

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE BILL 757**

Short Title: ESC Omnibus Act.

(Public)

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Sponsors: Senator Nesbitt.

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Referred to: Commerce.

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March 22, 2005

1                                   A BILL TO BE ENTITLED  
2 AN ACT MAKING OMNIBUS CHANGES TO THE EMPLOYMENT SECURITY  
3 LAWS OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5                   **SECTION 1.** G.S. 96-13(a)(3) reads as rewritten:

6 "**§ 96-13. Benefit eligibility conditions.**

7           "(3) The individual is able to work, and is available for work: Provided  
8 that, unless temporarily excused by Commission regulations, no  
9 individual shall be deemed available for work unless he establishes to  
10 the satisfaction of the Commission that he is actively seeking work:  
11 Provided further, that an individual customarily employed in seasonal  
12 employment shall, during the period of nonseasonal operations, show  
13 to the satisfaction of the Commission that such individual is actively  
14 seeking employment which such individual is qualified to perform by  
15 past experience or training during such nonseasonal period: Provided  
16 further, however, that no individual shall be considered available for  
17 work for any week not to exceed two in any calendar year in which the  
18 Commission finds that his unemployment is due to a vacation. In  
19 administering this proviso, benefits shall be paid or denied on a  
20 payroll-week basis as established by the employing unit. A week of  
21 unemployment due to a vacation as provided herein means any payroll  
22 week within which the equivalent of three customary full-time  
23 working days consist of a vacation period. For the purpose of this  
24 subdivision, any unemployment which is caused by a vacation period  
25 and which occurs in the calendar year following that within which the  
26 vacation period begins shall be deemed to have occurred in the  
27 calendar year within which such vacation period begins. For purposes  
28 of this subdivision, no individual shall be deemed available for work  
29 during any week that the individual tests positive for a controlled

1 substance if (i) the test is a controlled substance examination  
2 administered under Article 20 of Chapter 95 of the General Statutes,  
3 (ii) the test is required as a condition of hire for a job, and (iii) the job  
4 would be suitable work for the claimant. The employer shall report to  
5 the Commission, in accordance with regulations adopted by the  
6 Commission, each claimant that tests positive for a controlled  
7 substance under this subdivision. ~~For the purposes of this subdivision,  
8 no individual shall be deemed available for work during any week in  
9 which he is registered at and attending an established school, or is on  
10 vacation during or between successive quarters or semesters of such  
11 school attendance, or on vacation between yearly terms of such school  
12 attendance. Except: (i) Any person who was engaged in full-time  
13 employment concurrent with his school attendance, who is otherwise  
14 eligible, shall not be denied benefits because of school enrollment and  
15 attendance. Except: (ii) Any otherwise qualified unemployed  
16 individual who is attending a vocational school or training program  
17 which has been approved by the Commission for such individual shall  
18 be deemed available for work. However, any unemployment insurance  
19 benefits payable with respect to any week for which a training  
20 allowance is payable pursuant to the provisions of a federal or State  
21 law, shall be reduced by the amount of such allowance which weekly  
22 benefit amount shall be rounded to the nearest lower full dollar amount  
23 (if not a full dollar amount). The Commission may approve such  
24 training course for an individual only if:~~

- 25 a. ~~1. Reasonable employment opportunities for which the  
26 individual is fitted by training and experience do not  
27 exist in the locality or are severely curtailed;  
28 2. The training course relates to an occupation or skill for  
29 which there are expected to be reasonable opportunities  
30 for employment; and  
31 3. The individual, within the judgment of the Commission,  
32 has the required qualifications and the aptitude to  
33 complete the course successfully; or,~~
- 34 b. ~~Such approval is required for the Commission to receive the  
35 benefits of federal law.~~
- 36 a. An unemployed individual shall not be disqualified for  
37 eligibility for unemployment compensation solely on the basis  
38 that the individual is in school."

