

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1413
(Representatives Dosch, Keiser)

AN ACT to amend and reenact subsections 5 and 6 of section 52-04-05 and subsections 2, 3, and 6 of section 52-04-06 of the North Dakota Century Code, relating to determination of unemployment insurance tax rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

5. Rates must be determined as follows:
 - a. The income needed to pay benefits 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 needed to pay benefits.
 - b. ~~If the positive employer maximum rate necessary to generate the amount of income needed to pay benefits is at least one percent, the positive employer minimum rate necessary to generate the amount of income necessary to pay benefits is the foregoing positive employer maximum rate, minus nine-tenths of one percent. If the positive employer maximum rate necessary to generate the amount of income needed to pay benefits is less than one percent, the range for the positive employer minimum rate necessary to generate the amount of income needed to pay benefits must be at least one-tenth of one percent and must be less than two-tenths of one percent, with the positive employer maximum rate necessary to generate the amount of income needed to pay benefits equal to the positive employer maximum rate, as used in this subsection, minus a multiple of the increment one-tenth of one percent as provided in subsection 2 of section 52-04-06 to fall within the range described above. Within the table of rate schedules to be utilized for each calendar year to establish the tax rates necessary to generate the amount of income needed to pay benefits, a rate schedule may not be used if it would generate less income than any rate schedule preceding it on the table of rate schedules. The positive employer minimum rate in the first rate schedule of the table of rate schedules is one-hundredth of one percent. The positive employer minimum rate in each subsequent rate schedule of the table of rate schedules is the previous rate schedule's positive employer minimum rate plus one-hundredth of one percent. The negative employer minimum rate needed to generate the amount of income needed to pay benefits is the positive employer ~~maximum~~ minimum rate as described in this subsection plus ~~five and one-tenth~~ six percent.~~
 - c. The positive employer ~~maximum~~ minimum rate necessary to generate the amount of income needed to pay benefits must be set so that all the rates combined generate the average required rate for income needed to pay benefits, multiplied by the ratio, calculated under subdivision d, needed to reach the solvency balance. The negative employer maximum rate necessary to generate the amount of income needed to pay benefits is the negative employer minimum rate necessary to generate the amount of income needed to pay benefits plus three and six-tenths percent. However, the maximum rate must be at least five and four-tenths percent.

- d. The tax rate necessary to generate the amount of income needed to reach a solvency balance must be calculated by dividing the solvency balance by the amount of income estimated as needed to pay benefits and multiplying the resulting ratio times each rate, within the positive and negative rate arrays, as determined under this section to meet the average required rate needed to pay benefits as defined by subdivision a. The ratio calculated under this subdivision must also be multiplied by any rate calculated as required by subsection 6 to arrive at a final rate for a new business. All results calculated under this subdivision must be rounded to the nearest one-hundredth of one percent.
6.
 - a. Except as otherwise provided in this subsection, an employer's rate may not be less than the negative employer minimum 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. 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. 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 ~~one hundred fifty~~ 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. 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.
 - (2) New employers in construction services must be assigned the negative employer maximum rate.
 - (3) 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. Subsections 2, 3, and 6 of section 52-04-06 of the North Dakota Century Code are amended and reenacted as follows:

2. For each calendar year the bureau shall establish a schedule of positive employer rate groups within the positive employer minimum rate and the positive employer maximum rate determined under section 52-04-05. Each successive rate group for positive employer rate groups must be assigned a rate equal to one hundred twenty percent of the previous group's rate plus with a minimum increase of one-tenth of one percent and a maximum increase of four-tenths of one percent. The number of rate groups in the positive employer schedule must be ~~the number required to provide for a rate group at each one-tenth of one percent interval between the positive employer minimum rate and the positive employer maximum rate determined under section 52-04-05~~ ten. For each calendar year the bureau shall establish a schedule of negative employer rate groups with the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05. Each successive rate group for negative employer rate groups must be assigned a rate equal to the previous group's rate plus four-tenths of one percent. The number of rate groups in the negative employer schedule must be the number required to provide for a rate group at each four-tenths of one percent interval between the negative employer minimum rate and the negative employer maximum rate determined under section 52-04-05.
3. Positive employers must be assigned to the rate in the positive employer rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio positive employers assigned to the first positive employer rate. Each successively ranked positive employer must be assigned to a rate within the positive employer rate schedule so that ~~each rate within the rate schedule is assigned the same proportion~~ the first rate within the rate schedule is assigned sixty percent of the positive employer's prior year's taxable wages and each of the remaining nine rates within the rate schedule are assigned the same proportion of the remaining forty percent of the positive employer's prior year's taxable wages. Negative employers must be assigned to the rate in the negative employer rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio negative employers assigned to the first negative employer rate. Each successively ranked negative employer must be assigned to a rate within the negative employer rate schedule so that each rate within the rate schedule is assigned the same proportion of the negative employer's prior year's taxable wages.
6. If an employer has a quarterly taxable payroll in excess of fifty thousand dollars and at least three times its established average annual payroll or the average annual payroll is zero, and the employer's cumulative lifetime reserve balance is positive, then the tax rate for that employer is ~~one hundred fifty ninety~~ ninety percent of the positive employer maximum rate in effect that year or a rate of one percent, whichever is greater, beginning the first day of the calendar quarter in which it occurred and for the remainder of the calendar year. If the employer's cumulative lifetime reserve balance is negative, then the tax rate for that employer is the negative employer maximum rate of contribution in effect that year, beginning the first day of the calendar quarter in which it occurred and for the remainder of the calendar year.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1413.

House Vote: Yeas 88 Nays 0 Absent 6

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State