

SOCIAL SECURITY

CHAPTER 421

HOUSE BILL NO. 1448

(Representatives Bernstein, Gerntholz, Kroeplin)

UNEMPLOYMENT COMPENSATION RATES AND BENEFITS

AN ACT to amend and reenact sections 52-04-05 and 52-06-05 of the North Dakota Century Code, relating to the determination of rates and unemployment compensation maximum potential benefits; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-04-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-04-05. Determination of rates.

1. For each calendar year, the bureau shall estimate the amount of income needed to pay benefits and maintain a balance in the unemployment compensation fund, that as of October 1, 1989, is equal to twenty-five percent of the average annual amount of benefits paid. On each October first after October 1, 1989, the amount of the trust fund reserve must be sixty 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 and projected to be paid during the previous thirty-six months by three.
2. Rates must be determined as follows:
 - a. The income required for the calendar year must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one one-hundredth of one percent is the average required rate.
 - b. The minimum rate for each calendar year is the average required rate, multiplied by one-fourth, rounded to the nearest one-tenth of one percent.
 - c. The maximum rate for each calendar year is the average required rate, multiplied by three, rounded to the nearest one-tenth of one percent. However, the maximum rate must be at least five and four-tenths percent.
3. a. Except as otherwise provided in this subsection, an employer's rate may not be less than the maximum rate for a calendar year unless the employer's account has been chargeable with benefits

throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year. If an employer in construction services has not been subject to the law as required, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending September thirtieth of the preceding calendar year. However, an employer in construction services must be assigned the maximum rate or seven percent, whichever is greater, for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year. An employer identified as belonging to industry group number 161, highway and street construction, except elevated highways, provided in the standard industrial classification manual, must be assigned a maximum rate or eight and one-half percent, whichever is greater, for any year if, as of the computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first of that year. If an employer in nonconstruction services has not been subject to the law as required, the employer in nonconstruction services qualifies for a reduced rate if the account has been chargeable with benefits throughout the twelve-consecutive-calendar-month period ending September thirtieth of the preceding calendar year.

- b. An employer that does not qualify under subdivision a is subject to a rate determined as follows:
 - (1) For each calendar year new employers must be assigned a rate of two and two-tenths percent unless the employer is classified in construction services. However, an employer must be assigned the maximum rate for any year if, as of the computation date, the cumulative benefits charged to that employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.
 - (2) New employers in construction services must be assigned a rate of seven percent or the maximum rate, whichever is greater.
 - (3) Assignment by the bureau of an employer's industrial classification for the purposes of this section must be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual issued by the executive office of the president, office of management and budget.
4. An employer who has ceased to be liable for contributions shall continue its established experience rating account if it again becomes liable within three years from the date that it ceased to be liable. Such employer's rate, however, must be determined in accordance with subsection 3.

SECTION 2. AMENDMENT. Section 52-06-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

52-06-05. Maximum potential benefits. ~~Any~~

1. Except as provided in subsection 2, any otherwise eligible individual is 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~~ that includes the individual's ratio of total base-period wages to highest quarter base-period wages:

| Ratio of Total Base-Period Wages to High Quarter | Times Weekly Benefit Amount |
|---|--------------------------------|
| 1.50 to 2.29 | 12 |
| 2.30 to 2.44 | 14 |
| 2.45 to 2.59 | 16 |
| 2.60 to 2.74 | 18 |
| 2.75 to 2.89 | 20 |
| 2.90 to 3.04 | 22 |
| 3.05 to 3.19 | 24 |
| 3.20 or more | 26 |

2. Any otherwise eligible individual whose entire base-period earnings were paid by an employer belonging to industry group number 161, highway and street construction, except elevated highways, pursuant to the standard industrial classification manual is 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 that includes the individual's ratio of total base-period wages to highest quarter base-period wages:

| <u>Ratio of Total Base-Period Wages to High Quarter</u> | <u>Times Weekly Benefit Amount</u> |
|---|--|
| <u>1.50 to 1.73</u> | <u>12</u> |
| <u>1.74 to 1.97</u> | <u>14</u> |
| <u>1.98 to 2.21</u> | <u>16</u> |
| <u>2.22 to 2.45</u> | <u>18</u> |
| <u>2.46 to 2.69</u> | <u>20</u> |
| <u>2.70 to 2.93</u> | <u>22</u> |
| <u>2.94 to 3.17</u> | <u>24</u> |
| <u>3.18 or more</u> | <u>26</u> |

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through December 31, 2000, and after that date is ineffective. Section 2 of this Act is effective through December 31, 1999, and after that date is ineffective.

