

Introduced by

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

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

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

6 **52-04-05. Determination of rates.**

7 1. As used in this section:

- 8 a. "Income needed to pay benefits" means the estimate of benefits payable in a
9 given calendar year less the estimate of interest to be earned by the
10 unemployment insurance trust fund for that calendar year.
- 11 b. "Initial tax rate schedule" means the schedule used to generate the income
12 needed to pay benefits if the trust fund reserve is below the solvency target or
13 the schedule used to generate the solvency balance if the trust fund reserve is
14 at or above the solvency target.
- 15 c. "Solvency balance" means the income needed, whether a positive or negative
16 figure, in a given rate year to reach the solvency target over the number of
17 years remaining of the period within which the solvency target is to be
18 reached plus the estimate of the amount of income needed to pay benefits.
- 19 e- d. "Trust fund reserve" excludes all Reed Act [42 U.S.C. 1103] cash.

20 2. For each calendar year, the bureau separately shall estimate the amount of income
21 needed to pay benefits and shall estimate the amount of income needed to reach a
22 solvency balance in the unemployment insurance trust fund, that moves toward the
23 solvency target amount as determined under this subsection. The solvency target
24 is an average high-cost multiple of one. The average high-cost multiple is the

1 number of years the bureau could pay unemployment compensation, based on the
2 reserve ratio, if the bureau paid the compensation at a rate equivalent to the
3 average benefit cost rate in the one calendar year during the preceding twenty
4 calendar years and the two calendar years during the preceding ten calendar years
5 in which the benefit cost rates were the highest. "Reserve ratio" means the ratio
6 determined by dividing the balance in the trust fund reserve at the end of the
7 calendar year by the total covered wages in the state for that year. "Benefit cost
8 rate" means the rate determined by dividing the unemployment compensation
9 benefits paid during a calendar year by the total covered wages in the state for that
10 year. The computation of the reserve ratio and benefit cost rate must exclude the
11 wages and unemployment compensation paid by employers covered under section
12 3309 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3309].

13 3. The initial trust fund solvency target must be achieved over a seven-year period
14 from January 1, 2000. After the solvency target required by this section is reached,
15 the calculation of the solvency target must be continued and, if the trust fund
16 reserve as of December thirty-first of any year is less or greater than the solvency
17 target, the rates must be adjusted so that one-fifth of the difference between the
18 solvency target and the current trust fund reserve is estimated to be collected in
19 the following rate year.

20 4. Progress toward achieving the solvency target is measured by reducing any
21 difference between one and the average high-cost multiple of the state by an
22 amount that is at least equal to the ratio of the number of years left to reach the
23 solvency target to the difference between the trust fund reserve and the targeted
24 amount. In setting tax rates, the amount of the trust fund reserve may not be
25 allowed to fall below three hundred percent from a standard margin of error for the
26 targeted amount of the trust fund reserve. The executive director may make
27 reasonable adjustments to the tax rates set for a calendar year to prevent
28 significant rate variations between calendar years.

29 5. Rates must be determined as follows:

30 a. ~~The income needed to pay benefits for the calendar year must be divided by~~
31 ~~the estimated taxable wages for the calendar year. The result rounded to the~~

- 1 ~~next higher one one hundredth of one percent is the average required rate~~
2 ~~needed to pay benefits.~~
- 3 b. If the positive employer maximum rate necessary to ~~generate the amount of~~
4 ~~income needed to pay benefits~~ establish the initial tax rate schedule is at least
5 one percent, the positive employer minimum rate necessary to ~~generate the~~
6 ~~amount of income necessary to pay benefits~~ establish the initial tax rate
7 schedule is the foregoing positive employer maximum rate, minus nine-tenths
8 of one percent. If the positive employer maximum rate necessary to ~~generate~~
9 ~~the amount of income needed to pay benefits~~ establish the initial tax rate
10 schedule is less than one percent, the range for the positive employer
11 minimum rate necessary to ~~generate the amount of income needed to pay~~
12 ~~benefits~~ establish the initial tax rate schedule must be at least one-tenth of
13 one percent and must be less than two-tenths of one percent, with the positive
14 employer maximum rate necessary to ~~generate the amount of income needed~~
15 ~~to pay benefits~~ establish the initial tax rate schedule equal to the positive
16 employer maximum rate, as used in this subsection, minus a multiple of the
17 increment one-tenth of one percent as provided in subsection 2 of section
18 52-04-06 to fall within the range described above. Within the table of rate
19 schedules to be utilized for each calendar year to establish the tax rates
20 necessary to ~~generate the amount of income needed to pay benefits~~ establish
21 the initial tax rate schedule, a rate schedule may not be used if it would
22 generate less income than any rate schedule preceding it on the table of rate
23 schedules. The negative employer minimum rate needed to ~~generate the~~
24 ~~amount of income needed to pay benefits~~ establish the initial tax rate
25 schedule is the positive employer maximum rate as described in this
26 subsection plus five and one-tenth percent.
- 27 e. b. The positive employer maximum rate necessary to ~~generate the amount of~~
28 ~~income needed to pay benefits~~ establish the initial tax rate schedule must be
29 set so that all the rates combined generate the ~~average required rate for~~
30 ~~amount of~~ income needed to pay benefits from the initial tax rate schedule,
31 multiplied by the ratio, calculated under subdivision ~~d~~ c, needed to reach the

