

SOCIAL SECURITY

CHAPTER 458

SENATE BILL NO. 2217
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION BENEFIT YEAR DEFINITION

AN ACT to amend and reenact subsection 5 of section 52-01-01 of the North Dakota Century Code, relating to the definition of "benefit year" for purposes of unemployment compensation.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved April 6, 1977

CHAPTER 459

SENATE BILL NO. 2213
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION

AN ACT to create and enact subdivisions j and k of subsection 11 of section 52-01-01, subdivisions m and n of subsection 13 of section 52-01-01, subsections 31 and 32 of section 52-01-01, section 52-04-19.1, subsections 12, 13, 14, and 15 of section 52-06-02 of the North Dakota Century Code, relating to unemployment compensation definitions, coverage, accounts, and benefits, and to amend and reenact subdivision f of subsection 11 of section 52-01-01, subdivision f of subsection 13 of section 52-01-01, paragraph (3) and (6) of subdivision h of subsection 13 of section 52-01-01, the first paragraph of subdivision i of subsection 13 of section 52-01-01, paragraph (5) of subdivision i of subsection 13 of section 52-01-01, subdivisions a and b of subsection 15 of section 52-01-01, subsection 20 of section 52-01-01, section 52-04-07, subsection 3 of section 52-06-04, subsections 2 and 3 of section 52-07.1-03 of the North Dakota Century Code, relating to unemployment compensation definitions, coverage, accounts, and benefits.

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

SECTION 1. AMENDMENT.) Subdivision f of subsection 11 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. Any employing unit which, having become an employer under any one of subdivisions a, b, c, e, h, i, j, or k has not under chapter 52-05 ceased to be an employer subject to the North Dakota Unemployment Compensation Law; or

SECTION 2.) Subdivisions j and k of subsection 11 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

- j. Any employing unit for which agricultural labor as defined in subdivision m, subsection 13 is performed after December 31, 1977. In determining whether or not an employing unit for which service other than

agricultural labor is also performed is an employer under subdivision a, h, i, or k of this subsection, the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, shall not be taken into account. However, if an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of subdivision a of this subsection.

- k. Any employing unit for which domestic service in employment as defined in subdivision n, subsection 13 is performed after December 31, 1977. In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under subdivision a, h, i, or j of this subsection, the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account.

SECTION 3. AMENDMENT.) Subdivision f of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c) (7) of that act and is not excluded from "employment" under subdivision h herein. Service performed after December 31, 1977, in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of any of the foregoing and one or more other states or political subdivisions, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by section 3306(c) (7) of that act and is not excluded from "employment" as enumerated under subdivision h of this subsection;

SECTION 4. AMENDMENT.) Paragraph (3) and paragraph (6) of subdivision h of subsection 13 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (3) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education and after December 31, 1977, in the

employ of a governmental entity referred to in subdivision f, subsection 13 of this section if such service is performed by an individual in the exercise of duties:

- (a) As an elected official.
 - (b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision.
 - (c) As a member of the state national guard or air national guard.
 - (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.
 - (e) In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or
- (6) Prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

SECTION 5. AMENDMENT.) The first paragraph of subdivision i of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- i. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, and after December 31, 1976, in the case of the Virgin Islands, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subdivision b of this subsection and subsection 14 of this section or the parallel provisions of another state's law), if:

SECTION 6. AMENDMENT.) Paragraph (5) of subdivision i of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (5) The term "United States" for purposes of this subdivision includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

SECTION 7.) Subdivisions m and n of subsection 13 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

- m. Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision a, subsection 15 of this section when:
- (1) Such service is performed for a person who:
 - (a) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph (2) of this subdivision); or
 - (b) For some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1980, by an alien referred to in paragraph (2) of this subdivision) ten or more individuals, regardless of whether they were employed at the same moment of time.
 - (2) Such service is not performed in agricultural labor if performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a) (15) (H) of the Immigration and Nationality Act.
 - (3) For the purposes of this subdivision any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:
 - (a) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

- (b) If such individual is not an employee of such other person within the meaning of subdivision a of subsection 13.
- (4) For the purposes of subdivision m, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (3):
- (a) Such other person and not the crew leader shall be treated as the employer of such individual; and
 - (b) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.
- (5) For the purposes of subdivision m, the term "crew leader" means an individual who:
- (a) Furnishes individuals to perform service in agricultural labor for any other person;
 - (b) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and
 - (c) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.
- n. The term "employment" shall include domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority, performed for a person who paid cash remuneration of one thousand dollars or more to individuals employed in such domestic service in any calendar quarter in the current or preceding calendar year.