Approved April 9, 1997
Filed April 10, 1997

CHAPTER 422**HOUSE BILL NO. 1242**

(Representatives Wald, Wardner, Mahoney)
(Senator Goetz)

**UNEMPLOYMENT COMPENSATION
DISQUALIFICATION**

AN ACT to create and enact a new subsection to section 52-06-02 of the North Dakota Century Code, relating to North Dakota unemployment compensation disqualification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 52-06-02 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

With respect to services to which subdivisions f and g of subsection 17 of section 52-01-01 apply, if the services are provided to or on behalf of an educational institution, benefits are not payable under the same circumstances and subject to the same terms and conditions as described in subsections 9, 10, 11, and 12.

Approved March 25, 1997

Filed March 25, 1997

CHAPTER 423

HOUSE BILL NO. 1120

(Representative Keiser)

(At the request of Job Service North Dakota)

UNEMPLOYMENT BENEFIT TAX WITHHOLDING

AN ACT to amend and reenact section 52-06-30 of the North Dakota Century Code, relating to voluntary withholding of federal income tax and state income tax from unemployment compensation benefits; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-06-30 of the North Dakota Century Code is amended and reenacted as follows:

52-06-30. Assignment of benefits prohibited - Benefits exempt from remedies for collection of debt - Exception.

1. 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 is valid. Such rights to benefits are 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, are exempt from any remedy ~~whatsoever~~ for the collection of all debts except debts incurred for necessities furnished to such the individual, ~~his~~ that person's spouse, or dependents during the time when ~~such the~~ the individual was unemployed. No waiver of any exemption provided for in this ~~section~~ subsection is valid. However, this ~~section~~ subsection does not impair the operation of subsection 2 or section 52-06-06.1.
2. An individual filing a new claim for unemployment compensation benefits, at the time of filing the claim, must be advised that:
 - a. Unemployment compensation is subject to federal income tax and state income tax;
 - b. Requirements exist pertaining to estimated federal and state tax payments;
 - c. The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation benefits at the amount specified in the federal Internal Revenue Code;
 - d. The individual, having elected to have federal income tax withheld, may also elect to have state income tax deducted and withheld from the individual's payment of unemployment compensation at a rate determined by the tax commissioner pursuant to section 57-38-59; and

- e. The individual is permitted to change a previously elected withholding status. Amounts deducted and withheld from unemployment compensation must remain in the unemployment fund until transferred to the federal and state taxing authority as payment of income tax. The bureau shall follow all procedures specified by the United States department of labor, the federal internal revenue service, and the tax commissioner pertaining to the deducting and withholding of income tax. Amounts must be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amounts required to be deducted and withheld under this chapter.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1997.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 20, 1997
Filed February 21, 1997

CHAPTER 424

SENATE BILL NO. 2102

(Senators Krebsbach, C. Nelson)
(At the request of Job Service North Dakota)

OASIS BENEFITS

AN ACT to amend and reenact subsection 9 of section 52-09-20 of the North Dakota Century Code, relating to primary insurance benefits under the old-age and survivor insurance system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 52-09-20 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9. "Primary insurance benefit" means the sum of the following:
 - a. (1) Fifty percent of the amount of an individual's average monthly wage if the average monthly wage does not exceed seventy-five dollars; or
 - (2) If the average monthly wage exceeds seventy-five dollars, thirty-seven dollars and fifty cents, plus fifteen percent of the amount by which the average monthly wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars;
 - b. One percent 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 the individual; and
 - c. (1) Effective August 1, ~~1995~~ 1997, ~~three hundred eighty five hundred thirty-three~~ three hundred eighty five hundred thirty-three dollars and thirty-three cents; or
 - (2) Effective August 1, ~~1996~~ 1998, ~~four hundred six hundred sixty-six~~ four hundred sixty-six dollars and sixty-six cents.

Approved March 20, 1997
Filed March 20, 1997

CHAPTER 425

SENATE BILL NO. 2101

(Senators Krebsbach, C. Nelson)
(At the request of Job Service North Dakota)

JOB SERVICE RETIREMENT PROGRAMS

AN ACT to amend and reenact subsection 1 of section 52-11-01 of the North Dakota Century Code, relating to job service North Dakota and national guard retirement programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Job service North Dakota 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, the state investment board, or the North Dakota public employees retirement system. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of such the retirement programs program which must be submitted to not less than three such companies or agencies with a request for bids upon such the retirement program contracts. After the submission of at least three bids, the executive director of job service North Dakota and the adjutant general shall jointly or separately compare such the bids, and with the approval of the governor, shall execute joint or separate contracts a contract for such the retirement programs program with the company or agency submitting the lowest and best bid. Job service North Dakota is authorized to administer the retirement plan established in 1961 and frozen to new entrants in 1980, for employees of job service North Dakota.

Approved April 2, 1997
Filed April 2, 1997