

SOCIAL SECURITY

CHAPTER 535

SENATE BILL NO. 2206
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION DEFINITIONS AND DISQUALIFICATION

AN ACT to amend and reenact subsections 18 and 30 of section 52-01-01, subsection 13 of section 52-06-02, and section 52-06-06 of the North Dakota Century Code, relating to unemployment compensation definitions, disqualification for unemployment compensation benefits, and the weekly benefit for unemployment.

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

SECTION 1. AMENDMENT. Subsections 18 and 30 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

18. "Employment" shall not include:

- a. Service performed by an individual in agricultural labor, except as provided in subdivision m of subsection 17. 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) of the Federal Unemployment Tax Act [68A Stat. 439; 26 U.S.C. 3301 et seq.].
- 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 17.
- c. Repealed by S.L. 1971, ch. 475, § 19.

- d. Service not in the course of the employing unit's trade or business performed after January 1, 1951, in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of the North Dakota Unemployment Compensation Law an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if on each of some twenty-four days during such quarter or during the immediately preceding quarter, such individual performed such service for some portion of a day.
- e. Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of eighteen in the employ of his father or mother.
- f. Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the North Dakota Unemployment Compensation Law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of the North Dakota Unemployment Compensation Law shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; but if this state shall not be certified for any year by the social security board under subsection c of section 3304 of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the bureau from the fund in the same manner and within the same period as is provided in section 52-04-14 with respect to contributions erroneously collected.
- g. Service performed in the employ of this state or of any other state, or of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is owned wholly by this state or by any one or more states or political subdivisions, and any service performed in the employ of any instrumentality of this state or of one or more states or political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the Constitution of the United States

from the tax imposed by section 3301 of the federal Internal Revenue Code, except that this provision shall not apply to coverage pursuant to subsection 17 and section 52-05-03.

- h. Service with respect to which unemployment is payable under an unemployment compensation system established by an act of the Congress of the United States.
- i. Service performed:
 - (1) In any calendar quarter in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 of the federal Internal Revenue Code, if the remuneration for such service is less than fifty dollars.
 - (2) Repealed by S.L. 1973, ch. 391, § 22.
 - (3) In the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if:
 - (a) No part of its net earnings inures, other than through such payments, to the benefit of any private shareholder or individual; and
 - (b) Eighty-five percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses.
 - (4) In the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if:
 - (a) Admission to membership in such association is limited to individuals who are officers or employees of the United States government; and
 - (b) No part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual.

- (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.
- (6) In the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, except as provided in subdivision g of subsection 17.
- (7) As a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly is attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four year course in a medical school chartered or approved pursuant to a state law.
- (8) By an individual for a person as an insurance agent, as an insurance solicitor, as a real estate salesman, or as a securities salesman, if all such services performed by such individual for such persons is performed for remuneration solely by way of commission.
- (9) By an individual under the age of eighteen in delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

- (10) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this paragraph shall not apply to service performed in a program established for or on behalf of an employer or group of employees.
- (11) In the employ of a hospital, if such service is performed by a patient of the hospital, as defined in subsection 25.
- j. Service covered by an arrangement between the bureau and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within such agency's state.
30. "Unemployed". An individual shall be deemed is "unemployed" with respect to any week during which he performs no services and with respect to which no wages are payable to him, or with respect to any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. For the purposes of this subsection, wages are payable with respect to the weeks for which they were reasonably intended to be payable, irrespective of whether services were performed in those weeks. The bureau shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the bureau deems necessary.

SECTION 2. AMENDMENT. Subsection 13 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 27 of 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 subdivisions f and g of subsection 17 of 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. If compensation is denied to any individual under this subsection and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subsection.

SECTION 3. AMENDMENT. Section 52-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-06. 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. For the purposes of this section, wages are payable with respect to the weeks for which they were reasonably intended to be payable, irrespective of whether services were performed in those weeks.

