

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1082

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1082

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1082

**HOUSE INDUSTRY, BUSINESS AND LABOR**

☐ Conference Committee

Hearing Date 1-19-05

Tape Number  
1

Side A  
x

Side B

Meter #  
0-4.0

Committee Clerk Signature



Minutes:

**Chairman Keiser:** Opened the hearing on HB 1082. All committee members were present.

Rep. Boe was absent.

**John Graham, Unemployment Insurance, Job Service ND:** Appeared in support of bill and provided written testimony (SEE ATTACHED TESTIMONY).

**Representative Johnson:** I motion for a DO PASS on HB 1082.

**Representative Ekstrom:** SECOND the motion on HB 1082.

Motion carried. **VOTE: 13-YES 0-NO 1-ABSENT (BOE).**

**Representative Johnson will carry bill on the floor.**

Meeting adjourned

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/22/2004

Bill/Resolution No.: HB 1082

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will not have a fiscal impact on Job Service North Dakota. It will result in changes in procedures and some minor changes in letter formats which will be accomplished without significant cost.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

N/A

Name: John Graham  
Phone Number: 701-328-2843

Agency: Job Service  
Date Prepared: 01/04/2005

Date: 1-19-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 82

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Johnson

Seconded By

Rep. Ekstrom

Representatives  
G. Keiser-Chairman  
N. Johnson-Vice Chairman  
Rep. D. Clark  
Rep. D. Dietrich  
Rep. M. Dosch  
Rep. G. Froseth  
Rep. J. Kasper  
Rep. D. Nottestad  
Rep. D. Ruby  
Rep. D. Vigasaa

Yes No  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X

Representatives  
Rep. B. Amerman  
Rep. T. Boe  
Rep. M. Ekstrom  
Rep. E. Thorpe

Yes No  
X  
A A  
X  
X

Total (Yes)

13

No

0

Absent

1 (Rep. Boe)

Floor Assignment

Rep. Johnson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 19, 2005 12:01 p.m.

**Module No: HR-12-0694**  
**Carrier: N. Johnson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1082: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1082 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1082

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1082

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number

1

Side A

Side B

X

Meter #

3,296-4032

Committee Clerk Signature



Minutes:

**Chairman Mutch** opened the hearing on HB 1082, which relates to appeals from employer tax rate notices, administrative hearings concerning corporate officer liability, and questions of employer status for unemployment compensation insurance purposes. All Senators were present with the exception of Senator Heitkamp.

**John Graham**, representing Job Service of North Dakota appeared in support of the bill. See written testimony.

**Senator Fairfield-** Could one argue that if you have the hearing initially, that you are gathering input from the employer that would affect the decision, ending up less likely to have an appeal?

**John-** When we make these decisions, we have done a lot of research on it. People have the right to appeal before the hearing if they choose, the information available is concrete.

**Chairman Mutch** closed the hearing on HB 1082.



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Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1082

Hearing Date February 15, 2005

**Action taken:**

**Senator Klein moved for a Do Pass recommendation. Seconded by Senator Krebsbach.**

**The bill passed 5-1-1. Senator Espegaard is the carrier of the bill.**

Date: 2-15-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1082

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Klein

Seconded By

Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield		X
Senator Klein	X		Senator Heitkamp	A	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total

(Yes)

5

No

1

Absent

1

Floor Assignment

Espigard

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 23, 2005 3:03 p.m.

**Module No: SR-33-3519**  
**Carrier: Espegard**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1082: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1082 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

HB 1082

Testimony on House Bill No. 1082

Presented to the House Industry, Business & Labor Committee  
Representative George Keiser, Chairman

by

John A. Graham  
Unemployment Insurance  
Job Service North Dakota

January 19, 2005

Mr. Chairman, members of the Committee, House Bill No. 1082 was introduced to correct the provisions of several current Unemployment Insurance statutes which allow employers a right to a hearing **before** Job Service had made a determination of the question.

Thus, an employer has a right to a hearing on:

- a. the question of the tax rate assigned to that employer (section 1 of the bill);
- b. the personal liability of a corporate officer for delinquent UI taxes (section 2 of the bill); and
- c. whether an employer is liable for UI taxes or whether persons working for that employer are covered employees (section 3 of the bill).

A hearing is authorized in these situations before there is a determination (decision) which should be the basis for an appeal and hearing. That is, the cart is before the horse.

This bill would maintain the employer's right to appeal determinations on those three issues, after Job Service makes the determination, not before. In essence, the bill provides for normal administrative processes and standard administrative appeal rights to accrue in the three situations outlined above, as they do with respect to the other administrative determinations governing rights to Unemployment Insurance benefits, and other determinations affecting employers.

Section 1 amends NDCC Section 52-04-10 to require Job Service to make a specific determination of each liable employer's tax rate for the forthcoming calendar year. After that determination is made, and the employer receives notice of it, the employer may choose to appeal the determination. If so, the employer has fifteen calendar days from the date of mailing of the notice of the determination to do so.

Section 2 amends NDCC Section 52-04.11.1, subsection 3, to provide that the Unemployment Insurance division is to make a written determination on the personal liability of a corporate officer or employee for past due UI taxes. Thereafter, the employer has a right to appeal that written

Graham testimony on  
House Bill No. 1082; page 3

determination. Currently, the employer can demand a hearing before the UI Division has made a decision.

The third section amends NDCC Section 52-04-17 requires Job Service to make a written determination of employer status or coverage of certain workers before the employer has a right to appeal that determination (decision). The employer would have fifteen calendar days from the mailing of the written determination to file an appeal. Currently the section provides that the determination is not to be made until notice and opportunity for hearing is given to the employer.

Mr. Chairman, I would be happy to answer the Committee's questions.

Testimony on House Bill No. 1082

Presented to the Senate Industry, Business & Labor Committee  
Senator Duane Mutch, Chairman

by

John A. Graham  
Unemployment Insurance  
Job Service North Dakota

February 15, 2005

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