

SOCIAL SECURITY

CHAPTER 501

SENATE BILL NO. 2141
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION PAYROLL COMPUTATION

AN ACT to create and enact subsection 8.1 to section 52-01-01 of the North Dakota Century Code, relating to unemployment compensation definitions; to amend and reenact subsections 1 and 2 of section 52-01-01, section 52-04-05, subsections 1, 2, and 4 of section 52-04-06, sections 52-04-09 and 52-04-10, and subsections 1 and 2 of section 52-04-19.1 of the North Dakota Century Code, relating to unemployment compensation definitions, contributions, and notification; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 52-01-01 of the 1979 Supplement to the North Dakota Century Code are 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~~ September thirtieth of any calendar year.
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;~~
 - a. The annual payroll for the twelve-month period immediately preceding the computation date for an employer whose account has been chargeable with benefits for twelve but less than twenty-four months.

- b. The average of the annual payrolls for the last two 12-month periods immediately preceding the computation date for an employer whose account has been chargeable with benefits for twenty-four but less than thirty-six months.
- c. The average of the annual payrolls for the last three 12-month periods immediately preceding the computation date for an employer whose account has been chargeable with benefits for thirty-six or more months.

SECTION 2. Subsection 8.1 to section 52-01-01 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

- 8.1. "Computation date" means September thirtieth of each calendar year with respect to rates of contribution applicable to the calendar year beginning with the following January 1.

SECTION 3. AMENDMENT. Section 52-04-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-05. STANDARD RATE OF CONTRIBUTIONS - REDUCTION OF RATES.

1. For the calendar year 1979 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be the rate fixed for employers who have a minus balance reserve ratio which is applicable for the given year in the schedule of rates under section 52-04-06. No employer's rate shall be reduced below the standard rate for any 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~~ September thirtieth 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 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~~ September thirtieth of the preceding calendar year. Employers who have not been subject to the law for a sufficient period of time to meet the requirements of this subsection shall have their rate determined under subsection 2 of this section.
2. For the calendar year 1981 and each year thereafter, an employer who is not eligible for an experience rate computation, as provided in subsection 1 of this section and section 52-04-06, shall pay contribution at a rate equal to the average industry tax rate as determined by

the bureau on computation date, provided that the rate shall not be less than one percent. This subsection shall not apply to newly liable employers in industries with an average tax rate exceeding three percent. Newly liable employers in these industries shall pay the standard rate. The computation of the average industry rate shall exclude those employer accounts which are not eligible for the computation of an experience rate solely by reason of insufficient experience. An employer with an industry classification code that is without experience in this state for twelve consecutive chargeable months or who has failed to provide correct industrial classification information shall pay at the standard rate. Assignment by the bureau of employer's industrial classification, for the purpose of this subsection, shall be the two digit major group provided in the Standard Industrial Classification Manual, in accordance with established classification practices found in the Standard Industrial Classification Manual, issued by the executive office of the president, office of management and budget. The standard rate shall be assigned an employer account which on computation date has a minus balance reserve, or has failed to file a contribution report or a corrected or sufficient report as provided in section 52-04-09.

SECTION 4. AMENDMENT. Subsections 1, 2, and 4 of section 52-04-06 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. For the calendar year ~~1979~~ years 1981 and 1982 the rate of contributions will not be higher than the rates at column ~~III~~ II of the schedule of rates.
2. For the calendar year ~~1980~~ 1983 and each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of ~~December thirty-first~~ September thirtieth of the preceding calendar year to the highest amount of benefits paid, less reimbursables, in any one of the preceding five years 12-month periods ending on September thirtieth. If such ratio is:
 - a. Less than .5, the schedule of rates at column I will be in effect;
 - b. .5 but less than .7, the schedule of rates at column II will be in effect;
 - c. .7 but less than .9, the schedule of rates at column III will be in effect;
 - d. .9 but less than 1.1, the schedule of rates at column IV will be in effect;

