

Fifty-sixth
Legislative Assembly
of North Dakota

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 3. a. Except as otherwise provided in this subsection, an employer's rate may not
2 be less than the maximum rate for a calendar year unless the employer's
3 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. However, an employer in construction services
10 must be assigned the maximum rate or seven percent, whichever is greater,
11 for any year if, as of the computation date, the cumulative benefits charged to
12 the employer's account equal or exceed the cumulative contributions paid on
13 or before October thirty-first with respect to wages paid by that employer
14 before October first of that year. ~~An employer identified as belonging to~~
15 ~~industry group number 161, highway and street construction, except elevated~~
16 ~~highways, provided in the standard industrial classification manual, must be~~
17 ~~assigned a maximum rate or eight and one-half percent, whichever is greater,~~
18 ~~for any year if, as of the computation date, the cumulative benefits charged to~~
19 ~~the employer's account equal or exceed the cumulative contributions paid on~~
20 ~~or before October thirty-first of that year.~~ If an employer in nonconstruction
21 services has not been subject to the law as required, the employer in
22 nonconstruction services qualifies for a reduced rate if the account has been
23 chargeable with benefits throughout the twelve-consecutive-calendar-month
24 period ending September thirtieth of the preceding calendar year.
- 25 b. An employer that does not qualify under subdivision a is subject to a rate
26 determined as follows:
- 27 (1) For each calendar year new employers must be assigned a rate of two
28 and two-tenths percent unless the employer is classified in construction
29 services. However, an employer must be assigned the maximum rate
30 for any year if, as of the computation date, the cumulative benefits
31 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.

(Effective after December 31, 2000) 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.

- 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.

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

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

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

- a. Employment by a partnership, if one-fourth or greater ownership interest in the partnership is or during such employment was owned or controlled, directly or indirectly by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
- b. Employment by a corporation, if one-fourth or more of the ownership interest, however designated or evidenced in the corporation is or during such employment was owned or controlled, directly or indirectly, by the individual or by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
- c. Employment by a limited liability company, if one-fourth or more of the ownership interest, however designated or evidenced in the limited liability company is or during such employment was owned or controlled, directly or indirectly, by the individual's spouse or child, or by the individual's parent if the individual is under eighteen, or by a combination of two or more of them.
- d. This provision does not apply if, at the time of the claim, such ownership interest has been ceded.

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

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

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 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 <u>1.73</u>	12
2.30 <u>1.74</u> to 2.44 <u>1.97</u>	14

1	2.45 <u>1.98 to 2.59</u> <u>2.21</u>	16
2	2.60 <u>2.22 to 2.74</u> <u>2.45</u>	18
3	2.75 <u>2.46 to 2.89</u> <u>2.69</u>	20
4	2.90 <u>2.70 to 3.04</u> <u>2.93</u>	22
5	3.05 <u>2.94 to 3.19</u> <u>3.17</u>	24
6	3.20 <u>3.18 or more</u>	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: Any otherwise eligible individual whose total base-period wages are less than one and one-half times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest is entitled during the individual's benefit year to benefits sixteen times the individual's weekly benefit amount.~~

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

(Effective after December 31, 1999) Maximum potential benefits. 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 includes the individual's ratio of total base-period wages to highest quarter base-period wages:

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