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SENATE BILL 19

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; AMENDING THE
UNEMPLOYMENT COMPENSATION LAW TO PROVIDE FOR A LOWER EMPLOYER
CONTRIBUTION RATE IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 51-1-11 NMSA 1978 (being Laws 2003,
Chapter 47, Section 11, as amended by Laws 2005, Chapter 3,
Section 4 and further amended by Laws 2005, Chapter 255,
Section 2) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account
for each contributing employer and shall credit the
contributing employer's account with all contributions paid by
that employer under the Unemployment Compensation Law. Nothing
in the Unemployment Compensation Law shall be construed to

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1 grant an employer or individuals in the employer's service
2 prior claims or rights to the amounts paid by the employer into
3 the fund.

4 B. Benefits paid to an individual shall be charged
5 against the accounts of the individual's base-period employers
6 on a pro rata basis according to the proportion of the
7 individual's total base-period wages received from each
8 employer, except that no benefits paid to a claimant as
9 extended benefits under the provisions of Section 51-1-48 NMSA
10 1978 shall be charged to the account of any base-period
11 employer ~~[who]~~ that is not on a reimbursable basis and ~~[who]~~
12 that is not a governmental entity and, except as the secretary
13 shall by rule prescribe otherwise, in the case of benefits paid
14 to an individual who:

15 (1) left the employ of a base-period employer
16 ~~[who]~~ that is not on a reimbursable basis voluntarily without
17 good cause in connection with the individual's employment;

18 (2) was discharged from the employment of a
19 base-period employer ~~[who]~~ that is not on a reimbursable basis
20 for misconduct connected with the individual's employment;

21 (3) is employed part time by a base-period
22 employer ~~[who]~~ that is not on a reimbursable basis and ~~[who]~~
23 that continues to furnish the individual the same part-time
24 work while the individual is separated from full-time work for
25 a nondisqualifying reason; or

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1 (4) received benefits based upon wages earned
2 from a base-period employer [~~who~~] that is not on a reimbursable
3 basis while attending approved training or school on a full-
4 time basis under the provisions of Subsection E of Section
5 51-1-5 NMSA 1978.

6 C. The division shall not charge a contributing or
7 reimbursing base-period employer's account with any portion of
8 benefit amounts that the division can bill to or recover from
9 the federal government as either regular or extended benefits.

10 D. The division shall not charge a contributing
11 base-period employer's account with any portion of benefits
12 paid to an individual for dependent allowance or because the
13 individual to whom benefits are paid:

14 (1) separated from employment due to domestic
15 abuse; or

16 (2) is enrolled in approved training or is
17 attending school on a full-time basis.

18 E. All contributions to the fund shall be pooled
19 and available to pay benefits to any individual entitled
20 thereto, irrespective of the source of [~~such~~] the
21 contributions. The standard rate of contributions payable by
22 each employer shall be five and four-tenths percent.

23 F. An employer's rate shall not be varied from the
24 standard rate for any calendar year unless, as of the
25 computation date for that year, the employer's account has been

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1 chargeable with benefits throughout the preceding thirty-six
2 months, except that:

3 (1) the provisions of this subsection shall
4 not apply to governmental entities;

5 (2) [~~beginning January 1, 2005, any~~] an
6 employing unit that becomes an employer subject to the payment
7 of contributions under the Unemployment Compensation Law [~~or~~
8 ~~has been an employer subject to the payment of contributions at~~
9 ~~a standard rate of two percent through December 31, 2004~~] shall
10 be subject to the payment of contributions at the reduced rate
11 of two percent until, as of the computation date of a
12 particular year, the employer's account has been chargeable
13 with benefits throughout the preceding thirty-six months;

14 (3) [~~any~~] an individual, type of organization
15 or employing unit that acquires all or part of the trade or
16 business of another employing unit, pursuant to Paragraphs (2)
17 and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has
18 a reduced rate of contribution shall be entitled to the
19 transfer of the reduced rate to the extent permitted under
20 Subsection H of this section;

21 (4) an employer that, at the time of
22 establishing an account, is in business in another state or
23 states and that is not currently doing business in New Mexico
24 may elect, pursuant to Paragraph (5) of this subsection, to
25 receive a beginning contribution rate of two percent or a

