

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 454
HOUSE BILL 418

1 AN ACT TO AMEND CHAPTER 96, GENERAL STATUTES OF NORTH CAROLINA, AS
2 AMENDED, KNOWN AS THE EMPLOYMENT SECURITY LAW, TO PROVIDE FOR
3 THE ESTABLISHMENT OF CERTAIN QUALIFYING CONDITIONS TO PROMOTE A
4 CLOSER ATTACHMENT TO THE LABOR FORCE OF CLAIMANTS; TO INCREASE
5 BENEFIT PAYMENTS; TO PROVIDE FOR MORE LIBERAL TERMINATION OF
6 EMPLOYERS UNDER THE LAW; TO PROVIDE FOR THE RIGHT OF APPEAL BY
7 THE COMMISSION IN CERTAIN CASES FROM JUDGMENTS OF SUPERIOR
8 COURTS; TO INCREASE COVERAGE UNDER THE LAW ONLY TO THE EXTENT
9 THAT COVERAGE HAS BEEN INCREASED UNDER THE FEDERAL
10 UNEMPLOYMENT TAX ACT; AND TO FURTHER CLARIFY CERTAIN
11 PROVISIONS OF SAID CHAPTER.
12

13 The General Assembly of North Carolina do enact:
14

15 **Section 1.** That Article 1, Chapter 96, Section 96-6(b), General Statutes of North
16 Carolina as such appears in the 1958 Replacement Volume 2C thereof, be and the same is
17 hereby amended by striking out in lines 12 and 13 thereof the words "by the State Auditor" and
18 inserting in lieu thereof the following:

19 "as provided in Section 143-3.2, General Statutes".

20 **Sec. 2.** That Article 1, Chapter 96, Section 96-6(c), General Statutes of North
21 Carolina as such appears in the 1958 Replacement Volume 2C thereof, be and the same is
22 hereby amended by striking out in line 8 thereof the words "by the State Auditor" and inserting
23 in lieu thereof the following:

24 "as provided in Section 143-3.2, General Statutes and".

25 **Sec. 3.** That Article 1, Chapter 96, Section 96-6(c), General Statutes of North
26 Carolina as such appears in the 1958 Replacement Volume 2C thereof, be further amended by
27 striking out the sentence beginning in line 13 thereof with the words "All warrants issued" and
28 ending in line 15 with the words "for that purpose" and inserting in lieu thereof the following:

29 "All warrants issued upon the treasurer for the payment of benefits and refunds shall be
30 issued as provided in G.S. 143-3.2 as requisitioned by the Chairman of the Commission or a
31 duly authorized agent of the Commission for that purpose."

32 **Sec. 4.** That Article 2, Chapter 96, Section 96-8(5)a., General Statutes of North
33 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
34 be and the same is hereby amended by striking out that part which begins in line 1 with the
35 words "Any employing unit" and ends in line 20 with "in each such week):" and inserting the
36 following:

37 "With respect to any calendar year prior to 1956, any employing unit which was an
38 employer during such year as previously defined in this Chapter applicable to any such year.
39 With respect to employment during the calendar year 1956, 'employer' means any employing
40 unit which in each of 20 different weeks within such calendar year (whether or not such weeks
41 are or were consecutive) has, or had in employment, four or more individuals (not necessarily
42 simultaneously and irrespective of whether the same individuals are or were employed in each
43 such week), and with respect to employment on and after January 1, 1957, employer means any

1 employing unit which in each of 20 different weeks within the current or preceding calendar
2 year (whether or not such weeks are or were consecutive) has, or had in employment, four or
3 more individuals (not necessarily simultaneously and irrespective of whether the same
4 individuals are or were employed in each such week)".