39 **SECTION 2.** G.S. 96-9(a)(3)d3. reads as rewritten:

40 "d3. The standard contribution rate set by subdivision (b)(1) of this  
41 section applies to an employer unless the employer's account  
42 has a credit balance. Beginning January 1, 1999, for any  
43 calendar year that the training and reemployment contribution  
44 in G.S. 96-6.1 does apply, not the contribution rate of an

1 employer whose account has a credit balance is determined in  
 2 accordance with the rate set in the following Experience Rating  
 3 Formula table for the applicable rate schedule. The contribution  
 4 rate of an employer whose contribution rate is determined by  
 5 this Experience Rating Formula table shall be reduced by fifty  
 6 percent (50%) for any year in which the balance in the  
 7 Unemployment Insurance Fund on computation date equals or  
 8 exceeds ~~eight hundred million dollars (\$800,000,000) on the~~  
 9 ~~computation date~~ one and ninety-five hundredths percent  
 10 (1.95%) of the gross taxable wages reported to the Commission  
 11 in the previous calendar year and the fund ratio determined on  
 12 that date is less than five percent (5%) and shall be reduced by  
 13 sixty percent (60%) for any year in which the balance in the  
 14 Unemployment Insurance Fund on computation date equals or  
 15 exceeds ~~eight hundred million dollars (\$800,000,000) on the~~  
 16 ~~computation date~~, one and ninety-five hundredths percent  
 17 (1.95%) of the gross taxable wages as reported to the  
 18 Commission in the previous calendar year, and the fund ratio  
 19 determined on that date is five percent (5%) or more.  
 20

21 EXPERIENCE RATING FORMULA

22  
 23 When The Credit Ratio Is:

24  
 25 As But  
 26 Much Less  
 27 As Than

Rate Schedules (%)

			A	B	C	D	E	F	G	H	I
28											
29	0.0%	0.2%	2.70%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%
30	0.2%	0.4%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%
31	0.4%	0.6%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%
32	0.6%	0.8%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%
33	0.8%	1.0%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%
34	1.0%	1.2%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%
35	1.2%	1.4%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%
36	1.4%	1.6%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%
37	1.6%	1.8%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%
38	1.8%	2.0%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%
39	2.0%	2.2%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%
40	2.2%	2.4%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%
41	2.4%	2.6%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%
42	2.6%	2.8%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%
43	2.8%	3.0%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%
44	3.0%	3.2%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%

1	3.2%	3.4%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%
2	3.4%	3.6%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%
3	3.6%	3.8%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%
4	3.8%	4.0%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%
5	4.0%										
6	&										
7	OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

**SECTION 3.** G.S. 96-9(a)(3)d5. reads as rewritten:

"d5. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, 1999, for any calendar year that the training and reemployment contribution in G.S. 96-6.1 applies, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund on computation date equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date one and ninety-five hundredths percent (1.95%) of the gross taxable wages reported to the Commission in the previous calendar year, and the fund ratio determined on that date is less than five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund on computation date equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date, one and ninety-five hundredths percent (1.95%) of the gross taxable wages reported to the Commission in the previous calendar year, and the fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is:

As	But										
Much	Less										
As	Than										

	A	B	C	D	E	F	G	H	I	
0.0%	0.2%	2.16%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%
0.2%	0.4%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%

1	0.4%	0.6%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%
2	0.6%	0.8%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%
3	0.8%	1.0%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%
4	1.0%	1.2%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%
5	1.2%	1.4%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%
6	1.4%	1.6%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%
7	1.6%	1.8%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%
8	1.8%	2.0%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%
9	2.0%	2.2%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%
10	2.2%	2.4%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%
11	2.4%	2.6%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%
12	2.6%	2.8%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%
13	2.8%	3.0%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%
14	3.0%	3.2%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%
15	3.2%	3.4%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%
16	3.4%	3.6%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%
17	3.6%	3.8%	0.24%	0.15%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%
18	3.8%	4.0%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%	0.03%
19	4.0% &										
20	<u>OVER</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u> "

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**SECTION 4.** Sections 2 and 3 of this act become effective July 1, 2005. The remainder of this act is effective when it becomes law.