

HOUSE BILL NO. 1413

Introduced by

Representatives Dosch, Keiser

1 A BILL for an Act to amend and reenact subsections 5 and 6 of section 52-04-05 and
2 subsections 2, 3, and 6 of section 52-04-06 of the North Dakota Century Code, relating to
3 determination of unemployment insurance tax rates.

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

5 **SECTION 1. AMENDMENT.** Subsections 5 and 6 of section 52-04-05 of the North
6 Dakota Century Code are amended and reenacted as follows:

7 5. Rates must be determined as follows:

8 a. The income needed to pay benefits for the calendar year must be divided by
9 the estimated taxable wages for the calendar year. The result rounded to the
10 next higher one one-hundredth of one percent is the average required rate
11 needed to pay benefits.

12 b. ~~If the positive employer maximum rate necessary to generate the amount of~~
13 ~~income needed to pay benefits is at least one percent, the positive employer~~
14 ~~minimum rate necessary to generate the amount of income necessary to pay~~
15 ~~benefits is the foregoing positive employer maximum rate, minus nine tenths~~
16 ~~of one percent. If the positive employer maximum rate necessary to generate~~
17 ~~the amount of income needed to pay benefits is less than one percent, the~~
18 ~~range for the positive employer minimum rate necessary to generate the~~
19 ~~amount of income needed to pay benefits must be at least one tenth of one~~
20 ~~percent and must be less than two tenths of one percent, with the positive~~
21 ~~employer maximum rate necessary to generate the amount of income needed~~
22 ~~to pay benefits equal to the positive employer maximum rate, as used in this~~
23 ~~subsection, minus a multiple of the increment one tenth of one percent as~~
24 ~~provided in subsection 2 of section 52-04-06 to fall within the range described~~

- 1 ~~above. Within the table of rate schedules to be utilized for each calendar year~~
2 ~~to establish the tax rates necessary to generate the amount of income needed~~
3 ~~to pay benefits, a rate schedule may not be used if it would generate less~~
4 ~~income than any rate schedule preceding it on the table of rate schedules.~~
5 The positive employer minimum rate in the first rate schedule of the table of
6 rate schedules is one-hundredth of one percent. The positive employer
7 minimum rate in each subsequent rate schedule of the table of rate schedules
8 is the previous rate schedule's positive employer minimum rate plus
9 one-hundredth of one percent. The negative employer minimum rate needed
10 to generate the amount of income needed to pay benefits is the positive
11 employer ~~maximum~~ minimum rate as described in this subsection plus ~~five~~
12 ~~and one-tenth~~ six percent.
- 13 c. The positive employer ~~maximum~~ minimum rate necessary to generate the
14 amount of income needed to pay benefits must be set so that all the rates
15 combined generate the average required rate for income needed to pay
16 benefits, multiplied by the ratio, calculated under subdivision d, needed to
17 reach the solvency balance. The negative employer maximum rate necessary
18 to generate the amount of income needed to pay benefits is the negative
19 employer minimum rate necessary to generate the amount of income needed
20 to pay benefits plus three and six-tenths percent. However, the maximum
21 rate must be at least five and four-tenths percent.
- 22 d. The tax rate necessary to generate the amount of income needed to reach a
23 solvency balance must be calculated by dividing the solvency balance by the
24 amount of income estimated as needed to pay benefits and multiplying the
25 resulting ratio times each rate, within the positive and negative rate arrays, as
26 determined under this section to meet the average required rate needed to
27 pay benefits as defined by subdivision a. The ratio calculated under this
28 subdivision must also be multiplied by any rate calculated as required by
29 subsection 6 to arrive at a final rate for a new business. All results calculated
30 under this subdivision must be rounded to the nearest one-hundredth of one
31 percent.

- 1 6. a. Except as otherwise provided in this subsection, an employer's rate may not
2 be less than the negative employer minimum rate for a calendar year unless
3 the employer's account has been chargeable with benefits throughout the
4 thirty-six-consecutive-calendar-month period ending on September thirtieth of
5 the preceding calendar year. If an employer in construction services has not
6 been subject to the law as required, that employer qualifies for a reduced rate
7 if the account has been chargeable with benefits throughout the
8 twenty-four-consecutive-calendar-month period ending September thirtieth of
9 the preceding calendar year. If an employer in nonconstruction services has
10 not been subject to the law as required, the employer in nonconstruction
11 services qualifies for a reduced rate if the account has been chargeable with
12 benefits throughout the twelve-consecutive-calendar-month period ending
13 September thirtieth of the preceding calendar year. The executive director
14 may provide any negative employer whose contributions paid into the trust
15 fund are greater than the benefit charges against that employer's account, for
16 a minimum of three consecutive years immediately preceding the computation
17 date or subject to the law as required, with up to a thirty percent reduction to
18 that employer's rate for any year if that employer has in place a plan approved
19 by the bureau which addresses substantive changes to that employer's
20 business operation and ensures that any rate reduction provided will not put
21 the employer account back into a negative status.
- 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 that is
25 ~~one hundred fifty~~ ninety percent of the positive employer maximum rate
26 or a rate of one percent, whichever is greater, unless the employer is
27 classified in construction services. However, an employer must be
28 assigned within the negative employer rate ranges for any year if, as of
29 the computation date, the cumulative benefits charged to that
30 employer's account equal or exceed the cumulative contributions paid