5 **Sec. 5.** That Article 2, Chapter 96, Section 96-8(5)b., General Statutes of North
6 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
7 be and the same is hereby amended by striking out the last sentence of paragraph b. and
8 inserting the following:

9 "A successor by total acquisition under the provisions of this paragraph may be relieved
10 from coverage hereunder by making written application with the Commission within 60 days
11 from the date the Commission mails him a notification of his liability and provided the
12 Commission finds the predecessor was an employer at the time of such acquisition only
13 because such predecessor had failed to make application for termination of coverage as
14 provided in Section 96-11 of this Chapter. A successor under the provisions of this paragraph
15 who becomes an employer by virtue of having acquired a part of the organization, trade, or
16 business of the predecessor hereunder may be relieved from coverage upon making written
17 application with the Commission within 60 days from the date the Commission mails him a
18 notification of his liability and the Commission finds that the predecessor could have
19 terminated by making the application under Section 96-11 if the part acquired had constituted
20 all of the predecessor's business.

21 **Sec. 6.** That Article 2, Chapter 96, Section 96-8(5), General Statutes of North
22 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
23 be and the same is hereby amended by adding thereto the following:

24 "i. Any employing unit which, after July 1, 1961, acquired a part of the
25 organization, trade, or business of another which if treated as a single
26 unit with such part acquired would be an employer under paragraph
27 a. of this subdivision if such part acquired had constituted all of the
28 organization, trade, or business of the predecessor."

29 **Sec. 7.** That Article 2, Chapter 96, Section 96-8(6)f., General Statutes of North
30 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
31 be and the same is hereby amended by adding a new subparagraph, numbered four, to read as
32 follows:

33 "4. Any service of whatever nature performed after December
34 31, 1961, by an individual for an employing unit on or in
35 connection with an American aircraft under a contract of
36 service which is entered into within the United States or
37 during the performance of which and while the employee is
38 employed on the aircraft it touches at a port in the United
39 States, if such individual is employed on and in connection
40 with such aircraft when outside the United States; provided
41 such service is performed on or in connection with the
42 operations of an American aircraft and such operations are
43 ordinarily and regularly supervised, managed, directed, and
44 controlled from an operating office maintained by the
45 employing unit in this State."

46 **Sec. 8.** That Article 2, Chapter 96, Section 96-8(6)g.2., General Statutes of North
47 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
48 be and the same is hereby amended by rewriting the proviso beginning in line 18 with the
49 words "Provided, that if this State" and ending in line 26 with the word "collected." to read as
50 follows:

1 "Provided, that if this State shall not be certified for any
2 year by the Secretary of Labor under Section 3304 of the
3 Federal Internal Revenue Code of 1954, the payments
4 required of such instrumentalities with respect to such year
5 shall be refunded by the Commission from the fund in the
6 same manner and within the same period as is provided in
7 Section 96-10(e) with respect to contributions erroneously
8 collected."

9 **Sec. 9.** That Article 2, Chapter 96, Section 96-8(6)g.6., General Statutes of North
10 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
11 be and the same is hereby amended by striking out the first three lines of said subparagraph 6
12 together with that portion of line 4 thereof ending with the words "United States;" and inserting
13 in lieu thereof the following:

14 "6. Service performed on or in connection with a vessel or
15 aircraft not an American vessel or American aircraft by an
16 individual if the individual is performing services on and in
17 connection with such vessel or aircraft when outside the
18 United States;"

19 **Sec. 10.** That Article 2, Chapter 96, Section 96-8(6)g.8., General Statutes of North
20 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
21 be and the same is hereby amended by inserting after the word "performed" in line 1 thereof the
22 words "prior to January 1, 1962," and be further amended by adding after the semicolon at the
23 end of subparagraph 8 the following:

24 "and employment shall not include after December 31, 1961,
25 service performed in the employ of a corporation, community
26 chest, fund, or foundation, organized and operated
27 exclusively for religious, charitable, scientific, testing for
28 public safety, literary, or educational purposes, or for the
29 prevention of cruelty to children or animals, no part of the net
30 earnings of which inures to the benefit of any private
31 shareholder or individual and which is exempt from income
32 tax under Section 501(a), Internal Revenue Code of 1954;"