Approved April 13, 1983

CHAPTER 536

SENATE BILL NO. 2185
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION RECORDS, REPORTS, AND INFORMATION

AN ACT to amend and reenact sections 52-01-02 and 52-01-03 of the North Dakota Century Code, relating to records and reports of employing units, and disclosure of information.

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

SECTION 1. AMENDMENT. Section 52-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-02. Employing unit to keep records - Reports of employing unit - Inspection prohibited - Exception. Each employing unit shall keep true and accurate work records containing such information as the bureau may prescribe. Such records shall be open to inspection and may be copied by the bureau or its authorized representatives at any reasonable time as often as may be necessary. The bureau or the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the bureau, or he, deems necessary for the effective administration of the North Dakota Unemployment Compensation Law. In addition, the bureau or the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the workmen's compensation bureau deems necessary for effective administration of the North Dakota Workmen's Compensation Law set forth in title 65 of the North Dakota Century Code. Such reports must be provided to the workmen's compensation bureau by the bureau or the chairman of any appeal tribunal. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, but any claimant or his legal representative at a hearing before an appeal tribunal or the bureau shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

* SECTION 2. AMENDMENT. Section 52-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 52-01-03 was also amended by section 107 of House Bill No. 1058, chapter 82.

52-01-03. Disclosure of information. Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of the North Dakota Unemployment Compensation Law and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or his legal representative shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under the North Dakota Unemployment Compensation Law with respect to such claim. Subject to such restrictions as the bureau by regulations may prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under the North Dakota Unemployment Compensation Law. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the provisions of the North Dakota Unemployment Compensation Law, and in connection with such request, may transmit any such report or return to the comptroller of the currency of the United States as provided in subsection c of section 3305 of the federal Internal Revenue Code.

The unemployment compensation division of the bureau may upon request of the state tax commissioner or the workmen's compensation bureau furnish to such commissioner or bureau a list or lists of employers showing only the names, addresses, and bureau file identification numbers of such employers, provided that any list so furnished shall be used by the tax commissioner or the workmen's compensation bureau only for the purpose of administering the duties of such commissioner or bureau. The bureau may provide the workmen's compensation bureau and the state tax commissioner with information obtained pursuant to the administration of the North Dakota Unemployment Compensation Law. Any information so provided must be used only for the purpose of administering the duties of the workmen's compensation bureau and the state tax commissioner.

Approved March 10, 1983

CHAPTER 537

SENATE BILL NO. 2205
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION BENEFIT AMOUNTS AND DURATION

AN ACT to amend and reenact subsection 3 of section 52-04-03, subsection 3 of section 52-06-01, subsections 1, 2, and 8 of section 52-06-02, subsections 1 and 2 of section 52-06-04, and section 52-06-05 of the North Dakota Century Code, relating to unemployment compensation tax base, payments to ill or disabled claimants, disqualification from benefits, benefit amounts, and benefit duration.

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

SECTION 1. AMENDMENT. Subsection 3 of section 52-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. For the year 1979 and each year thereafter, the amount of an individual's wages subject to tax, paid by each employer, shall be in such amount as determined to be in an amount that is equal to seventy percent of a statewide average annual wage, rounded to the nearest one hundred dollars, determined by the bureau on or before each first day of October by the following computation:

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

SECTION 2. AMENDMENT. Subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. He is able to work and is available for suitable work and actively seeking work; provided,
 - a. That notwithstanding any other provisions in this section, no otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the bureau by reason of the application of provisions of this subsection relating to availability for work and to active search for work, or the provisions of subsection 3 of section 52-06-02 relating to disqualification for benefits for failure to apply for, or a refusal to accept, suitable work;
 - b. and c. Repealed by S.L. 1973, ch. 391, § 24;
 - d. That an unemployed individual no claimant shall not be considered ineligible with respect to in any week of unemployment for failure to comply with the provisions of this subsection, if such failure is due to an illness or disability not covered by workmen's compensation insurance and which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed occurred after he has registered for work and no work has been offered to the claimant which would have been is suitable prior to the beginning of such illness and disability;

* SECTION 3. AMENDMENT. Subsections 1, 2, and 8 of section 52-06-02 of the North Dakota Century Code are 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 most recent 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 eight times his weekly benefit amount as determined under section 52-06-04; and
 - b. Has not left his last work most recent employment 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

* NOTE: Section 52-06-02(1) was also amended by section 1 of House Bill No. 1693, chapter 540.

employment with the same good cause and within the first ten weeks after starting work.