SECTION 8. AMENDMENT.) Subdivisions a and b of subsection 15 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. Service performed by an individual in agricultural

labor, except as provided in subdivision m of subsection 13 of this section. For purposes of this subdivision, the term "agricultural labor" means:

- (1) Any service performed prior to January 1, 1972, which was agricultural labor as defined in this subdivision prior to such date; and
- (2) Remunerated service performed after December 31, 1971, in agricultural labor as defined in section 3306(k), Federal Unemployment Tax Act.

b. Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in subdivision n of subsection 13 of this section;

SECTION 9. AMENDMENT.) Subsection 20 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 10.) Subsections 31 and 32 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

31. "Educational institution" means an educational institution (except an institution of higher education as defined in section 3304(f) of the Federal Unemployment Tax Act) in which participants, trainees, or students are offered an organized course of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation, designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of instructors or teachers, and is approved, licensed, or issued a permit to operate as a school by the state department of education or other government agency that is authorized within the state to approve, license, or issue a permit for the operation of a school.

32. "Domestic service" means all service for a person in the operation and maintenance of a private household, local college club, or local chapter of a college fraternity or sorority, as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise, or vocation.

SECTION 11. AMENDMENT.) Section 52-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Benefits paid to an individual shall be charged against the accounts of his base-period employers. The amount of benefits so chargeable against each base-period employer's account shall bear the same ratio to the benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of the base-period wages paid to the individual by all his base-period employers.
- * 2. Notwithstanding subsection 1, an employer's account shall not be charged for any of the following:
 - a. With benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 (Public Law No. 93-288; 88 Stat. 143; 42 U.S.C. 5122 (2)), if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits; or
 - b. As provided under section 52-06-29.
3. Subsection 2 of this section shall not apply to benefit payments which are financed under a reimbursable method.
4. Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in section 52-04-18 shall not be liable to make such payments with respect to the benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in subsection 3, section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of P.L. 94-566.
5. Notwithstanding the provisions of subsection 1 of this section, an employer's account shall not be charged with benefits paid for previously uncovered services as defined in subsection 3, section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of P.L. 94-566.

SECTION 12.) Section 52-04-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-04-19.1. FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE OF NORTH DAKOTA AND GOVERNMENTAL ENTITIES WITHIN THE STATE OF NORTH DAKOTA.)

*NOTE: Subsection 2 of section 52-04-07 was also amended by section 1 of House Bill No. 1355, chapter 466.

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; or
 - b. By payment 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; or
 - 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; or
 - b. By payment 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; or

- 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.
3. Employers under this section must notify the bureau of the plan selected for financing benefits within sixty days of becoming an employer. In the event of an unexcused failure of an employer to notify the bureau of the plan selected for financing benefits, the bureau shall assess that employer the rate of contributions provided for in section 52-04-06 plus one-half the cost of the extended benefits paid that are attributable to wages paid by that employer.
4. Elections and changes in the method of financing provided for in section 52-04-18 shall be applicable to employers under this section.
5. Any two or more employers under this section may file a joint application for the establishment of a group for the purpose of wage reporting and financing as regulations may prescribe.
6. Past due payments under this section shall be subject to the same interest and penalties that apply to past due contributions in section 52-04-11.

SECTION 13.) Subsections 12, 13, 14, and 15 of section 52-06-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

12. Which are based on service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. Except for the provisions of this subsection, benefits based on service in employment as

defined in subdivision f and subdivision g, subsection 13, section 52-01-01 shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.

13. Which are based on services performed after December 31, 1977, in any other capacity for an educational institution, other than an institution of higher education as defined in subsection 28, section 52-01-01, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms. Except for the provisions of this subsection, benefits based on service in employment as defined in subdivision f and subdivision g, subsection 13, section 52-01-01 shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.
14. Which are based on service, substantially all of which consists of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods if such individual performed such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.
15. Which are based on service performed by an alien, unless such alien has been lawfully admitted for permanent residence or to perform such services or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203 (a) (7) or section 212 (d) (5) of the Immigration and Nationality Act).
 - a. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
 - b. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made

except upon a preponderance of the evidence.