	2.9%	2.7%	2.5%	2.3%	2.1%	1.9%	1.7%	1.5%
9% but less than 10%	2.7%	2.5%	2.3%	2.1%	1.9%	1.7%	1.5%	1.3%
10% but less than 11%	2.7%	2.3%	2.1%	1.9%	1.7%	1.5%	1.3%	1.1%
11% but less than 12%	2.7%	2.1%	1.9%	1.7%	1.5%	1.3%	1.1%	0.9%
12% but less than 13%	2.7%	1.9%	1.7%	1.5%	1.3%	1.1%	0.9%	0.7%
13% but less than 14%	2.7%	1.7%	1.5%	1.3%	1.1%	0.9%	0.7%	0.5%
14% but less than 15%	2.7%	1.5%	1.3%	1.1%	0.9%	0.7%	0.5%	0.3%
15% but less than 16%	2.7%	1.3%	1.1%	0.9%	0.7%	0.5%	0.3%	0.3%
16% but less than 17%	2.7%	1.1%	0.9%	0.7%	0.5%	0.3%	0.3%	0.3%
17% but less than 18%	2.7%	0.9%	0.7%	0.5%	0.3%	0.3%	0.3%	0.3%
18% but less than 19%	2.7%	0.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.3%
19% and over	2.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%

4. If the total benefits chargeable against an employer's account for all periods prior to January October first of such ~~calendar~~ year, including benefits paid on or before January October first, with respect to weeks of unemployment compensated prior to January October first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before January October thirty-first with respect to wages paid prior to January October first of the same year, his contribution rate for the ensuing calendar year shall be the standard rate.

SECTION 5. AMENDMENT. Section 52-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-09. 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 except after the year 1981, when each employer's rate for the next calendar year shall be determined on the basis of his record as of October first of the preceding 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 or certified 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.

SECTION 6. 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~~ December first of such--ensuing the preceding 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 7. AMENDMENT. Subsections 1 and 2 of section 52-04-19.1 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Benefits paid to employees of the state of North Dakota, its departments and instrumentalities, or any instrumentality of more than one of the foregoing, or an instrumentality of the foregoing and one or more other states, which are attributable to employment by an

employing unit which, after December 31, 1977, is defined as an employer, shall be financed by one of the following methods:

- a. By payment of contributions as provided under section 52-04-06, plus one-half the cost of the extended benefits paid that are attributable to wages paid by an employer.
 - b. By payment in lieu of contributions each quarter for the calendar years 1978 and 1979 in an amount equal to one percent of their total quarterly payroll, and the rate of contributions to be paid for each two-year period after 1979 shall be as determined by the bureau each January by computing the cost of benefits paid under chapters 52-06 and 52-07.1 which are attributable to wages paid by employers, and the bureau may modify such rate in order to minimize excess or insufficient payments in any prior periods.
 - c. In lieu of contributions an employer may elect to pay to the bureau for the unemployment fund an amount equal to the amount of benefits paid under chapters 52-06 and 52-07.1 which are attributable to wages paid in the employ of such governmental employer, to individuals for weeks of unemployment.
2. Benefits paid to employees of political subdivisions, other than state government, its departments and instrumentalities, or any instrumentality of more than one of the foregoing which are attributable to employment by an employing unit which, after December 31, 1977, is defined as an employer, shall be financed by one of the following methods:
- a. By payment of contributions as provided under section 52-04-06 plus one-half the cost of the extended benefits paid that are attributable to wages paid by an employer.
 - b. By payment in lieu of contributions each quarter for the calendar year 1978 in an amount equal to one percent of their total quarterly payroll, and the rate of contribution to be paid quarterly each year after 1978 shall be determined by the bureau each January by computing the cost of benefits paid under chapters 52-06 and 52-07.1 which are attributable to wages paid by employers, and the bureau may modify such rate in order to minimize excess or insufficient payments in any prior periods.
 - c. In lieu of contributions an employer may elect to pay to the bureau for the unemployment fund an amount equal to the amount of benefits paid under chapters

52-06 and 52-07.1 which are attributable to wages paid in the employ of such governmental employer, to individuals for weeks of unemployment.