33 **Sec. 11.** That Article 2, Chapter 96, Section 96-8(6)g.11., General Statutes of North
34 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
35 be and the same is hereby amended by striking out subparagraph 11 and inserting in lieu
36 thereof the following:

37 "11. Service performed before January 1, 1962, in connection with
38 the collection of dues or premiums for a fraternal benefit
39 society, order, or association performed away from the home
40 office, or its ritualistic service in connection with any such
41 society, order, or association;"

42 **Sec. 11 1/2.** That Article 2, Chapter 96, Section 96-8(6)g., General Statutes of
43 North Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C
44 thereof, be and the same is hereby amended by adding to paragraph g. the following
45 subparagraphs:

46 "17. Service performed after December 31, 1961, in any calendar
47 quarter in the employ of any organization exempt from
48 income tax under the provisions of Section 501(a) of the
49 Internal Revenue Code of 1954 (other than an organization
50 described in Section 401(a) of said Internal Revenue Code of
51 1954) or under Section 521 of the Internal Revenue Code of

1 1954, if the remuneration for such service is less than fifty
2 dollars (\$50.00).

3 "18. Service performed after December 31, 1961, in the employ of
4 a school, college, or university, if such service is performed
5 by a student who is enrolled and is regularly attending classes
6 at such school, college, or university."

7 **Sec. 12.** That Article 2, Chapter 96, Section 96-8(9), General Statutes of North
8 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
9 be and the same is hereby amended by striking out in line 2 thereof the words "Alaska, Hawaii"
10 including the comma between such words and inserting in lieu thereof the following: "Puerto
11 Rico."

12 **Sec. 13.** That Article 2, Chapter 96, Section 96-8(10)b. and c., General Statutes of
13 North Carolina as such appear in the 1959 Supplement to the 1958 Replacement Volume 2C
14 thereof, be and the same are hereby amended by rewriting paragraphs b. and c. as follows:

15 "b. An individual shall be deemed 'partially unemployed' in any week in
16 which, because of lack of work, he worked less than sixty per cent of
17 the customary scheduled full-time hours of the industry or plant in
18 which he is employed, and with respect to which the wages payable
19 to him are less than his weekly benefit amount plus an amount equal
20 to one-half of such weekly benefit amount figured to the nearest
21 multiple of one dollar (\$1.00). Provided, however, the Commission
22 may find the customary scheduled full-time hours of any individual
23 to be less or more than the customary scheduled full-time hours of
24 the industry or plant in which he is employed, if such individual
25 customarily performs services in an occupation which requires that
26 he customarily work a greater or smaller number of hours than the
27 customary scheduled full-time hours of the industry or plant in which
28 he is employed.

29 "c. An individual shall be deemed 'part totally unemployed' in any week
30 in which his earnings from odd job or subsidiary work are less than
31 his weekly benefit amount plus an amount equal to one-half his
32 weekly benefit amount figured to the nearest multiple of one dollar
33 (\$1.00)."

34 **Sec. 14.** That Article 2, Chapter 96, Section 96-8(17), General Statutes of North
35 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
36 be and the same is hereby amended by designating said subdivision (17) as "(17)a." and adding
37 thereto the following paragraph:

38 "b. As to claims filed on or after July 1, 1961, by individuals who do not
39 have benefit years in progress, 'benefit year' with respect to any such
40 individual means the one-year period beginning with the first day of
41 the first week with respect to which the individual first registers for
42 work and files a valid claim for benefits. After the termination of
43 such benefit year the next benefit year shall be the next one-year
44 period beginning with the first day of the first week with respect to
45 which such individual registers for work and files a valid claim. A
46 valid claim shall be deemed to have been filed if such individual, at
47 the time the claim is filed, is unemployed and has been paid wages in
48 more than one calendar quarter of his base period amounting to at
49 least the minimum of the qualifying base period wages as set forth in
50 the applicable table in Section 96-12 and when such individual has in
51 his last established benefit year exhausted his maximum benefit

entitlement, he must also have met the provisions of Section 96-12(b)(3)."

