

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

Sixtieth  
Legislative Assembly

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 e 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                  d. c. 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

Sixtieth  
Legislative Assembly

- 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.