SECTION 14. AMENDMENT.) Subsection 3 of section 52-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "previously uncovered services" means services:
 - a. Which were not employment as defined in subsection 13, section 52-01-01 and were not services covered pursuant to section 52-05-03 at any time during the one-year period ending December 31, 1975; and
 - b. Which are:
 - (1) Agricultural labor as defined in subdivision m, subsection 13, section 51-01-01, or domestic service as defined in subdivision n, subsection 13, section 52-01-01, or
 - (2) Services performed by an employee of this state or a political subdivision thereof, as provided in subdivision f, subsection 13, section 52-01-01, or by an employee of a nonprofit educational institution which is not an institution of higher education, as provided in paragraph 3, subdivision h, subsection 13, section 52-01-01; except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

For the purpose of the North Dakota Unemployment Compensation Law, the term "insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of this chapter and "insured worker" means employment for "employers".

SECTION 15. AMENDMENT.) Subsections 2 and 3 of section 52-07.1-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the immediately preceding twelve weeks the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined

by the United States secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

3. There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the immediately preceding twelve weeks the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 percent. The rate of insured unemployment, for the purposes of this subsection, shall be determined by the United States secretary of labor by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period.

Approved March 31, 1977

CHAPTER 460

HOUSE BILL NO. 1021
(Legislative Council)
(Interim Committee on Budget "B")

EMPLOYMENT OF STUDENT'S SPOUSE

AN ACT to amend and reenact paragraph 5 of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code, relating to unemployment compensation for spouses of students.

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

SECTION 1. AMENDMENT.) Paragraph 5 of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (5) In any calendar quarter in the employ of a school, college, or university, if such service is performed by a student who is enrolled and regularly is attending classes at such school, college, or university, or by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service, that:
 - (a) The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and
 - (b) Such employment will not be covered by any program of unemployment insurance;

Approved March 19, 1977

CHAPTER 461

SENATE BILL NO. 2218
(Committee on Industry, Business, and Labor)
(At the request of the Employment Security Bureau)

**BENEFIT DISQUALIFICATION FOR GROSS
MISCONDUCT**

AN ACT to create and enact subsection 33 of section 52-01-01 of the North Dakota Century Code, relating to unemployment compensation definitions, and to amend and reenact subsection 8 of section 52-06-02 of the North Dakota Century Code, relating to unemployment compensation benefits.

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

SECTION 1.) Subsection 33 of section 52-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

33. "Gross misconduct" means misconduct involving assault and battery, or the malicious destruction of property, or the theft of money or property.

*SECTION 2. AMENDMENT.) Subsection 8 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. For the week in which he has filed an otherwise valid claim for benefits and:
 - a. For one year from the date on which a determination is made that such individual has made a false statement for the purposes of obtaining benefits to which he was not lawfully entitled. Provided, however, that this disqualification shall not apply to cases in which it shall appear to the satisfaction of the bureau that the said false statement was made by reason of a mistake or misunderstanding of law or of facts without fraudulent intent; or
 - b. For one year when the individual has been separated from his last employment because of gross misconduct in connection with work.

Approved April 19, 1977

CHAPTER 462

SENATE BILL NO. 2216
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

SALES OF LAND IN MINOT

AN ACT authorizing the state of North Dakota acting by the North Dakota employment security bureau to sell and convey lots seventeen, eighteen, nineteen, and twenty in block twenty-two of Brooklyn Addition to the city of Minot, Ward County, North Dakota.

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

SECTION 1.) The state of North Dakota acting by the North Dakota employment security bureau is hereby authorized to sell and convey lots seventeen, eighteen, nineteen, and twenty in block twenty-two of Brooklyn Addition to the city of Minot, Ward County, North Dakota.

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

Approved March 12, 1977

CHAPTER 463

HOUSE BILL NO. 1221
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

**UNEMPLOYMENT COMPENSATION FUND
SOLVENCY CONTRIBUTION**

AN ACT to provide for a solvency contribution to the unemployment compensation fund and declaring an emergency.

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

SECTION 1. SOLVENCY CONTRIBUTION.) There shall accrue and become payable by each employer subject to the North Dakota Unemployment Compensation Law for contributions with respect to wages for employment, a solvency contribution for the calendar year 1977. The solvency contribution rate shall be 0.8 percent. The solvency contribution shall be figured by applying the solvency rate to the employer's taxable payroll for that year, and shall be payable to the unemployment compensation fund by the due date of the employer's contribution report. The provisions of the North Dakota Unemployment Compensation Law and the regulations prescribed by the bureau relating to the payment of contributions shall apply to the payment of solvency contributions.

SECTION 2. EXPIRATION DATE.) This Act shall be effective for the period beginning January 1, 1977 and ending December 31, 1977 and thereafter shall be of no force and effect.