This subsection shall not apply if the bureau determines that the individual left his last employment with no reasonable alternative because of a work-related injury or illness.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and voluntarily quit without good cause attributable to the employer or with any employer, in insured work, for whom the claimant last worked and earned wages equal to or exceeding eight times his weekly benefit amount.

2. For the week in which he has ~~filed an otherwise valid claim for benefits after he has~~ been discharged for misconduct in connection with his ~~last~~ most recent employment and thereafter until such time as he:
 - a. Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
 - b. Has not left his ~~last work~~ most recent employment under disqualifying circumstances.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and was discharged for misconduct in connection with his employment or with any employer, in insured work, for whom the claimant last worked and earned wages equal to or exceeding ten times his weekly benefit amount.

8. For the week in which he has filed an otherwise valid claim for benefits and:
 - a. ~~For~~ Through the date and 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.

SECTION 4. AMENDMENT. Subsections 1 and 2 of section 52-06-04 of the North Dakota Century Code are 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 July 1, 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~~ one fifty-second (if not a multiple of one dollar, to be computed to the next ~~higher~~ lower multiple of one dollar) of the individual's total wages for insured work paid during the ~~quarter~~ two quarters of the individual's base period in which the individual's wages were the highest, 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~~ eighteen times the current federal minimum hourly wage provided under the Fair Labor Standards Act, 29 U.S.C. 206. The "minimum weekly benefit amount", if not a multiple of one dollar, shall be rounded to the next lower multiple of one dollar. The "maximum weekly benefit amount" shall be as hereinafter provided:

- (1) ~~Fifty-five~~ Sixty-two percent of the "average weekly wage", rounded to the next ~~higher~~ lower 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 July 1, ~~1973~~ 1983.

- (2) ~~Sixty~~ Sixty-five percent of the "average weekly wage", rounded to the next ~~higher~~ lower 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 July 1, ~~1975~~ 1984.
 - (3) Sixty-seven percent of the "average weekly wage", rounded to the next ~~higher~~ lower 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 July 1, ~~1976~~ 1985.
2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of the individual's base period totaling not less than ~~forty times the minimum weekly benefit amount~~ one and one-half times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which the individual filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times the individual's current weekly benefit amount.

SECTION 5. AMENDMENT. Section 52-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. Maximum potential benefits. Any otherwise eligible individual shall be entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base-period earnings wages to highest quarter base-period earnings wages:

Ratio of Total Base-Period <u>Earnings Wages</u> to High Quarter	Times Weekly Benefit Amount
1.50 to 1.75	12
1.76 to 1.95	14
1.96 to 2.15	16
2.16 to 2.35	18
2.36 to 2.55	20
2.56 to 2.75	22
2.76 to 2.95	24
2.96 or more	26

Approved April 13, 1983

CHAPTER 538

SENATE BILL NO. 2182
 (Committee on Industry, Business, and Labor)
 (At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION CONTRIBUTION RATES

AN ACT to amend and reenact subsections 1 and 2 of 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. Subsections 1 and 2 of section 52-04-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- For the calendar years 1981 and 1982 the rate of contributions will not be higher than the rates at column II of the schedule of rates. The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before October thirty-first of any year, with respect to wages paid by that employer prior to the first day of October of that calendar year, exceeds the cumulative benefits which were charged to that employer's account and paid on or before September thirtieth of that year, is that employer's reserve ratio. The contribution rate for the next calendar year of an employer eligible under section 52-04-05 will be the basic rate of contributions on the line in the schedule of basic rates opposite that employer's reserve ratio as established for that year.