Sec. 15. That Article 2, Chapter 96, Section 96-8(20), General Statutes of North Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof, be and the same is hereby amended by striking out the period at the end of said subdivision (20) following the word "state" and adding thereto the following:

"; and the term 'American aircraft' means an aircraft registered under the laws of the United States."

Sec. 16. That Article 2, Chapter 96, Section 96-11(d), General Statutes of North Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof, be and the same is hereby amended by striking out the first sentence thereof and inserting the following:

"An employer who has not had any individuals in employment for a period of two consecutive calendar years shall cease to be an employer subject to this Chapter."

Sec. 17. That Article 2, Chapter 96, Section 96-12(b), General Statutes of North Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof, be and the same is hereby amended by rewriting subsection (b) to read as follows:

"(b) (1) Each eligible individual whose benefit years begins on and after the first day of July, 1957, and prior to the first day of July, 1961, and who is totally unemployed during any week as defined by Section 96-8(10)a. shall be paid benefits with respect to such week or weeks at the rate per week appearing in the following table in Column II opposite which in Column I appear the wages paid to such individual during his base period with respect to employment:

Column I	Column II
Wages Paid During	Weekly Benefit
Base Period	Amount
Less than \$500.00	Ineligible
\$ 500.00 to \$609.99	\$11.00
610.00 to 719.99	12.00
720.00 to 829.99	13.00
830.00 to 949.99	14.00
950.00 to 1,069.99	15.00
1,070.00 to 1,189.99	16.00
1,190.00 to 1,309.99	17.00
1,310.00 to 1,429.99	18.00
1,430.00 to 1,549.99	19.00
1,550.00 to 1,669.99	20.00
1,670.00 to 1,789.99	21.00
1,790.00 to 1,909.99	22.00
1,910.00 to 2,029.99	23.00
2,030.00 to 2,149.99	24.00
2,150.00 to 2,269.99	25.00
2,270.00 to 2,389.99	26.00
2,390.00 to 2,509.99	27.00
2,510.00 to 2,629.99	28.00
2,630.00 to 2,749.99	29.00
2,750.00 to 2,869.99	30.00
2,870.00 to 2,999.99	31.00
3,000.00 and over	32.00

"(2) Each eligible individual whose benefit year begins on and after the first day of July, 1961, and who is totally unemployed as defined by Section 96-8(10)a. shall be paid benefits with respect to such week or weeks at the rate per week appearing in the following table in Column II opposite which in Column I appear the wages paid to such individual during his base period with respect to employment:

Column I Wages Paid During Base Period	Column II Weekly Benefit Amount
Less than \$550.00	Ineligible
\$ 550.00 to \$649.99	\$12.00
650.00 749.99.....	13.00
750.00 849.99.....	14.00
850.00 949.99.....	15.00
950.00 1,059.99.....	16.00
1,060.00 1,169.99.....	17.00
1,170.00 1,279.99.....	18.00
1,280.00 1,389.99.....	19.00
1,390.00 1,499.99.....	20.00
1,500.00 1,619.99.....	21.00
1,620.00 1,739.99.....	22.00
1,740.00 1,859.99.....	23.00
1,860.00 1,979.99.....	24.00
1,980.00 2,099.99.....	25.00
2,100.00 2,239.99.....	26.00
2,240.00 2,379.99.....	27.00
2,380.00 2,529.99.....	28.00
2,530.00 2,679.99.....	29.00
2,680.00 2,839.99.....	30.00
2,840.00 2,999.99.....	31.00
3,000.00 3,199.99.....	32.00
3,200.00 3,399.99.....	33.00
3,400.00 3,599.99.....	34.00
3,600.00 and over.....	35.00

"(3) Qualifying Wages for Exhaustees. An individual who has exhausted his maximum benefit entitlement in his last previous benefit year who files a claim for benefits on or after July 1, 1961, shall not be entitled to benefits unless he has been paid qualifying wages required in Section 96-12(b)(2) and since the beginning date of his last established previous benefit year and before the date upon which he files his new benefit claim has been paid wages equal to at least ten times the weekly benefit amount of the new benefit year claim. Such wages must have been earned with an employer subject to the provisions of this Chapter or some other State employment security law or in Federal service as defined in Title XV of the Social Security Act."