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

3 (2) New employers in construction services must be assigned the negative
4 employer maximum rate.

5 (3) Assignment by the bureau of an employer's industrial classification for
6 the purposes of this section must be the three-digit major group
7 provided in the North American industrial classification system manual,
8 in accordance with established classification practices found in the
9 North American industrial classification system manual, issued by the
10 executive office of the president, office of management and budget.
11 Employers who are liable for coverage before August 1, 2001, remain
12 under an industrial classification under the two-digit major group
13 provided in the standard industrial classification manual unless they are
14 classified in the construction industry within the standard industrial
15 classification code.

16 **SECTION 2. AMENDMENT.** Subsections 2, 3, and 6 of section 52-04-06 of the North
17 Dakota Century Code are amended and reenacted as follows:

18 2. For each calendar year the bureau shall establish a schedule of positive employer
19 rate groups within the positive employer minimum rate and the positive employer
20 maximum rate determined under section 52-04-05. Each successive rate group for
21 positive employer rate groups must be assigned a rate equal to one hundred
22 twenty percent of the previous group's rate plus with a minimum increase of
23 one-tenth of one percent and a maximum increase of four-tenths of one percent.
24 The number of rate groups in the positive employer schedule must be ~~the number~~
25 ~~required to provide for a rate group at each one-tenth of one percent interval~~
26 ~~between the positive employer minimum rate and the positive employer maximum~~
27 ~~rate determined under section 52-04-05~~ ten. For each calendar year the bureau
28 shall establish a schedule of negative employer rate groups with the negative
29 employer minimum rate and the negative employer maximum rate determined
30 under section 52-04-05. Each successive rate group for negative employer rate
31 groups must be assigned a rate equal to the previous group's rate plus four-tenths

- 1 of one percent. The number of rate groups in the negative employer schedule
2 must be the number required to provide for a rate group at each four-tenths of one
3 percent interval between the negative employer minimum rate and the negative
4 employer maximum rate determined under section 52-04-05.
- 5 3. Positive employers must be assigned to the rate in the positive employer rate
6 schedule in the rank order of their reserve ratios, as determined in subsection 1,
7 with the highest reserve ratio positive employers assigned to the first positive
8 employer rate. Each successively ranked positive employer must be assigned to a
9 rate within the positive employer rate schedule so that ~~each rate within the rate~~
10 ~~schedule is assigned the same proportion~~ the first rate within the rate schedule is
11 assigned sixty percent of the positive employer's prior year's taxable wages and
12 each of the remaining nine rates within the rate schedule are assigned the same
13 proportion of the remaining forty percent of the positive employer's prior year's
14 taxable wages. Negative employers must be assigned to the rate in the negative
15 employer rate schedule in the rank order of their reserve ratios, as determined in
16 subsection 1, with the highest reserve ratio negative employers assigned to the
17 first negative employer rate. Each successively ranked negative employer must be
18 assigned to a rate within the negative employer rate schedule so that each rate
19 within the rate schedule is assigned the same proportion of the negative
20 employer's prior year's taxable wages.
- 21 6. If an employer has a quarterly taxable payroll in excess of fifty thousand dollars
22 and at least three times its established average annual payroll or the average
23 annual payroll is zero, and the employer's cumulative lifetime reserve balance is
24 positive, then the tax rate for that employer is ~~one hundred fifty~~ ninety percent of
25 the positive employer maximum rate in effect that year or a rate of one percent,
26 whichever is greater, beginning the first day of the calendar quarter in which it
27 occurred and for the remainder of the calendar year. If the employer's cumulative
28 lifetime reserve balance is negative, then the tax rate for that employer is the
29 negative employer maximum rate of contribution in effect that year, beginning the
30 first day of the calendar quarter in which it occurred and for the remainder of the
31 calendar year.