EMPLOYER'S RESERVE RATIO

BASIC RATE

Minus balance or standard rate
0% but less than 1%
1% but less than 2%
2% but less than 3%
3% but less than 4%
4% but less than 5%
5% but less than 6%
6% but less than 7%

5.0%
4.3%
4.1%
3.9%
3.7%
3.5%
3.3%
3.1%

7% but less than 8%	2.9%
8% but less than 9%	2.7%
9% but less than 10%	2.5%
10% but less than 11%	2.3%
11% but less than 12%	2.1%
12% but less than 13%	1.9%
13% but less than 14%	1.7%
14% but less than 15%	1.5%
15% but less than 16%	1.3%
16% but less than 17%	1.1%
17% but less than 18%	0.9%
18% but less than 19%	0.7%
19% and over	0.5%

2. For the calendar year 1983 and each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of September thirtieth of the preceding calendar year to the highest amount of benefits paid, less reimbursables, in any one of the preceding five 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.
- e. 1.1 but less than 1.3, the schedule of rates at column V will be in effect.
- f. 1.3 but less than 1.5, the schedule of rates at column VI will be in effect.
- g. 1.5 but less than 1.7, the schedule of rates at column VII will be in effect.
- h. 1.7 or more, the schedule of rates at column VIII will be in effect.

The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before October thirty-first of any year, with respect to wages paid by him prior to the first day of October of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before September thirtieth of that 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
(Reserve for payment of benefits to benefits paid)

	Col- I	Col- II	Col- III	Col- IV	Col- V	Col- VI	Col- VII	Col- VIII
	Col- I	-5 But	-7 But	-9 But	1-1 But	1-3 But	1-5 But	Col- VIII
EMPLOYER'S RESERVE RATIO	Less Than	1-7 and Over						
Minus Balance or Standard Rate	-5	-7	-9	1-1	1-3	1-5	1-7	
0% but less than 1%	6-0%	5-0%	4-8%	4-6%	4-4%	4-2%	4-2%	4-2%
1% but less than 2%	4-5%	4-3%	4-1%	3-9%	3-7%	3-5%	3-3%	3-1%
2% but less than 3%	4-3%	4-1%	3-9%	3-7%	3-5%	3-3%	3-1%	2-9%
3% but less than 4%	4-1%	3-9%	3-7%	3-5%	3-3%	3-1%	2-9%	2-7%
4% but less than 5%	3-9%	3-7%	3-5%	3-3%	3-1%	2-9%	2-7%	2-5%
5% but less than 6%	3-7%	3-5%	3-3%	3-1%	2-9%	2-7%	2-5%	2-3%
6% but less than 7%	3-5%	3-3%	3-1%	2-9%	2-7%	2-5%	2-3%	2-1%
7% but less than 8%	3-3%	3-1%	2-9%	2-7%	2-5%	2-3%	2-1%	1-9%
8% but less than 9%	3-1%	2-9%	2-7%	2-5%	2-3%	2-1%	1-9%	1-7%
9% but less than 10%	2-9%	2-7%	2-5%	2-3%	2-1%	1-9%	1-7%	1-5%
10% but less than 11%	2-7%	2-5%	2-3%	2-1%	1-9%	1-7%	1-5%	1-3%
11% but less than 12%	2-7%	2-3%	2-1%	1-9%	1-7%	1-5%	1-3%	1-1%
12% but less than 13%	2-7%	2-1%	1-9%	1-7%	1-5%	1-3%	1-1%	0-9%
13% but less than 14%	2-7%	1-9%	1-7%	1-5%	1-3%	1-1%	0-9%	0-7%
14% but less than 15%	2-7%	1-7%	1-5%	1-3%	1-1%	0-9%	0-7%	0-5%
15% but less than 16%	2-7%	1-5%	1-3%	1-1%	0-9%	0-7%	0-5%	0-3%
16% but less than 17%	2-7%	1-3%	1-1%	0-9%	0-7%	0-5%	0-3%	0-3%
17% but less than 18%	2-7%	1-1%	0-9%	0-7%	0-5%	0-3%	0-3%	0-3%
18% but less than 19%	2-7%	0-9%	0-7%	0-5%	0-3%	0-3%	0-3%	0-3%
	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%