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1 contribution rate based on the current contribution rate
2 schedule in Paragraph (4) of Subsection I of this section,
3 whichever is lower, if:

4 (a) the employer has been in operation
5 in the other state or states for at least three years
6 immediately preceding the date of becoming a liable employer in
7 New Mexico, throughout which an individual in the employer's
8 employ could have received benefits if eligible; and

9 (b) the employer provides the
10 authenticated account history as defined by rule of the
11 secretary from information accumulated from operations in the
12 other state or all the other states to compute a current New
13 Mexico rate; and

14 (5) the election authorized in Paragraph (4)
15 of this subsection shall be made in writing within thirty days
16 after receiving notice of New Mexico liability and, if not made
17 timely, a two percent rate will be assigned; if the election is
18 made timely, the employer's account will receive the lesser of
19 the computed rate determined by the condition of the account
20 for the computation date immediately preceding the New Mexico
21 liable date, or the reduced rate of two percent; rates for
22 subsequent years will be determined by the condition of the
23 account for the computation date.

24 G. The secretary shall, [~~for the year 1942 and~~] for
25 each calendar year [~~thereafter~~], classify employers in

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1 accordance with their actual experience in the payment of
2 contributions and with respect to benefits charged against
3 their accounts, with a view of fixing such contribution rates
4 as will reflect such benefit experience. An employer's rate
5 for ~~any~~ a calendar year shall be determined on the basis of
6 the employer's record and the condition of the fund as of the
7 computation date for ~~such~~ the calendar year.

8 An employer may make voluntary payments in addition to the
9 contributions required under the Unemployment Compensation Law,
10 which shall be credited to the employer's account in accordance
11 with department rule. The voluntary payments shall be included
12 in the employer's account as of the employer's most recent
13 computation date if they are made on or before the following
14 March 1. Voluntary payments when accepted from an employer
15 shall not be refunded in whole or in part.

16 H. In the case of a transfer of an employing
17 enterprise, notwithstanding any other provision of law, the
18 experience history of the transferred enterprise as provided in
19 Subsection G of this section shall be transferred from the
20 predecessor employer to the successor under the following
21 conditions and in accordance with the applicable rules of the
22 secretary:

23 (1) as used in this subsection:

24 (a) "employing enterprise" means a
25 business activity engaged in by a contributing employing unit

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1 in which one or more persons have been employed within the
2 current or the three preceding calendar quarters. An
3 "employing enterprise" includes the employer's workforce;

4 (b) "predecessor" means the owner and
5 operator of an employing enterprise immediately prior to the
6 transfer of [~~such~~] the enterprise;

7 (c) "successor" means [~~any~~] a person
8 that acquires an employing enterprise and continues to operate
9 [~~such~~] the business entity;

10 (d) "experience history" means the
11 experience rating record and reserve account, including the
12 actual contributions, benefit charges and payroll experience of
13 the employing enterprise;

14 (e) "common ownership" means that two or
15 more businesses are substantially owned, managed or controlled
16 by the same person or persons;

17 (f) "knowingly" means having actual
18 knowledge of or acting with deliberate ignorance of or reckless
19 disregard for the prohibition involved; and

20 (g) "violates or attempts to violate"
21 includes an intent to evade, a misrepresentation or a willful
22 nondisclosure;

23 (2) except as otherwise provided in this
24 subsection, for the purpose of this subsection, two or more
25 employers [~~who~~] that are parties to or the subject of [~~any~~] a

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1 transaction involving the transfer of an employing enterprise
2 shall be deemed to be a single employer and the experience
3 history of the employing enterprise shall be transferred to the
4 successor employer if the successor employer has acquired by
5 the transaction all of the business enterprises of the
6 predecessor; provided that:

7 (a) all contributions, interest and
8 penalties due from the predecessor employer have been paid;

9 (b) notice of the transfer has been
10 given in accordance with the rules of the secretary during the
11 calendar year of the transaction transferring the employing
12 enterprise or the date of the actual transfer of control and
13 operation of the employing enterprise;

14 (c) the successor shall notify the
15 division of the acquisition on or before the due date of the
16 successor's first wage and contribution report. If the
17 successor employer fails to notify the division of the
18 acquisition within this time limit, the division, when it
19 receives actual notice, shall effect the transfer of the
20 experience history and applicable rate of contribution
21 retroactively to the date of the acquisition, and the successor
22 shall pay a penalty of fifty dollars (\$50.00); and