SECTION 8. EFFECTIVE DATE. The provisions of this Act shall become effective on January 1, 1981.

SECTION 9. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 1, 1981

CHAPTER 502

SENATE BILL NO. 2117
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION BENEFITS
ELIGIBILITY

AN ACT to amend and reenact subsection 4 of section 52-06-01 and subsection 1 of section 52-06-02 of the North Dakota Century Code, relating to eligibility and disqualification for unemployment compensation benefits.

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

SECTION 1. AMENDMENT. Subsection 4 of section 52-06-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. He has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this subsection:
 - a. Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, ~~provided, that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment;~~
 - b. If benefits have been paid with respect thereto;
 - c. Unless the individual was eligible for benefits, with respect thereto as provided in this section and section 52-06-02.

SECTION 2. AMENDMENT. Subsection 1 of section 52-06-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the week in which he has filed an otherwise valid claim for benefits after he has left his last employment voluntarily without good cause attributable to the employer, and thereafter until such time as he:

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

This subsection shall not apply if the bureau determines that the individual in an active claim filing status accepted work which the individual could have refused with good cause under section 52-06-36 and terminated such employment with the same good cause and within the first ten weeks after starting work.

Approved April 8, 1981

CHAPTER 503

SENATE BILL NO. 2354
(Parker)

BENEFITS DISQUALIFICATION

AN ACT to amend and reenact subsection 4 of section 52-06-02 of the North Dakota Century Code, relating to disqualification for unemployment compensation benefits.

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

SECTION 1. AMENDMENT. Subsection 4 of section 52-06-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. For any week with respect to which it is found that his unemployment is due to a stoppage-of-work strike, sympathy strike, or a claimant's work stoppage dispute of any kind which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that:
 - a. He is not participating in or directly interested in the labor dispute which caused the stoppage--of--work strike, sympathy strike, or a claimant's work stoppage dispute of any kind; and
 - b. He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage strike, sympathy strike, or a claimant's work stoppage dispute of any kind occurs, any of whom are participating in or directly interested in the dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; ~~and provided further, that there shall not be deemed to be a stoppage--of--work-in-any-factory, establishment, or other premises unless there shall be a substantial stoppage--of--work--in--each--of--said--factory, establishment, or other premises.~~

Approved March 25, 1981

CHAPTER 504

SENATE BILL NO. 2114
 (Committee on Industry, Business, and Labor)
 (At the request of Job Service North Dakota)

BENEFITS DISQUALIFICATION

AN ACT to amend and reenact subsection 16 of section 52-06-02 of the North Dakota Century Code, relating to disqualification for unemployment compensation benefits.

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

SECTION 1. AMENDMENT. Subsection 16 of section 52-06-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16. ~~For any week which begins after March 31, 1980, and which begins in a period with respect to which the individual is receiving a governmental or other pension, unless the weekly benefit amount payable to the individual for the week is reduced, but not below zero:~~
- ~~a. By one-half the prorated weekly amount of the pension if at least one-half the cost of the pension plan was contributed by an employer who employed the individual during the base period, or whose account would be chargeable with any unemployment compensation paid to the individual for the week;~~
- ~~b. By the entire prorated weekly amount of the pension if the entire cost of the pension plan was contributed by such an employer; or~~
- ~~c. By the entire prorated weekly amount of any governmental or other pension except service disability pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on any previous work of the individual if the reduction is required as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.~~

For any week with respect to which an individual is receiving a pension (which shall include a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment) under a plan maintained or contributed to by a base period or chargeable employer (as determined under applicable law), unless the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero):

- a. By the prorated weekly amount of the pension after deduction of one-half of the portion of the pension that is directly attributable to the percentage of the contributions made to the plan by such individual; or
- b. By the entire prorated weekly amount of the pension if subdivision a or subdivision c does not apply; or
- c. By one-half of the pension if the entire contributions to the plan were provided by such individual, or by the individual and an employer (or any other person or organization) who is not a base period or chargeable employer (as determined under applicable law).