For the calendar year 1983 and each year thereafter, the bureau shall adjust the basic rates in the schedule of basic rates by an adjustment ratio so as to provide a return of contributions needed to pay the projected amount of benefits payable for the following year and to provide for an adequate trust fund reserve. An adequate trust fund reserve as of October 1, 1983, will be considered to be forty percent of the average annual amount of benefits paid. As of October 1, 1984, and each October first thereafter, an adequate reserve will be considered to be fifty percent of the average annual amount of benefits paid. The average annual amount of benefits paid must be computed by dividing the total amount of benefits paid, or projected to be paid, during the previous thirty-six months by three. Benefits financed by direct reimbursement must be omitted from this computation. After the bureau has determined the necessary adjustment ratio, each basic rate in the schedule of basic rates will be reduced or increased by that adjustment ratio with the result rounded to the nearest lower one-tenth of one percent in the case of a reduction or to the nearest higher one-tenth of one percent in the case of an increase.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1983.

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 23, 1983

CHAPTER 539

SENATE BILL NO. 2471
(Parker)FEDERAL UNEMPLOYMENT TRUST FUND
ADVANCES

AN ACT to create and enact two new sections to chapter 52-04 of the North Dakota Century Code, relating to advances from the federal unemployment trust fund; to amend and reenact subsections 1 and 2 of section 52-03-01, section 52-03-02, and subsection 2 of section 52-04-11 of the North Dakota Century Code, relating to the unemployment compensation fund, the state treasurer and the unemployment compensation fund, and interest and penalties; 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. A new section to chapter 52-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Advances from federal unemployment trust fund. The governor is authorized to apply for advances to the state of North Dakota from the federal unemployment trust fund and to accept responsibility for repayment of such advances in accordance with the conditions specified in title XII of the Social Security Act, as amended, in order to secure to this state the advantages available under the provisions of said title.

Advances from the federal unemployment trust fund which are interest-bearing shall have such interest cost assessed against and paid from the federal advance interest repayment fund.

SECTION 2. A new section to chapter 52-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Federal advance interest repayment fund. There is created the federal advance interest repayment fund, to which will be credited all assessments collected by the division for the purpose of paying interest due on federal advances to the state trust fund. The fund shall consist of all interest collected on delinquent contributions and all penalties provided by the Unemployment Compensation Law. All moneys accruing to this fund in any manner shall be maintained in this separate account.

After all known interest charges have been paid, any remaining moneys in the fund may be transferred to the unemployment compensation fund.

SECTION 3. AMENDMENT. Subsections 1 and 2 of section 52-03-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. All contributions collected under the North Dakota Unemployment Compensation Law ~~together with any interest thereon collected pursuant to section 52-04-11.~~
2. All fines and penalties collected pursuant to the provisions of the North Dakota Unemployment Compensation Law.

SECTION 4. AMENDMENT. Section 52-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-03-02. State treasurer to be treasurer of unemployment compensation fund - Issuance of warrants - Additional bond of treasurer. The state treasurer shall be ex officio the treasurer and custodian of the unemployment compensation fund, and the federal advance interest repayment fund and shall administer such fund funds in accordance with the direction of the bureau, and shall issue his warrants upon it in accordance with such regulations as the bureau shall prescribe. The treasurer shall give a separate bond in an amount fixed by the bureau and in a form prescribed by law or approved by the attorney general. Such bond shall be conditioned for the faithful performance of his duties as custodian of the fund. Premiums for such bond shall be paid from the administration fund.

SECTION 5. AMENDMENT. Subsection 2 of section 52-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The amount added pursuant to the provision 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 federal advance interest repayment fund.

SECTION 6. EFFECTIVE DATE. This Act becomes effective on January 1, 1983.