23 (d) where the transaction involves only
24 a merger, consolidation or other form of reorganization without
25 a substantial change in the ownership and controlling interest

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1 of the business entity, as determined by the secretary, the
2 limitations on transfers stated in Subparagraphs (a), (b) and
3 (c) of this paragraph shall not apply. A party to a merger,
4 consolidation or other form of reorganization described in this
5 subparagraph shall not be relieved of liability for any
6 contributions, interest or penalties due and owing from the
7 employing enterprise at the time of the merger, consolidation
8 or other form of reorganization;

9 (3) the applicable experience history may be
10 transferred to the successor in the case of a partial transfer
11 of an employing enterprise if the successor has acquired one or
12 more of the several employing enterprises of a predecessor but
13 not all of the employing enterprises of the predecessor and
14 each employing enterprise so acquired was operated by the
15 predecessor as a separate store, factory, shop or other
16 separate employing enterprise and the predecessor, throughout
17 the entire period of the contribution with liability applicable
18 to each enterprise transferred, has maintained and preserved
19 payroll records that, together with records of contribution
20 liability and benefit chargeability, can be separated by the
21 parties from the enterprises retained by the predecessor to the
22 satisfaction of the secretary or the secretary's delegate. A
23 partial experience history transfer will be made only if the
24 successor:

25 (a) notifies the division of the

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1 acquisition, in writing, not later than the due date of the
2 successor's first quarterly wage and contribution report after
3 the effective date of the acquisition;

4 (b) files an application provided by the
5 division that contains the endorsement of the predecessor
6 within thirty days from the delivery or mailing of [~~such~~] the
7 application by the division to the successor's last known
8 address; and

9 (c) files with the application a Form
10 ES-903A or its equivalent with a schedule of the name and
11 social security number of and the wages paid to and the
12 contributions paid for each employee for the three and one-half
13 year period preceding the computation date as defined in
14 Subparagraph (d) of Paragraph (3) of Subsection I of this
15 section through the date of transfer or such lesser period as
16 the enterprises transferred may have been in operation. The
17 application and Form ES-903A shall be supported by the
18 predecessor's permanent employment records, which shall be
19 available for audit by the division. The application and Form
20 ES-903A shall be reviewed by the division and, upon approval,
21 the percentage of the predecessor's experience history
22 attributable to the enterprises transferred shall be
23 transferred to the successor. The percentage shall be obtained
24 by dividing the taxable payrolls of the transferred enterprises
25 for [~~such~~] the three and one-half year period preceding the

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1 date of computation or for such lesser period as the
2 enterprises transferred may have been in operation by the
3 predecessor's entire payroll;

4 (4) if, at the time of a transfer of an
5 employing enterprise in whole or in part, both the predecessor
6 and the successor are under common ownership, then the
7 experience history attributable to the transferred business
8 shall also be transferred to and combined with the experience
9 history attributable to the successor employer. The rates of
10 both employers shall be recalculated and made effective
11 immediately upon the date of the transfer;

12 (5) whenever a person, who is not currently an
13 employer, acquires the trade or business of an employing
14 enterprise, the experience history of the acquired business
15 shall not be transferred to the successor if the secretary or
16 the secretary's designee finds that the successor acquired the
17 business solely or primarily for the purpose of obtaining a
18 lower rate of contributions. Instead, the successor shall be
19 assigned the applicable new employer rate pursuant to this
20 section. In determining whether the business was acquired
21 solely or primarily for the purpose of obtaining a lower rate
22 of contribution, the secretary or the secretary's designee
23 shall consider:

- 24 (a) the cost of acquiring the business;
25 (b) whether the person continued the

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1 business enterprise of the acquired business;

2 (c) how long [~~such~~] the business
3 enterprise was continued; and

4 (d) whether a substantial number of new
5 employees were hired for performance of duties unrelated to
6 those that the business activity conducted prior to
7 acquisition;

