

Fifty-ninth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1082

Introduced by

Industry, Business and Labor Committee

(At the request of Job Service North Dakota)

1 A BILL for an Act to amend and reenact section 52-04-10, subsection 3 of section 52-04-11.1,  
2 and section 52-04-17 of the North Dakota Century Code, relating to appeals from employer tax  
3 rate notices, administrative hearings concerning corporate officer personal liability, and  
4 questions of employer status for unemployment compensation insurance purposes.

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

6 **SECTION 1. AMENDMENT.** Section 52-04-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **52-04-10. Contributions for ensuing year - Notification - Review.** The bureau shall  
9 promptly make a determination and notify each employer of the employer's rate of contributions  
10 as determined for each ensuing year by the end of the first full week of December, but not later  
11 than December tenth, of the preceding year. ~~Such~~ The rate of contributions must be computed  
12 pursuant to the provisions of this chapter. ~~Such~~ The determination becomes conclusive and  
13 binding upon the employer unless, within fifteen calendar days after the mailing of the notice  
14 thereof to the employer's last-known address, or in the absence of the mailing, within fifteen  
15 calendar days after the delivery of such notice, the employer files ~~an application for review and~~  
16 ~~redetermination, setting forth the employer's reasons therefor. If the bureau grants such~~  
17 ~~review, the employer must be notified promptly thereof and must be granted an opportunity for~~  
18 ~~a hearing, but~~ a written appeal of the determination. However, no employer shall have  
19 standing, in any proceeding involving the employer's rate of contributions or contribution  
20 liability, to contest the chargeability to the employer's account of any benefits paid in  
21 accordance with a determination, redetermination, or decision pursuant to the provisions of  
22 chapter 52-06, except upon the ground that the services on the basis of which such benefits  
23 were found to be chargeable did not constitute ~~the~~ services performed in employment for the  
24 employer and only in the event that the employer was not a party to such determination,

redetermination, or decision or to any other administrative proceeding ~~under this chapter~~ in which the character of these services was determined. For purposes of this section, an employer was not a party to ~~the determination~~ any such proceeding if notice of the determination, redetermination, or decision and the employer's right to appeal the determination, redetermination, or decision was not mailed or personally delivered to the employer. ~~The employer must be notified promptly of the bureau's denial of the employer's application, or of the bureau's redetermination, both of which become final unless within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after delivery of such notice, a petition for judicial review is filed in the district court of Burleigh County. Any proceeding before the court under the terms of this section must be had in accordance with the provisions in chapter 52-06 with respect to court review.~~

**SECTION 2. AMENDMENT.** Subsection 3 of section 52-04-11.1 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~After notice and opportunity for a hearing, the~~ The unemployment compensation insurance division shall make a written determination as to the personal liability of a corporate officer or employee under this section. ~~A hearing must be requested within twelve days from the date of mailing of the notice.~~ The determination is final unless the person found to be personally liable ~~requests review by the bureau~~ files a written appeal of the determination within fifteen calendar days after mailing of the notice of determination to the person's last-known address.

**SECTION 3. AMENDMENT.** Section 52-04-17 of the North Dakota Century Code is amended and reenacted as follows:

**52-04-17. Administrative determinations of coverage.** ~~The job~~ unemployment insurance division ~~may~~, upon its own motion or upon application of an employing unit, ~~and after notice and opportunity for hearing, make findings of fact and on the basis thereof, determinations~~ may make a written determination with respect to whether an employing unit constitutes an employer ~~and, or~~ or whether services performed for or in connection with the business of an employing unit constitute employment, or both such determinations. ~~Appeal from any such determination may be taken to the bureau within fifteen days after the mailing of notice of the findings and determination to the employing unit, or, in the absence of mailing,~~

1 ~~within fifteen days after the delivery of the notice. Proceedings in such appeals must be in the~~  
2 ~~same manner as in appeals from a decision of an appeal tribunal. A determination of the~~  
3 ~~division, in the absence of appeal therefrom, and a determination of the bureau upon an appeal,~~  
4 ~~together with the record of the proceeding under this section are admissible in any subsequent~~  
5 ~~proceeding under the North Dakota Unemployment Compensation Law, and if supported by~~  
6 ~~substantial evidence and in the absence of fraud are conclusive, except as to errors of law,~~  
7 ~~upon any employing unit which was a party to the proceeding under this section. A~~  
8 determination made pursuant to this section is final unless the employing unit, within fifteen  
9 calendar days of the date of mailing of the determination, files a written appeal with job service  
10 North Dakota.