1 solvency balance. The negative employer maximum rate necessary to
2 ~~generate the amount of income needed to pay benefits~~ establish the initial tax
3 rate schedule is the negative employer minimum rate necessary to ~~generate~~
4 ~~the amount of income needed to pay benefits~~ establish the initial tax rate
5 schedule plus three and six-tenths percent. However, the maximum rate must
6 be at least five and four-tenths percent.

7 e. c. ~~The~~ If the trust fund reserve is:

8 (1) Below the solvency target, the final tax rate schedule necessary to
9 generate the amount of income needed to reach a solvency balance
10 must be calculated by dividing the solvency balance by the amount of
11 income estimated as needed to pay benefits and multiplying the
12 resulting ratio times each rate, within the positive and negative rate
13 ~~arrays, as determined under this section to meet the average required~~
14 ~~rate needed to pay benefits as defined by subdivision a~~ of the initial tax
15 rate schedule. The ratio calculated under this ~~subdivision~~ paragraph
16 must also be multiplied by any rate calculated as required by
17 subsection 6 to arrive at a final rate for a new business. All results
18 calculated under this ~~subdivision~~ paragraph must be rounded to the
19 nearest one-hundredth of one percent.

20 (2) At or above the solvency target, no adjustment to the initial tax rate
21 schedule is necessary.

22 6. a. Except as otherwise provided in this subsection, an employer's rate may not
23 be less than the negative employer minimum rate for a calendar year unless
24 the employer's account has been chargeable with benefits throughout the
25 thirty-six-consecutive-calendar-month period ending on September thirtieth of
26 the preceding calendar year. If an employer in construction services has not
27 been subject to the law as required, that employer qualifies for a reduced rate
28 if the account has been chargeable with benefits throughout the
29 twenty-four-consecutive-calendar-month period ending September thirtieth of
30 the preceding calendar year. If an employer in nonconstruction services has
31 not been subject to the law as required, the employer in nonconstruction

1 services qualifies for a reduced rate if the account has been chargeable with
2 benefits throughout the twelve-consecutive-calendar-month period ending
3 September thirtieth of the preceding calendar year. The executive director
4 may provide any negative employer whose contributions paid into the trust
5 fund are greater than the benefit charges against that employer's account, for
6 a minimum of three consecutive years immediately preceding the computation
7 date or subject to the law as required, with up to a thirty percent reduction to
8 that employer's rate for any year if that employer has in place a plan approved
9 by the bureau which addresses substantive changes to that employer's
10 business operation and ensures that any rate reduction provided will not put
11 the employer account back into a negative status.

12 b. An employer that does not qualify under subdivision a is subject to a rate
13 determined as follows:

14 (1) For each calendar year new employers must be assigned a rate that is
15 one hundred fifty percent of the positive employer maximum rate or a
16 rate of one percent, whichever is greater, unless the employer is
17 classified in construction services. However, an employer must be
18 assigned within the negative employer rate ranges for any year if, as of
19 the computation date, the cumulative benefits charged to that
20 employer's account equal or exceed the cumulative contributions paid
21 on or before October thirty-first with respect to wages paid by that
22 employer before October first of that year.

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

25 (3) Assignment by the bureau of an employer's industrial classification for
26 the purposes of this section must be the three-digit major group
27 provided in the North American industrial classification system manual,
28 in accordance with established classification practices found in the
29 North American industrial classification system manual, issued by the
30 executive office of the president, office of management and budget.

31 Employers who are liable for coverage before August 1, 2001, remain

1 under an industrial classification under the two-digit major group
2 provided in the standard industrial classification manual unless they are
3 classified in the construction industry within the standard industrial
4 classification code.

5 7. An employer who has ceased to be liable for contributions shall continue its
6 established experience rating account if it again becomes liable within three years
7 from the date that it ceased to be liable providing that the employer's experience
8 record has not been transferred in accordance with section 52-04-08. The
9 employer's rate, however, must be determined in accordance with subsection 6.