Sec. 18. That Article 2, Chapter 96, Section 96-12(c), General Statutes of North Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof, be and the same is hereby amended by rewriting said subsection (c) to read as follows:

"(c) Partial Weekly Benefit. Each eligible individual who is either partially unemployed or part totally unemployed (as defined in Secs. 96-8(10)b. and 96-8(10)c.) in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount figured

1 to the nearest multiple of one dollar (\$1.00) which is equal to the difference between his
2 weekly benefit amount and that part of the remuneration payable to him with respect to such
3 week which is in excess of a sum equal to one-half of his weekly benefit amount figured to the
4 nearest multiple of one dollar (\$1.00)."

5 **Sec. 19.** That Article 2, Chapter 96, Section 96-13(3), General Statutes of North
6 Carolina as such appears in the 1958 Replacement Volume 2C thereof, be and the same is
7 hereby amended by striking out the proviso beginning in line 8 thereof with the word
8 "Provided" and which ends in line 15 with the words "is otherwise eligible:" and inserting in
9 lieu thereof the following:

10 "Provided further that no individual separated from employment after July 1, 1961, shall be
11 considered able and available for work who has been separated from employment due to
12 pregnancy from the date of such separation until the birth of such individual's child, and no
13 individual shall be considered able and available for work, regardless of the cause of such
14 individual's separation from employment, for any week during the three-month period
15 immediately before the expected birth of a child to such individual and for any week during the
16 three-month period immediately following the birth of a child to such individual; however, no
17 individual shall be denied benefits by reason of this proviso in the event of the death of such
18 child, if such individual is otherwise eligible:".

19 **Sec. 20.** That Article 2, Chapter 96, Section 96-14(4), General Statutes of North
20 Carolina as such appears in the 1958 Replacement Volume 2C thereof, be and the same is
21 hereby amended by rewriting subdivision (4) to read as follows:

22 "(4) For any week with respect to which the Commission finds that his total or
23 partial unemployment is caused by a labor dispute in active progress on or
24 after July 1, 1961, at the factory, establishment, or other premises at which
25 he is or was last employed or caused after such date by a labor dispute at
26 another place, either within or without this State, which is owned or operated
27 by the same employing unit which owns or operates the factory,
28 establishment, or other premises at which he is or was last employed and
29 which supplies materials or services necessary to the continued and usual
30 operation of the premises at which he is or was last employed. Provided, that
31 an individual disqualified under the provisions of this subdivision shall
32 continue to be disqualified thereunder after the labor dispute has ceased to be
33 in active progress for such period of time as is reasonably necessary and
34 required to physically resume operations in the method of operating in use at
35 the plant, factory, or establishment of the employing unit."

36 **Sec. 21.** That Article 2, Chapter 96, Section 96-15(i), General Statutes of North
37 Carolina as such appears in the 1959 Supplement to the 1958 Replacement Volume 2C thereof,
38 be and the same is hereby amended by inserting therein after the sentence ending with the word
39 "cases" in line 24 thereof the following:

40 "The Commission shall have the right of appeal to the Supreme Court from a decision or
41 judgment of the Superior Court and for such purpose shall be deemed to be an aggrieved
42 party."

43 **Sec. 22.** That all laws and clauses of laws in conflict with the provisions of this Act
44 are hereby repealed.

45 **Sec. 23.** This Act shall be in full force and effect on and after July 1, 1961.

46 In the General Assembly read three times and ratified, this the 18th day of May,
47 1961.