Approved March 26, 1981

CHAPTER 505

SENATE BILL NO. 2120
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

MINIMUM WEEKLY BENEFIT AMOUNT
DETERMINATION

AN ACT to amend and reenact subsection 1 of section 52-06-04 of the North Dakota Century Code, relating to unemployment compensation weekly benefit amount.

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

SECTION 1. AMENDMENT. Subsection 1 of section 52-06-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 the individual's total wages for insured work paid during the quarter of the individual's base period in which the individual's wages were the highest, ~~but-in-no-case-to-be-less-than a-"minimum-weekly-benefit-amount"-of-eighteen-percent of--the-average-weekly-wage-rounded-to-the-next-higher multiple-of-one-dollar-if-not-a-multiple-of-one-dollar nor--more--than--a--"maximum-weekly-benefit-amount"-as hereinafter-provided~~ however, if such amount is less than the "minimum weekly benefit amount" the individual shall be monetarily ineligible for benefits. The "minimum weekly benefit amount" shall be eighteen percent of the average weekly wage rounded to the next higher multiple of one dollar if not a multiple of one dollar. The "maximum weekly benefit amount" shall be 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) Sixty 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 1975.
- (3) Sixty-seven 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 1976.

Approved March 19, 1981

CHAPTER 506

SENATE BILL NO. 2113
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

SUITABILITY OF WORK

AN ACT to amend and reenact section 52-06-36 of the North Dakota Century Code, relating to the factors considered in determining suitability of work and good cause for voluntary leaving with respect to unemployment compensation benefits.

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

SECTION 1. AMENDMENT. Section 52-06-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-36. FACTORS CONSIDERED IN DETERMINING SUITABILITY OF WORK AND GOOD CAUSE FOR VOLUNTARY LEAVING. In determining whether or not any work is suitable for an individual and in determining the existence of good cause for voluntarily leaving his work under section 52-06-02, subsections 1 and 3, there shall be considered among other factors, and in addition to those enumerated in this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence, and the prospects for obtaining local work. However, any work paying wages equal to the maximum weekly benefit amount shall be determined suitable for an individual who has filed for and received benefit payments for eighteen consecutive weeks; provided that consideration shall be given to the degree of risk involved to the individual's health, safety, morals, his physical fitness and the distance of the work from his residence. No work shall be deemed suitable and benefits shall not be denied under the North Dakota Unemployment Compensation Law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

2. If the wages, hours, or other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or
3. If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Approved March 25, 1981

CHAPTER 507

SENATE BILL NO. 2112
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

EXTENDED BENEFITS ELIGIBILITY

AN ACT to create and enact section 52-07.1-08.1 and 52-07.1-08.2 of the North Dakota Century Code, relating to unemployment compensation extended benefits paid under interstate claims and to eligibility for extended benefits; to provide an effective date; and to declare an emergency.

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

SECTION 1. Section 52-07.1-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-07.1-08.1. CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.

1. Except as provided in subsection 2, an individual shall not be eligible for extended benefits for any week if:
 - a. Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan; and
 - b. No extended benefit period is in effect for such week in such state.
2. Subsection 1 shall not apply with respect to the first two weeks for which extended benefits are payable (determined without regard to this section) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.

SECTION 2. Section 52-07.1-08.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-07.1-08.2. ELIGIBILITY FOR EXTENDED BENEFITS.