SECTION 3. 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, 1977

CHAPTER 464

HOUSE BILL NO. 1433
(Kloubec)

UNEMPLOYMENT COMPENSATION RATE VARIATIONS

AN ACT to amend and reenact section 52-04-06 of the North Dakota Century Code, relating to unemployment compensation contribution rates; 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.) Section 52-04-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-06. 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 years 1977 and 1978 the rate of contributions will not be higher than the rates at column II of the schedule of rates.
2. For the calendar year 1979 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 four percent, the schedule of rates at column II will be in effect;
 - c. Four percent but less than five percent, the schedule of rates at column III will be in effect;
 - d. Five percent but less than six percent, the schedule of rates at column IV will be in effect;

- e. Six percent but less than seven percent, the schedule of rates at column V will be in effect;
- f. Seven percent but less than eight percent, the schedule of rates at column VI will be in effect;
- g. Eight percent but less than nine percent, the schedule of rates at column VII will be in effect; and
- h. Nine percent or more, the schedule of rates at column VIII will be in effect.

If the fund reserve ratio decreases during the calendar year 1978 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 payroll 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 eligible under section 52-04-05 will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

SCHEDULE OF RATES--FUND RESERVE RATIO

EMPLOYER'S RESERVE RATIO	Col. I-- Less Than 3%	Col. II-- 3% But Less Than 4%	Col. III-- 4% But Less Than 5%	Col. IV-- 5% But Less Than 6%	Col. V-- 6% But Less Than 7%	Col. VI-- 7% But Less Than 8%	Col. VII-- 8% But Less Than 9%	Col. VIII-- 9% and Over
Minus Balance	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%
0% but less than 1%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%
1% but less than 2%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.5%
2% but less than 3%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.5%	2.3%
3% but less than 4%	2.7%	2.7%	2.7%	2.7%	2.7%	2.5%	2.3%	2.1%

EMPLOYER'S RESERVE RATIO	Col. I-- Less Than 3%	Col. II-- 3% But Less Than 4%	Col. III-- 4% But Less Than 5%	Col. IV-- 5% But Less Than 6%	Col. V-- 6% But Less Than 7%	Col. VI-- 7% But Less Than 8%	Col. VII-- 8% But Less Than 9%	Col. VIII-- 9% and Over
4% but less than 5%	2.7%	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%	2.7%	2.1%	1.9%	1.7%
6% but less than 7%	2.7%	2.7%	2.7%	2.7%	2.5%	1.9%	1.7%	1.5%
7% but less than 8%	2.7%	2.7%	2.7%	2.5%	2.3%	1.7%	1.5%	1.3%
8% but less than 9%	2.7%	2.7%	2.5%	2.3%	2.1%	1.5%	1.3%	1.1%
9% but less than 10%	2.7%	2.5%	2.3%	2.1%	1.9%	1.3%	1.1%	0.9%
10% but less than 11%	2.7%	2.3%	2.1%	1.9%	1.7%	1.1%	0.9%	0.7%
11% but less than 12%	2.7%	2.1%	1.9%	1.7%	1.5%	0.9%	0.7%	0.5%
12% but less than 13%	2.7%	1.9%	1.7%	1.5%	1.3%	0.7%	0.5%	0.3%
13% but less than 14%	2.7%	1.7%	1.5%	1.3%	1.1%	0.5%	0.3%	0.3%
14% but less than 15%	2.7%	1.5%	1.3%	1.1%	0.9%	0.3%	0.3%	0.3%
15% but less than 16%	2.7%	1.3%	1.1%	0.9%	0.7%	0.3%	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%	0.2%
18% but less than 19%	2.7%	0.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.2%
19% and over	2.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.3%	0.2%

3. 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.

4. 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 four and two-tenths percent.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1977.

SECTION 3. 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 31, 1977

CHAPTER 465

SENATE BILL NO. 2420
(Schirado)

TRUST FUND RESERVE RATIO

AN ACT to create and enact a new subsection to section 52-04-06 of the North Dakota Century Code, relating to the unemployment compensation trust fund reserve ratio.

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

SECTION 1.) A new subsection to section 52-04-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

In the bureau's determination of the trust fund reserve ratio, neither the amount of contribution paid by, nor the cost of benefits charged to, those employers who have elected to pay contributions on a basis other than that which is computed under the provisions of sections 52-04-03 and 52-04-06, shall be taken into account in the computation of contribution rates and taxable wage base.

