

**SENATE BILL NO. 2310**

Introduced by

Senators Heitkamp, Mutzenberger, Thane

Representative Cleary

1 A BILL for an Act to amend and reenact sections 52-04-05, 52-06-04, and 52-06-05 of the North  
2 Dakota Century Code, relating to unemployment compensation benefit amounts, definitions,  
3 maximum potential benefits, and rates.

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

5 **SECTION 1. AMENDMENT.** Section 52-04-05 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **52-04-05. (Effective through December 31, 2000) Determination of rates.**

8 1. For each calendar year, the bureau shall estimate the amount of income needed to  
9 pay benefits and maintain a balance in the unemployment compensation fund, that  
10 as of October 1, 1989, is equal to twenty-five percent of the average annual  
11 amount of benefits paid. On each October first after October 1, 1989, the amount  
12 of the trust fund reserve must be sixty percent of the average annual amount of  
13 benefits paid. The average annual amount of benefits paid must be computed by  
14 dividing the total amount of benefits paid and projected to be paid during the  
15 previous thirty-six months by three.

16 2. Rates must be determined as follows:

17 a. The income required for the calendar year must be divided by the estimated  
18 taxable wages for the calendar year. The result rounded to the next higher  
19 one one-hundredth of one percent is the average required rate.

20 b. The minimum rate for each calendar year is the average required rate,  
21 multiplied by one-fourth, rounded to the nearest one-tenth of one percent.

22 c. The maximum rate for each calendar year is the average required rate,  
23 multiplied by three, rounded to the nearest one-tenth of one percent.

24 However, the maximum rate must be at least five and four-tenths percent.



1 contributions paid on or before October thirty-first with respect to wages  
2 paid by that employer before October first of that year.

3 (2) New employers in construction services must be assigned a rate of  
4 seven percent or the maximum rate, whichever is greater.

5 (3) Assignment by the bureau of an employer's industrial classification for  
6 the purposes of this section must be the two digit major group provided  
7 in the standard industrial classification manual, in accordance with  
8 established classification practices found in the standard industrial  
9 classification manual issued by the executive office of the president,  
10 office of management and budget.

11 4. An employer who has ceased to be liable for contributions shall continue its  
12 established experience rating account if it again becomes liable within three years  
13 from the date that it ceased to be liable. Such employer's rate, however, must be  
14 determined in accordance with subsection 3.

15 **(Effective after December 31, 2000) Determination of rates.**

16 1. For each calendar year, the bureau shall estimate the amount of income needed to  
17 pay benefits and maintain a balance in the unemployment compensation fund, that  
18 as of October 1, 1989, is equal to twenty-five percent of the average annual  
19 amount of benefits paid. On each October first after October 1, 1989, the amount  
20 of the trust fund reserve must be sixty percent of the average annual amount of  
21 benefits paid. The average annual amount of benefits paid must be computed by  
22 dividing the total amount of benefits paid and projected to be paid during the  
23 previous thirty-six months by three.

24 2. Rates must be determined as follows:

25 a. The income required for the calendar year must be divided by the estimated  
26 taxable wages for the calendar year. The result rounded to the next higher  
27 one one-hundredth of one percent is the average required rate.

28 b. The minimum rate for each calendar year is the average required rate,  
29 multiplied by one-fourth, rounded to the nearest one-tenth of one percent.

