundred dollars.
- H. The above deductions shall not apply to individuals who are seventy-two years of age or over.

§ 5. Amendment.) Subsection A. of section 52-0920 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0920. Definitions.) When used in this chapter:

- A. The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include
- (1) That part of the remuneration which, after remuneration equal to \$4,800 has been paid to an individual with respect to employment during any calendar year after 1946, is paid to such individual with respect to employment during such calendar year.

§ 6.) Subsection d. of section 52-1004 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

52-1004. Contributions by Employees of the State and of Political Subdivisions.)

- 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 52-1006, contributions, with respect to wages as defined in section 52-1002, 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 administration of this chapter.

§ 7. Amendment.) Subsection d. of section 52-1005 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-1005. Plans for Coverage of Employees of Political Subdivisions.)

- d. Delinquent payments due under paragraph 1 subsection (c) shall bear interest at the rate of six percentum per annum and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. In no case shall the interest imposed hereby be less than \$5.

§ 8. Amendment.) Section 52-1009 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-1009. Studies and Reports.) The state agency shall submit a report to the governor and the legislative assembly at the beginning of each regular session, covering the administration and operation of this chapter, including such recommendations for amendments to this chapter as it considers proper.

§ 9. 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 4, 1959.

CHAPTER 360

H. B. No. 726

(Aamoth, Baldwin, Stockman)

REFUND OF OASIS PAYMENTS

AN ACT

To create and enact a subsection to section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to and providing for a refund of contributions made to the old age and survivor insurance system and federal social security program in excess of maximum payments, which excess payments resulted by the transfer from old age and survivor insurance system to the federal social security program, and setting a time limitation when application for refund must be submitted to administrator of old age and survivor insurance system fund.

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

*Individual teachers, who contributed to both the old age and survivor insurance system fund under chapter 52-09 of the 1957 Supplement to the North Dakota Revised Code of 1943 on a nonteaching position and to the social security administration on a teaching position under an agreement negotiated in accordance with chapter 306 of the 1955 Session Laws, shall upon submitting a written application to the administrator of the old age and survivor insurance system fund be entitled to a refund of the individual's contribution in excess of the maximum payment required under the Federal Social Security Act for each calendar year on the wages from January 1, 1955, through December 31, 1957, where the old age and survivor insurance system fund received credit from the social security administration for such excess payments as a result of the transfer from the old age and survivor insurance system to the federal social security program, provided that such application be received by the administrator of the old age and survivor insurance system fund before 1960.

Approved March 17, 1959.

***Note:** Section 52-0921 was also amended by chapter 361, by creating a new subsection.

CHAPTER 361

H. B. No. 635
(Wheeler)
(By request)

REFUND TO POLICEMEN AND FIREMEN

AN ACT

To create and enact subsection C. of section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to refunds.

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

***§ 1. Amendment.)** Subsection C. of section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

C. Any policeman or fireman covered by a policeman's or fireman's city pension plan and who was also covered under this chapter, shall be paid a refund, for such employment, upon application before 1960, of his individual contribution, without interest, for the period January 1, 1955 to July 1, 1957. No refund will be paid where the policeman's or fireman's wages were transferred to Federal Social Security.

Approved March 12, 1959.

CHAPTER 362

H. B. No. 793
(Lowe and Stockman)

PUBLIC EMPLOYEES UNDER SOCIAL SECURITY

AN ACT

To amend and reenact section 52-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to public employees under Federal Social Security.

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

§ 1. Amendment.) Section 52-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***Note:** Section 52-0921 was also amended by chapter 360, by creating a new subsection.

52-1003. Federal-State Agreement; Interstate Instrumentalities.)

a. The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this Act, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the state or any political subdivision with respect to services specified in such agreement which constitute "employment" as defined in section 2 of this Act. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

1. Benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;
2. The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 2 of this Act, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act;
3. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into, except that an agreement or modification entered into after December 31, 1955 and prior to January 1, 1960 shall be effective with respect to services performed after December 31, 1955; or after a later date specified in such modification;
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;

5. All services which (A) constitute employment as defined in section 2, (B) are performed in the employ of a political subdivision of the state, and (C) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 5, shall be covered by the agreement;
6. The agreement shall include all services described in either paragraph (4) or paragraph (5) of this subsection and performed by individuals to whom section 218 (c) (3) (C) of the Social Security Act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of the retirement system; and
7. The agreement shall include all services described in either paragraph (4) or paragraph (5) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education and welfare pursuant to section 7 (b) of this Act.

b. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under section 4 (a) if they were covered by an agreement made pursuant to subsection (a) of this section, and (3) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) and other provisions of this Act.

Approved March 11, 1959.