Approved April 20, 1977

CHAPTER 466

HOUSE BILL NO. 1355
(Scofield)

BENEFITS NOT CHARGEABLE TO BASE-PERIOD EMPLOYERS

AN ACT to amend and reenact subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to when unemployment compensation benefits paid are not chargeable to accounts of base-period employers.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 52-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 2. Notwithstanding subsection 1, an employer's account shall not be charged for any of the following:
 - a. With benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 (Public Law No. 93-288; 88 Stat. 143; 42 U.S.C. 5122(2)), if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits.
 - b. With benefits paid to an individual who left the employment of the employer voluntarily without good cause or with good cause not involving fault on the part of the employer or who was discharged from employment by the employer for misconduct.
 - c. As provided under section 52-06-29.

*NOTE: Subsection 2 of section 52-04-07 was also amended by section 11 of Senate Bill No. 2213, chapter 459.

Approved March 31, 1977

CHAPTER 467

SENATE BILL NO. 2175
(Committee on Industry, Business & Labor)
(At the request of the Employment Security Bureau)

FINANCING BENEFITS TO EMPLOYEES OF STATE INSTITUTIONS

AN ACT to amend and reenact subdivision a of subsection 1 of section 52-04-19 of the North Dakota Century Code, relating to financing unemployment compensation benefits paid to employees of the state hospitals or state institutions of higher education; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Subdivision a of subsection 1 of section 52-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. An amount equal to the amount of regular benefits and the extended benefits paid, that is attributable to service in the employ of such state hospital or such state institution of higher education, to individuals for weeks of unemployment which begin during the effective period of such election. Payments in lieu of contributions shall be made at the end of each calendar quarter or at the end of any other period determined by the bureau. Election and changes in the method of financing shall be in the same manner provided for in section 52-04-18.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1979.

Approved March 31, 1977

CHAPTER 468

SENATE BILL NO. 2220
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

LIABILITY FOR REFUND OF BENEFITS

AN ACT to amend and reenact section 52-06-33 of the North Dakota Century Code relating to recovery and recoupment of unemployment compensation benefits.

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

SECTION 1. AMENDMENT.) Section 52-06-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-33. RECOVERY AND RECOUPMENT.) A person who has received any amount of benefits under the North Dakota Unemployment Compensation Law to which he is not entitled shall be liable to refund to the bureau for the fund the amount so paid, or to have such amount deducted from any future benefits payable to him under the North Dakota Unemployment Compensation Law following a finding that such payment occurred. Such findings shall have become final and shall specify the reason for such finding, the week or weeks for which such benefits were paid, and the amount of benefits so paid. The bureau, in its discretion, may release such person from liability to refund when it finds that recovery would be contrary to equity and good conscience. Amounts determined collectible shall be free of interest and may be so collected by civil action in the name of the bureau.

Approved March 31, 1977

CHAPTER 469

HOUSE BILL NO. 1220
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

PRIMARY OASIS 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 1975 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) From and after July 1, 1977, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions (1) and (2) of this subsection plus one hundred dollars. Where the primary insurance benefit thus computed is less than one hundred dollars, such benefit shall be one hundred dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 12, 1977

CHAPTER 470

SENATE BILL NO. 2215
(Committee on Industry, Business, and Labor)
(At the request of the Public Employees Retirement System)

EMPLOYEE RETIREMENT PROGRAM CONTRIBUTIONS

AN ACT to amend and reenact section 52-11-01 of the North Dakota Century Code, relating to the retirement program for the unemployment compensation division, state employment service, and North Dakota national guard.

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

SECTION 1. AMENDMENT.) Section 52-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-11-01. RETIREMENT FOR CERTAIN STATE EMPLOYEES.)

1. The unemployment compensation division and the state employment service performing the services provided in title 52, and the North Dakota national guard are authorized either jointly or severally to establish employee retirement programs by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state. Such state agencies shall prepare specifications of the terms of such retirement programs which shall be submitted to not less than three such companies with a request for bids upon such retirement program contracts. After the submission of at least three bids, the director of the unemployment compensation division, director of the state employment service, and the adjutant general shall jointly or separately compare such bids, and with the approval of the governor, shall execute joint or separate contracts for such retirement programs with the company submitting the lowest and best bid.
2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency. The amount of such withholding shall be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate shall not exceed the percentage rate which

may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum shall not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency shall be paid to the company holding such retirement program contract in accordance with the terms of such contract.

3. The employing agency's share of the costs of such retirement program shall be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract, and in accordance with the availability of funds. The contract shall specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

Approved March 12, 1977