8 (6) if, following a transfer of experience
9 history pursuant to this subsection, the department determines
10 that a substantial purpose of the transfer of the employing
11 enterprise was to obtain a reduced liability for contributions,
12 then the experience rating accounts of the employers involved
13 shall be combined into a single account and a single rate
14 assigned to the combined account;

15 (7) the secretary shall adopt [~~such~~] rules [~~as~~
16 ~~are~~] necessary to interpret and carry out the provisions of
17 this subsection, including rules that:

18 (a) describe how experience history is
19 to be transferred; and

20 (b) establish procedures to identify the
21 type of transfer or acquisition of an employing enterprise; and

22 (8) a person who knowingly violates or
23 attempts to violate a rule adopted pursuant to Paragraph (7) of
24 this subsection, who transfers or acquires, or attempts to
25 transfer or acquire, an employing enterprise for the sole or

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1 primary purpose of obtaining a reduced liability for
2 contributions or who knowingly advises another person to
3 violate a rule adopted pursuant to Paragraph (7) of this
4 subsection or to transfer or acquire an employing enterprise
5 for the sole or primary purpose of obtaining a reduced
6 liability for contributions is guilty of a misdemeanor and
7 shall be punished by a fine of not less than one thousand five
8 hundred dollars (\$1,500) or more than three thousand dollars
9 (\$3,000) or, if an individual, by imprisonment for a definite
10 term not to exceed ninety days or both. In addition, [~~such a~~
11 the person shall be subject to the following civil penalty
12 imposed by the secretary:

13 (a) if the person is an employer, the
14 person shall be assigned the highest contribution rate
15 established by the provisions of this section for the calendar
16 year in which the violation occurs and the three subsequent
17 calendar years; provided that, if the difference between the
18 increased penalty rate and the rate otherwise applicable would
19 be less than two percent of the employer's payroll, the
20 contribution rate shall be increased by two percent of the
21 employer's payroll for the calendar year in which the violation
22 occurs and the three subsequent calendar years; or

23 (b) if the person is not an employer,
24 the secretary may impose a civil penalty not to exceed three
25 thousand dollars (\$3,000).

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1 I. For each calendar year, ~~[adjustments of~~
2 ~~contribution rates below the standard or reduced rate and~~
3 ~~measures designed to protect the fund are]~~ if, as of the
4 computation date for that year, an employer's account has been
5 chargeable with benefits throughout the preceding thirty-six
6 months, then, in lieu of the standard or reduced rate, the
7 contribution rate for that employer is provided in Paragraphs
8 (1) through (4) of this subsection:

9 (1) the total assets in the fund and the total
10 of the last annual payrolls of all employers subject to
11 contributions as of the computation date for each year shall be
12 determined. These annual totals are here called "the fund" and
13 "total payrolls". For each year, the "reserve" of each
14 employer qualified under Subsection F of this section shall be
15 fixed by the excess of the employer's total contributions over
16 total benefit charges computed as a percentage of the
17 employer's average payroll reported for contributions. The
18 determination of each employer's annual rate, computed as of
19 the computation date for each calendar year, shall be made by
20 matching the employer's reserve as shown in the reserve column
21 with the corresponding rate in the rate column of the
22 applicable rate schedule of the table provided in Paragraph (4)
23 of this subsection;

24 (2) except as otherwise provided, each
25 employer's rate for each calendar year ~~[commencing January 1,~~
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1 ~~1979 or thereafter~~] shall be the corresponding rate in:

2 (a) Schedule 0 of the table provided in
3 Paragraph (4) of this subsection if the fund equals at least
4 three and seven-tenths percent of the total payrolls;

5 (b) Schedule 1 of the table provided in
6 Paragraph (4) of this subsection if the fund equals less than
7 three and seven-tenths percent [~~and~~] but not less than three
8 and four-tenths percent of the total payrolls;

9 (c) Schedule 2 of the table provided in
10 Paragraph (4) of this subsection if the fund equals less than
11 three and four-tenths percent but not less than two and seven-
12 tenths percent of the total payrolls;

13 (d) Schedule 3 of the table provided in
14 Paragraph (4) of this subsection if the fund equals less than
15 two and seven-tenths percent [~~and~~] but not less than two
16 percent of the total payrolls;

17 (e) Schedule 4 of the table provided in
18 Paragraph (4) of this subsection if the fund equals less than
19 two percent [~~and~~] but not less than one and one-half percent of
20 the total payrolls;