1. Notwithstanding the provisions of section 52-07.1-04, an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the bureau finds that during such period:
 - a. He failed to accept any offer of "suitable work" (as defined under subsection 3 of this section) or failed to apply for any suitable work to which he was referred by the bureau; or
 - b. He failed to actively engage in seeking work as prescribed under subsection 5 of this section.
2. Any individual who has been found ineligible for extended benefits by reason of the provisions in subsection 1 of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount.
3. For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities, provided, however, that the gross average weekly remuneration payable for the work must exceed the sum of:
 - a. The individual's extended weekly benefit amount as determined under section 52-07.1-06 plus
 - b. The amount, if any, of supplemental unemployment benefits (as defined in section 501 (c) (17) (D) of the Internal Revenue Code of 1954) payable to such individual for such week; and further,
 - c. Pays wages not less than the higher of:
 - (1) The minimum wage provided by section 6 (a) (1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or
 - (2) The applicable state or local minimum wage;
 - d. Provided, however, that no individual shall be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability as described above if:

- (1) The position was not offered to such individual in writing and was not listed with the employment service.
 - (2) Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 52-06-36 to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subsection.
 - (3) The individual furnishes satisfactory evidence to the bureau that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work for regular benefit claimants in section 52-06-36 without regard to the definition specified by this subsection.
4. Notwithstanding the provisions of section 52-07.1-04 to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by section 3304 (a) (5) of the Internal Revenue Code of 1954 and set forth under section 52-06-36.
 5. For the purposes of subdivision b of subsection 1 of this section, an individual shall be treated as actively engaged in seeking work during any week if:
 - a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and
 - b. The individual furnishes tangible evidence that he has engaged in such effort during such week.
 6. The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in subsection 3 of this section.
 7. An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period if such individual has been disqualified for regular benefits under this chapter because he or she voluntarily left work, was discharged for misconduct or failed to accept an offer of or apply for suitable work unless the disqualification imposed for such reasons has been terminated in accordance with specific conditions established under this chapter

requiring the individual to perform service for remuneration subsequent to the date of such disqualification.

SECTION 3. EFFECTIVE DATE. The provisions of section 52-07.1-08.1 shall become effective on June 1, 1981. The provisions of section 52-07.1-08.2 shall become effective on March 31, 1981.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 19, 1981

CHAPTER 508

SENATE BILL NO. 2413
(Reiten)

PRIMARY O.A.S.I.S. BENEFIT

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 1979 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 percentum 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 percentum of seventy-five dollars, plus fifteen percentum 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 percentum 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) Effective July 1, ~~1979~~ 1981, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions (1) and (2) of this subsection plus one hundred ~~ten~~ thirty dollars. Where the primary insurance benefit thus computed is less than one hundred ~~ten~~ thirty dollars, such benefit shall be one hundred ~~ten~~ thirty dollars. Effective July 1, ~~1980~~ 1982, the term "primary insurance benefit" shall be the total of the sums determined in

subdivisions (1) and (2) of this subsection plus one hundred ~~twenty~~ forty dollars. Where the primary insurance benefit thus computed is less than one hundred ~~twenty~~ forty dollars, such benefit shall be one hundred ~~twenty~~ forty dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 25, 1981

CHAPTER 509

SENATE BILL NO. 2118
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

DELINQUENT SOCIAL SECURITY PAYMENT PENALTY

AN ACT to amend and reenact subsection d of section 52-10-05 of the North Dakota Century Code, relating to delinquent social security payments by political subdivisions.

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

SECTION 1. AMENDMENT. Subsection d of section 52-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Delinquent payments due under subdivision c1 of this section shall bear interest at the rate ~~of six percentum per annum~~ specified in the Social Security Act at 42 U.S.C.S. § 418 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 five dollars. In addition, penalty may be assessed on delinquent reports if such penalty is provided for in the Social Security Act at 42 U.S.C.S. § 418. Any such penalty shall be under the terms, conditions, and in the amounts specified in the Social Security Act. In no case shall any penalty imposed hereby be less than five dollars.

Approved March 31, 1981