- 1           c.    The maximum rate for each calendar year is the average required rate,  
2                   multiplied by three, rounded to the nearest one-tenth of one percent.  
3                   However, the maximum rate must be at least five and four-tenths percent.
- 4           3.   a.    Except as otherwise provided in this subsection, an employer's rate may not  
5                   be less than the maximum rate for a calendar year unless the employer's  
6                   account has been chargeable with benefits throughout the  
7                   thirty-six-consecutive-calendar-month period ending on September thirtieth of  
8                   the preceding calendar year. If an employer in construction services has not  
9                   been subject to the law as required, that employer qualifies for a reduced rate  
10                  if the account has been chargeable with benefits throughout the  
11                  twenty-four-consecutive-calendar-month period ending September thirtieth of  
12                  the preceding calendar year. However, an employer in construction services  
13                  must be assigned the maximum rate or seven percent, whichever is greater,  
14                  for any year if, as of the computation date, the cumulative benefits charged to  
15                  the employer's account equal or exceed the cumulative contributions paid on  
16                  or before October thirty-first with respect to wages paid by that employer  
17                  before October first of that year. If an employer in nonconstruction services  
18                  has not been subject to the law as required, the employer in nonconstruction  
19                  services qualifies for a reduced rate if the account has been chargeable with  
20                  benefits throughout the twelve-consecutive-calendar-month period ending  
21                  September thirtieth of the preceding calendar year.
- 22          b.    An employer that does not qualify under subdivision a is subject to a rate  
23                  determined as follows:
- 24                  (1)   For each calendar year new employers must be assigned a rate of two  
25                          and two-tenths percent unless the employer is classified in construction  
26                          services. However, an employer must be assigned the maximum rate  
27                          for any year if, as of the computation date, the cumulative benefits  
28                          charged to that employer's account equal or exceed the cumulative  
29                          contributions paid on or before October thirty-first with respect to wages  
30                          paid by that employer before October first of that year.

- 1                   (2)   New employers in construction services must be assigned a rate of  
2                                   seven percent or the maximum rate, whichever is greater.
- 3                   (3)   Assignment by the bureau of an employer's industrial classification for  
4                                   the purposes of this section must be the two digit major group provided  
5                                   in the standard industrial classification manual, in accordance with  
6                                   established classification practices found in the standard industrial  
7                                   classification manual issued by the executive office of the president,  
8                                   office of management and budget.
- 9           4.   An employer who has ceased to be liable for contributions shall continue its  
10                                   established experience rating account if it again becomes liable within three years  
11                                   from the date that it ceased to be liable. Such employer's rate, however, must be  
12                                   determined in accordance with subsection 3.

13           **SECTION 2. AMENDMENT.** Subsection 2 of section 52-06-04 of the 1997 Supplement  
14 to the North Dakota Century Code is amended and reenacted as follows:

- 15           2.   To qualify as an insured worker an individual must have been paid wages for  
16                                   insured work in at least two calendar quarters of the individual's base period  
17                                   totaling not less than one and one-half times the individual's total wages paid  
18                                   during the quarter of the individual's base period in which the individual's wages  
19                                   were the highest. An individual who has been paid wages for insured work in at  
20                                   least two calendar quarters of the individual's base period but whose total base  
21                                   period wages are less than one and one-half times the individual's total wages paid  
22                                   during the quarter of the individual's base period in which the individual's wages  
23                                   were the highest may qualify as an insured worker provided the total base period  
24                                   wages paid to the individual for insured work are not less than twenty times the  
25                                   average weekly wage. However, the wage credits of an individual earned during  
26                                   the period commencing with the end of the prior base period and ending on the  
27                                   date on which the individual filed a valid claim are not available for benefit  
28                                   purposes in a subsequent benefit year unless, in addition thereto, the individual  
29                                   has subsequently earned wages for insured work in an amount equal to at least ten  
30                                   times the individual's current weekly benefit amount. Base-period wages used to  
31                                   determine an individual's monetary eligibility under this subsection, as a result of

1 the following employment, may not exceed ten times the individual's weekly benefit  
2 amount:

- 3 a. Employment by a partnership, if one-fourth or greater ownership interest in  
4 the partnership is or during such employment was owned or controlled,  
5 directly or indirectly by the individual's spouse or child, or by the individual's  
6 parent if the individual is under age eighteen, or by a combination of two or  
7 more of them.
- 8 b. Employment by a corporation, if one-fourth or more of the ownership interest,  
9 however designated or evidenced in the corporation is or during such  
10 employment was owned or controlled, directly or indirectly, by the individual or  
11 by the individual's spouse or child, or by the individual's parent if the individual  
12 is under age eighteen, or by a combination of two or more of them.
- 13 c. Employment by a limited liability company, if one-fourth or more of the  
14 ownership interest, however designated or evidenced in the limited liability  
15 company is or during such employment was owned or controlled, directly or  
16 indirectly, by the individual's spouse or child, or by the individual's parent if the  
17 individual is under eighteen, or by a combination of two or more of them.
- 18 d. This provision does not apply if, at the time of the claim, such ownership  
19 interest has been ceded.