21 (f) Schedule 5 of the table provided in
22 Paragraph (4) of this subsection if the fund equals less than
23 one and one-half percent [~~and~~] but not less than one percent of
24 the total payrolls; or

25 (g) Schedule 6 of the table provided in

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1 Paragraph (4) of this subsection if the fund equals less than
2 one percent of the total payrolls;

3 (3) as used in this section:

4 (a) "annual payroll" means the total
5 amount of remuneration from an employer for employment during a
6 twelve-month period ending on a computation date, and "average
7 payroll" means the average of the last three annual payrolls;

8 (b) "base-period wages" means the wages
9 of an individual for insured work during the individual's base
10 period on the basis of which the individual's benefit rights
11 were determined;

12 (c) "base-period employers" means the
13 employers of an individual during the individual's base period;
14 and

15 (d) "computation date" for each calendar
16 year means the close of business on June 30 of the preceding
17 calendar year; and

18 (4) table of employer reserves and
19 contribution rate schedules:

20 Employer	Contribution	Contribution	Contribution	Contribution
21 Reserve	Schedule 0	Schedule 1	Schedule 2	Schedule 3
22 <u>15% and over</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
23 10.0% [and over]				
24 <u>-14.9%</u>	0.03%	0.05%	0.1%	0.6%
25 9.0%-9.9%	0.06%	0.1%	0.2%	0.9%

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1	8.0%-8.9%	0.09%	0.2%	0.4%	1.2%
2	7.0%-7.9%	0.10%	0.4%	0.6%	1.5%
3	6.0%-6.9%	0.30%	0.6%	0.8%	1.8%
4	5.0%-5.9%	0.50%	0.8%	1.1%	2.1%
5	4.0%-4.9%	0.80%	1.1%	1.4%	2.4%
6	3.0%-3.9%	1.20%	1.4%	1.7%	2.7%
7	2.0%-2.9%	1.50%	1.7%	2.0%	3.0%
8	1.0%-1.9%	1.80%	2.0%	2.4%	3.3%
9	0.9%-0.0%	2.40%	2.4%	3.3%	3.6%
10	(-0.1%)-(-0.5%)	3.30%	3.3%	3.6%	3.9%
11	(-0.5%)-(-1.0%)	4.20%	4.2%	4.2%	4.2%
12	(-1.0%)-(-2.0%)	5.00%	5.0%	5.0%	5.0%
13	Under (-2.0%)	5.40%	5.4%	5.4%	5.4%
14	Employer	Contribution	Contribution	Contribution	
15	Reserve	Schedule 4	Schedule 5	Schedule 6	
16	10.0% and over	0.9%	1.2%	2.7%	
17	9.0%-9.9%	1.2%	1.5%	2.7%	
18	8.0%-8.9%	1.5%	1.8%	2.7%	
19	7.0%-7.9%	1.8%	2.1%	2.7%	
20	6.0%-6.9%	2.1%	2.4%	2.7%	
21	5.0%-5.9%	2.4%	2.7%	3.0%	
22	4.0%-4.9%	2.7%	3.0%	3.3%	
23	3.0%-3.9%	3.0%	3.3%	3.6%	
24	2.0%-2.9%	3.3%	3.6%	3.9%	
25	1.0%-1.9%	3.6%	3.9%	4.2%	

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1	0.9%-0.0%	3.9%	4.2%	4.5%
2	(-0.1%)-(-0.5%)	4.2%	4.5%	4.8%
3	(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%
4	(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%
5	Under (-2.0%)	5.4%	5.4%	5.4%.

