

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1432

Introduced by

Representatives Koppelman, Boehning, Ruby

Senator Klein

1 A BILL for an Act to create and enact a new section to chapter 52-06 of the North Dakota
2 Century Code, relating to electronic transmissions of documents by job service North Dakota;
3 and to amend and reenact subdivisions a and b of subsection 6 of section 52-04-05 and section
4 52-04-07 of the North Dakota Century Code, relating to unemployment compensation employer
5 classifications and employee benefits.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subdivisions a and b of subsection 6 of section 52-04-05 of
8 the North Dakota Century Code are amended and reenacted as follows:

9 a. Except as otherwise provided in this subsection, an employer's rate may not be
10 less than the negative employer minimum rate for a calendar year unless the
11 employer's account has been chargeable with benefits throughout the
12 thirty-six-consecutive-calendar-month period ending on September thirtieth of the
13 preceding calendar year. If an employer in construction services has not been
14 subject to the law as required, that employer qualifies for a reduced rate if the
15 account has been chargeable with benefits throughout the
16 twenty-four-consecutive-calendar-month period ending September thirtieth of the
17 preceding calendar year, unless the employer has been classified under
18 subparagraph b of paragraph 2 of subdivision b in which case the employer
19 qualifies for a reduced rate if the account has been chargeable with benefits
20 throughout the twelve-consecutive-calendar-month period ending September
21 thirtieth of the preceding calendar year. If an employer in nonconstruction
22 services has not been subject to the law as required, the employer in
23 nonconstruction services qualifies for a reduced rate if the account has been
24 chargeable with benefits throughout the twelve-consecutive-calendar-month

period ending September thirtieth of the preceding calendar year. The executive director may provide any negative employer whose contributions paid into the trust fund are greater than the benefit charges against that employer's account, for a minimum of three consecutive years immediately preceding the computation date or subject to the law as required, with up to a thirty percent reduction to that employer's rate for any year if that employer has in place a plan approved by the bureau which addresses substantive changes to that employer's business operation and ensures that any rate reduction provided will not put the employer account back into a negative status.

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 that is ninety percent of the positive employer maximum rate or a rate of one percent, whichever is greater, unless the employer is classified in-
~~construction services~~ as provided in paragraph 2. However, an employer must be assigned within the negative employer rate ranges 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. All results calculated under this paragraph must be rounded to the nearest one-hundredth of one percent.

(2) New employers in construction services must be classified using the four digit codes provided by the North American industrial classification system manual, in accordance with established classification practices found in the North American industrial classification system manual, issued by the executive office of the president, office of management and budget. The bureau shall divide the construction employers into two classifications so that:

(a) Employers in codes that have historically been negative balance employers are assigned the negative employer maximum rate; and

(b) Employers in codes that have historically been positive balance employers are assigned the maximum employer rate for the classification under which that employer would be classified.

(3) ~~Assignment~~Except as provided in paragraph 2, assignment by the bureau of an employer's industrial classification for the purposes of this section must be the three-digit major group provided in the North American industrial classification system manual, in accordance with established classification practices found in the North American industrial classification system manual, issued by the executive office of the president, office of management and budget. Employers who are liable for coverage before August 1, 2001, remain under an industrial classification under the two-digit major group provided in the standard industrial classification manual unless they are classified in the construction industry within the standard industrial classification code.

SECTION 2. AMENDMENT. Section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

52-04-07. Benefits paid chargeable to accounts of base-period employers.

1. Benefits paid to an individual must be charged against the accounts of the individual's base-period employers. The amount of benefits so chargeable against each base-period employer's account must bear the same ratio to the benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of the base-period wages paid to the individual by all of the individual's base-period employers.
2. Notwithstanding subsection 1, an employer's account may not be charged for any of the following:
 - a. With benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143; 42 U.S.C. 5122(2)], if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits.

b. With benefits paid to an individual who either:

(1) Left the employment of the base-period employer voluntarily without good cause or with good cause not involving fault on the part of the base-period employer; or

(2) Who was discharged from employment by the base-period employer for misconduct.

c. As provided under section 52-06-29.

d. With benefits paid to an individual who is in training with the approval of job service North Dakota.

e. With benefits paid to an individual who is subsequently determined not entitled to receive the benefits.

f. With benefits paid to an individual who is currently employed part time with that employer when the hiring agreement between the individual and the employer has not changed since the individual commenced work for that employer. This subdivision does not apply to an employee of a temporary help firm.

3. Subsection 2 does not apply to benefit payments which are financed under a reimbursable method.

4. Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in section 52-04-18 is not liable to make such payments with respect to the benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in subsection 3 of section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of Pub. L. 94-566.

5. Notwithstanding the provisions of subsection 1, an employer's account may not be charged with benefits paid for previously uncovered services as defined in subsection 3 of section 52-06-04 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to section 121 of Pub. L. 94-566.

6. Notwithstanding subsection 1, a base-period employer's account may not be charged for benefits paid to an individual who remains attached to a regular job with a subsequent base-period employer.

1 **SECTION 3.** A new section to chapter 52-06 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Electronic transmission of inquiries and notices.**

4 The bureau shall develop procedures to allow employers to elect to receive any inquiry or
5 notice of any determination or ruling made under this chapter through electronic means. Upon
6 the election of an employer to receive electronic inquiries and notices, the bureau shall provide
7 all required inquiries and notices to the employer using the method chosen by the employer. An
8 employer has ten business days to respond to any inquiry sent to the employer under this
9 chapter.