20 **SECTION 3. AMENDMENT.** Section 52-06-05 of the 1997 Supplement to the North  
21 Dakota Century Code is amended and reenacted as follows:

22 **52-06-05. (Effective through December 31, 1999) Maximum potential benefits.**

- 23 1. Except as provided in subsection 2, any otherwise eligible individual is entitled  
24 during the individual's benefit year to benefits for the number of times the  
25 individual's weekly benefit amount appearing in the following table on the line that  
26 includes the individual's ratio of total base-period wages to highest quarter  
27 base-period wages:

28	Ratio of Total Base-Period	Times Weekly
29	Wages to High Quarter	Benefit Amount
30	1.50 to <del>2.29</del> <u>1.73</u>	12
31	<del>2.30</del> <u>1.74</u> to <del>2.44</del> <u>1.97</u>	14

1	<del>2.45</del> <u>1.98</u> to <del>2.59</del> <u>2.21</u>	16
2	<del>2.60</del> <u>2.22</u> to <del>2.74</del> <u>2.45</u>	18
3	<del>2.75</del> <u>2.46</u> to <del>2.89</del> <u>2.69</u>	20
4	<del>2.90</del> <u>2.70</u> to <del>3.04</del> <u>2.93</u>	22
5	<del>3.05</del> <u>2.94</u> to <del>3.19</del> <u>3.17</u>	24
6	<del>3.20</del> <u>3.18</u> or more	26

- 7 2. ~~Any otherwise eligible individual whose entire base period earnings were paid by~~  
8 ~~an employer belonging to industry group number 161, highway and street~~  
9 ~~construction, except elevated highways, pursuant to the standard industrial~~  
10 ~~classification manual is entitled during the individual's benefit year to benefits for~~  
11 ~~the number of times the individual's weekly benefit amount appearing in the~~  
12 ~~following table on the line that includes the individual's ratio of total base period~~  
13 ~~wages to highest quarter base period wages: Any otherwise eligible individual~~  
14 ~~whose total base-period wages are less than one and one-half times the~~  
15 ~~individual's total wages paid during the quarter of the individual's base period in~~  
16 ~~which the individual's wages were the highest is entitled during the individual's~~  
17 ~~benefit year to benefits sixteen times the individual's weekly benefit amount.~~

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

28 **(Effective after December 31, 1999) Maximum potential benefits.** Any otherwise  
29 eligible individual is entitled during the individual's benefit year to benefits for the number of  
30 times the individual's weekly benefit amount appearing in the following table on the line which  
31 includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Fifty-sixth  
Legislative Assembly

1	Ratio of Total Base-Period	Times Weekly
2	Wages to High Quarter	Benefit Amount
3	1.50 to <del>2.29</del> <u>1.73</u>	12
4	<del>2.30</del> <u>1.74</u> to <del>2.44</del> <u>1.97</u>	14
5	<del>2.45</del> <u>1.98</u> to <del>2.59</del> <u>2.21</u>	16
6	<del>2.60</del> <u>2.22</u> to <del>2.74</del> <u>2.45</u>	18
7	<del>2.75</del> <u>2.46</u> to <del>2.89</del> <u>2.69</u>	20
8	<del>2.90</del> <u>2.70</u> to <del>3.04</del> <u>2.93</u>	22
9	<del>3.05</del> <u>2.94</u> to <del>3.19</del> <u>3.17</u>	24
10	<del>3.20</del> <u>3.18</u> or more	26