SECTION 7. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 15, 1983

CHAPTER 540

HOUSE BILL NO. 1693
(Representatives Keller, Serenus Hoffner, Lloyd)
(Senators Tennesfos, Grotberg, Reiten)

UNEMPLOYMENT COMPENSATION FOR ILLNESS

AN ACT to amend and reenact subsection 1 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 1 of section 52-06-02 of 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 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 does 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. This subsection does not apply if the individual left employment or remains away from employment following illness or injury upon a physician's written notice or order; no benefits may be paid under this exception unless the employee has notified the employer of the physician's requirement and has offered service for suitable work to the employer upon the individual's capability of returning to employment. This exception shall not apply unless the

* NOTE: Section 52-06-02(1) was also amended by section 3 of Senate Bill No. 2205, chapter 537.

individual's capability of returning to employment and offer of service for suitable work to the employer occurs within sixty days of the last day of work. However, the cost of any benefits paid under this exception shall not be charged against the account of the employer from whom the individual became separated as a result of the illness or injury. The bureau may request and designate a licensed physician to provide a second opinion regarding the claimant's qualification; however, no individual shall be charged fees of any kind for the cost of such second opinion.

Approved April 18, 1983

CHAPTER 541

SENATE BILL NO. 2204
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

UNEMPLOYMENT COMPENSATION BENEFIT ELIGIBILITY

AN ACT to create and enact subsection 17 to section 52-06-02 and sections 52-06-06.1 and 52-07.1-08.3 of the North Dakota Century Code, relating to disqualification for unemployment compensation benefits, deductions from unemployment compensation benefits for child support obligations, and reduction of extended unemployment compensation benefits on account of trade readjustment allowances; to amend and reenact sections 52-06-30, 52-06-31, subsections 4, 8, 11, and 12 of section 52-07.1-03, and section 52-07.1-08 of the North Dakota Century Code, relating to assignment of unemployment compensation benefits, waiver of rights to unemployment compensation benefits, extended unemployment compensation benefit definitions, and announcements of extended benefit periods; to repeal subsections 6 and 7 of section 52-07.1-03 of the North Dakota Century Code, relating to extended unemployment compensation benefit definitions; 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. Subsection 17 to section 52-06-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

17. Except that no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in the North Dakota Unemployment Compensation Law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work.

For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

SECTION 2. Section 52-06-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-06-06.1. Weekly benefit reduction for child support.

1. An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes child support obligations as defined under subsection 7. If any such individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the bureau shall notify the state or local child support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.
2. The bureau shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection 7:
 - a. The amount specified by the individual to the bureau to be deducted and withheld under this subsection, if neither subdivisions b nor c are applicable;
 - b. The amount (if any) determined pursuant to an agreement submitted to the bureau under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless subdivision c is applicable; or
 - c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process (as that term is defined in section 462(e) of the Social Security Act) properly served upon the bureau.
3. Any amount deducted and withheld under subsection 2 shall be paid by the bureau to the appropriate state or local child support enforcement agency.
4. Any amount deducted and withheld under subsection 2 shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local child support enforcement

agency in satisfaction of the individual's child support obligations.

5. For purposes of subsections 1 through 4, the term "unemployment compensation" means any compensation payable under this Act (including amounts payable by the bureau pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).
6. This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the bureau under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.
7. The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the secretary of health and human services under part D of title IV of the Social Security Act.
8. The term "state or local child support enforcement agency" as used in these provisions means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection 7.

SECTION 3. AMENDMENT. Section 52-06-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-30. Assignment of benefits prohibited - Benefits exempt from remedies for collection of debt - Exception. No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under the North Dakota Unemployment Compensation Law shall be valid. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of a debt. Benefits received by any individual, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual, his spouse, or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this section shall be valid. However, this section shall not impair the operation of section 52-06-06.1.

SECTION 4. AMENDMENT. Section 52-06-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-31. Waiver of rights of individual prohibited. No agreement by any individual to waive, release, or commute his rights to benefits or any other rights under the North Dakota Unemployment Compensation Law shall be valid. No agreement by any individual in the employ of

any person or concern to pay all or any portion of an employer's contributions, required under the North Dakota Unemployment Compensation Law from such employer, shall be valid. No employer shall make, require, or accept, directly or indirectly, any deduction from wages to finance the employer's contributions required from him, nor require nor accept any waiver of any right hereunder by any individual in his employ. However, this section shall not impair the operation of section 52-06-06.1.