6 J. The division shall promptly notify each
7 employer of the employer's rate of contributions as determined
8 for any calendar year pursuant to this section. [~~Such~~] The
9 notification shall include the amount determined as the
10 employer's average payroll, the total of all of the employer's
11 contributions paid on the employer's behalf and credited to
12 the employer's account for all past years and total benefits
13 charged to the employer's account for all such years. [~~Such~~]
14 The determination shall become conclusive and binding upon the
15 employer unless, within thirty days after the mailing of
16 notice thereof to the employer's last known address or in the
17 absence of mailing, within thirty days after the delivery of
18 [~~such~~] the notice, the employer files an application for
19 review and redetermination, setting forth the employer's
20 reason therefor. The employer shall be granted an opportunity
21 for a fair hearing in accordance with rules prescribed by the
22 secretary, but an employer shall not have standing, in any
23 proceeding involving the employer's rate of contributions or
24 contribution liability, to contest the chargeability to the
25 employer's account of any benefits paid in accordance with a

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1 determination, redetermination or decision pursuant to Section
2 51-1-8 NMSA 1978, except upon the ground that the services on
3 the basis of which [~~such~~] the benefits were found to be
4 chargeable did not constitute services performed in employment
5 for the employer and only in the event that the employer was
6 not a party to [~~such~~] the determination, redetermination or
7 decision, or to any other proceedings under the Unemployment
8 Compensation Law in which the character of [~~such~~] the services
9 was determined. The employer shall be promptly notified of
10 the decision on the employer's application for
11 redetermination, which shall become final unless, within
12 fifteen days after the mailing of notice thereof to the
13 employer's last known address or in the absence of mailing,
14 within fifteen days after the delivery of [~~such~~] the notice,
15 further appeal is initiated pursuant to Subsection D of
16 Section 51-1-8 NMSA 1978.

17 K. The division shall provide each contributing
18 employer, within ninety days of the end of each calendar
19 quarter, a written determination of benefits chargeable to the
20 employer's account. [~~Such~~] The determination shall become
21 conclusive and binding upon the employer for all purposes
22 unless, within thirty days after the mailing of the
23 determination to the employer's last known address or in the
24 absence of mailing, within thirty days after the delivery of
25 [~~such~~] the determination, the employer files an application

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1 for review and redetermination, setting forth the employer's
2 reason therefor. The employer shall be granted an opportunity
3 for a fair hearing in accordance with rules prescribed by the
4 secretary, but an employer shall not have standing in any
5 proceeding involving the employer's contribution liability to
6 contest the chargeability to the employer's account of any
7 benefits paid in accordance with a determination,
8 redetermination or decision pursuant to Section 51-1-8 NMSA
9 1978, except upon the ground that the services on the basis of
10 which [~~such~~] the benefits were found to be chargeable did not
11 constitute services performed in employment for the employer
12 and only in the event that the employer was not a party to
13 [~~such~~] the determination, redetermination or decision, or to
14 any other proceedings under the Unemployment Compensation Law
15 in which the character of [~~such~~] the services was determined.
16 The employer shall be promptly notified of the decision on the
17 employer's application for redetermination, which shall become
18 final unless, within fifteen days after the mailing of notice
19 thereof to the employer's last known address or in the absence
20 of mailing, within fifteen days after the delivery of [~~such~~]
21 the notice, further appeal is initiated pursuant to Subsection
22 D of Section 51-1-8 NMSA 1978.

23 L. The contributions, together with interest and
24 penalties thereon imposed by the Unemployment Compensation
25 Law, shall not be assessed nor shall action to collect the

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1 same be commenced more than four years after a report showing
2 the amount of the contributions was due. In the case of a
3 false or fraudulent contribution report with intent to evade
4 contributions or a willful failure to file a report of all
5 contributions due, the contributions, together with interest
6 and penalties thereon, may be assessed or an action to collect
7 ~~[such]~~ the contributions may be begun at any time. Before the
8 expiration of ~~[such]~~ the period of limitation, the employer
9 and the secretary may agree in writing to an extension thereof
10 and the period so agreed on may be extended by subsequent
11 agreements in writing. In any case where the assessment has
12 been made and action to collect has been commenced within four
13 years of the due date of any contribution, interest or
14 penalty, including the filing of a warrant of lien by the
15 secretary pursuant to Section 51-1-36 NMSA 1978, ~~[such]~~ the
16 action shall not be subject to any period of limitation.

17 M. The secretary shall correct any error in the
18 determination of an employer's rate of contribution during the
19 calendar year to which the erroneous rate applies,
20 notwithstanding that notification of the employer's rate of
21 contribution may have been issued and contributions paid
22 pursuant to the notification. Upon issuance by the division
23 of a corrected rate of contribution, the employer shall have
24 the same rights to review and redetermination as provided in
25 Subsection J of this section.

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