SECTION 5. AMENDMENT. Subsections 4, 8, 11, and 12 of section 52-07.1-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. "Extended benefit period" means a period which begins with the third week after ~~whichever of the following weeks occurs first:~~ a week for which there is a national "on" indicator, or a week for which there is a state "on" indicator; and ends with either of the following weeks, whichever occurs later: the third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or the thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.
8. "Rate of insured unemployment", for purposes of subsections 11 and 12, means the percentage derived by dividing:
 - a. The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the bureau on the basis of its reports to the United States secretary of labor, by
 - b. The average monthly employment covered under the North Dakota Unemployment Compensation Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.Computations provided for in this subsection shall be made by the bureau in accordance with regulations provided by the United States secretary of labor.
11. There is a "state 'off' indicator" for this state for a week if the bureau determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

- a. Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or
 - b. Was less than ~~four~~ five percent.
12. There is a "state 'on' indicator" for this state for a week if the bureau determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- a. Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; and
 - b. Equaled or exceeded ~~four~~ five percent.

SECTION 6. AMENDMENT. Section 52-07.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-07.1-08. Beginning and termination of extended benefit period. Whenever an extended benefit period is to become effective in this state ~~(or in all states)~~ as a result of a state ~~or a national~~ "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state ~~and national~~ "off" ~~indicators~~ indicator, the bureau shall make an appropriate public announcement.

SECTION 7. Section 52-07.1-08.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-07.1-08.3. Extended benefit reduction for trade readjustment allowances. Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends with an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

SECTION 8. REPEAL. Subsections 6 and 7 of section 52-07.1-03 of the North Dakota Century Code are hereby repealed.

SECTION 9. EFFECTIVE DATE. This Act becomes effective on January 1, 1983.

SECTION 10. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved January 19, 1983

CHAPTER 542

SENATE BILL NO. 2222
(Committee on Industry, Business, and Labor)
(At the request of Job Service North Dakota)

OASIS PRIMARY INSURANCE BENEFIT DETERMINATION

AN ACT to amend and reenact subsection 9 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 9 of section 52-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Primary insurance benefit" means an amount equal to the sum of the following:
- a. (1) Fifty percentum of the amount of an individual's average monthly wage if such average monthly wage does not exceed seventy-five dollars, or
 - (2) 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
 - b. An amount equal to one percentum of the amount computed under subdivision a multiplied by the number of years in which two hundred dollars or more of wages were paid to such individual.

Effective July 1, ~~1981~~ 1983, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions a and b plus one hundred ~~thirty~~ fifty dollars. Where the primary insurance benefit thus computed is less than one hundred ~~thirty~~ fifty dollars, such benefit shall be one hundred ~~thirty~~ fifty dollars. Effective July 1, ~~1982~~ 1984, the term "primary insurance benefit" shall be the total of the sums determined in subdivisions a and b plus one hundred ~~forty~~ sixty dollars. Where the primary insurance benefit thus computed is less than one hundred ~~forty~~ sixty dollars, such benefit shall be one hundred ~~forty~~ sixty dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 10, 1983

CHAPTER 543

SENATE BILL NO. 2086
(Committee on State and Federal Government)
(At the request of Job Service North Dakota)

LAND SALES BY JOB SERVICE NORTH DAKOTA

AN ACT authorizing the state of North Dakota acting by job service North Dakota to sell and convey lots thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, and forty, block 9, Kelley and Fuller's second addition to Jamestown, Stutsman 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 job service North Dakota is hereby authorized to sell and convey the lots thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, and forty, block 9, Kelley and Fuller's second addition to Jamestown, Stutsman County, North Dakota.

SECTION 2. Job service North Dakota may cause the above described 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 must be used as authorized and directed by federal law and regulations thereunder.

Approved February 2, 1983