

AMENDMENTS TO LB 500

Introduced by Business and Labor

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 48-602, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 48-602 For purposes of the Employment Security Law,
6 unless the context otherwise requires:

7 (1) Base period shall mean the last four completed
8 calendar quarters immediately preceding the first day of an
9 individual's benefit year, except that the commissioner may
10 prescribe by rule and regulation that base period shall mean the
11 first four of the last five completed calendar quarters immediately
12 preceding the first day of an individual's benefit year;

13 (2) Benefits shall mean the money payments payable to an
14 individual with respect to his or her unemployment;

15 (3) Benefit year, with respect to any individual, shall
16 mean the one-year period beginning with the first day of the first
17 week with respect to which the individual first files a valid claim
18 for benefits, and thereafter the one-year period beginning with the
19 first day of the first week with respect to which the individual
20 next files a valid claim for benefits after the termination of his
21 or her last preceding benefit year. Any claim for benefits made in
22 accordance with section 48-629 shall be deemed to be a valid claim
23 for the purpose of this subdivision if the individual has been

1 paid the wages for insured work required under section 48-627. For
2 the purposes of this subdivision a week with respect to which an
3 individual files a valid claim shall be deemed to be in, within,
4 or during that benefit year which includes the greater part of such
5 week;

6 (4) Calendar quarter shall mean the period of three
7 consecutive calendar months ending on March 31, June 30, September
8 30, or December 31, or the equivalent thereof as the Commissioner
9 of Labor may by rule and regulation prescribe;

10 (5) Client shall mean any individual, partnership,
11 limited liability company, corporation, or other legally recognized
12 entity that contracts with a professional employer organization
13 to obtain professional employer services relating to worksite
14 employees through a professional employer agreement;

15 (6) Combined tax shall mean the employer liability
16 consisting of contributions and the state unemployment insurance
17 tax;

18 (7) Combined tax rate shall mean the rate which is
19 applied to wages to determine the combined taxes due;

20 (8) Commissioner shall mean the Commissioner of Labor;

21 (9) Contribution rate shall mean the percentage of the
22 combined tax rate used to determine the contribution portion of the
23 combined tax;

24 (10) Contributions shall mean that portion of the
25 combined tax based upon the contribution rate portion of the
26 combined tax rate which is deposited in the state Unemployment
27 Compensation Fund as required by sections 48-648 and 48-649;

1 (11) Department shall mean the Department of Labor;

2 (12) Employment office shall mean a free public
3 employment office or branch thereof, operated by this state or
4 maintained as a part of a state-controlled system of public
5 employment offices, including public employment offices operated by
6 an agency of a foreign government;

7 (13) Fund shall mean the Unemployment Compensation Fund
8 established by section 48-617 to which all contributions and
9 payments in lieu of contributions required and from which all
10 benefits provided shall be paid;

11 (14) Hospital shall mean an institution which has been
12 licensed, certified, or approved by the Department of Health and
13 Human Services Regulation and Licensure as a hospital;

14 (15) Institution of higher education shall mean an
15 institution which: (a) Admits as regular students only individuals
16 having a certificate of graduation from a high school or the
17 recognized equivalent of such a certificate; (b) is legally
18 authorized in this state to provide a program of education beyond
19 high school; (c) provides an educational program for which it
20 awards a bachelor's degree or higher or provides a program which
21 is acceptable for full credit toward such a degree, a program of
22 postgraduate or postdoctoral studies, or a program of training to
23 prepare students for gainful employment in a recognized occupation;
24 and (d) is a public or other nonprofit institution; notwithstanding
25 any of the foregoing provisions of this subdivision, all colleges
26 and universities in this state are institutions of higher education
27 for purposes of this section;

1 (16) Insured work shall mean employment for employers;

2 (17) Leave of absence shall mean any absence from work:

3 (a) Mutually and voluntarily agreed to by the employer and the
4 employee; (b) mutually and voluntarily agreed to between the
5 employer and the employee's bargaining agent; or (c) to which the
6 employee is entitled to as a matter of state or federal law. Leave
7 of absence shall not include absence from work on a temporary basis
8 to participate in an apprenticeship training program established
9 pursuant to section 302(c)(5) of the federal Labor-Management
10 Relations Act, 29 U.S.C. 2842, as such section existed on January
11 1, 2007;

12 (18) Paid vacation leave shall mean a period of time
13 while employed or following separation from employment in which the
14 individual renders no services to the employer but is entitled to
15 receive vacation pay equal to or exceeding his or her base weekly
16 wage;

17 (19) Payments in lieu of contributions shall mean the
18 money payments to the Unemployment Compensation Fund required by
19 sections 48-649, 48-652, 48-660.01, and 48-661;

20 (20) Professional employer agreement shall mean a written
21 professional employer services contract whereby:

22 (a) A professional employer organization agrees to
23 provide payroll services, employee benefit administration, or
24 personnel services for a majority of the employees providing
25 services to the client at a client worksite;

26 (b) The agreement is intended to be ongoing rather than
27 temporary in nature; and

1 (c) Employer responsibilities for worksite employees,
2 including those of hiring, firing, and disciplining, are shared
3 between the professional employer organization and the client
4 by contract. The term professional employer agreement shall not
5 include a contract between a parent corporation, company, or other
6 entity and a wholly owned subsidiary;

7 (21) Professional employer organization shall mean any
8 individual, partnership, limited liability company, corporation, or
9 other legally recognized entity that enters into a professional
10 employer agreement with a client or clients for a majority of
11 a client's workforce at a client worksite. The term professional
12 employer organization shall not include an insurer as defined in
13 section 44-103 or a temporary help firm;

14 (22) State includes, in addition to the states of the
15 United States of America, any dependency of the United States, the
16 Commonwealth of Puerto Rico, the Virgin Islands, and the District
17 of Columbia;

18 (23) State unemployment insurance tax shall mean that
19 portion of the combined tax which is based upon the state
20 unemployment insurance tax rate portion of the combined tax rate
21 and which is deposited in the State Unemployment Insurance Trust
22 Fund as required by sections 48-648 and 48-649;

23 (24) State unemployment insurance tax rate shall mean the
24 percentage of the combined tax rate used to determine the state
25 unemployment insurance tax portion of the combined tax;

26 (25) Temporary employee shall mean an employee of a
27 temporary help firm assigned to work for the clients of such

1 temporary help firm;

2 (26) Temporary help firm shall mean a firm that hires
3 its own employees and assigns them to clients to support or
4 supplement the client's work force in work situations such as
5 employee absences, temporary skill shortages, seasonal workloads,
6 and special assignments and projects;

7 (27) Unemployed shall mean an individual during any week
8 in which the individual performs no service and with respect to
9 which no wages are payable to the individual or any week of less
10 than full-time work if the wages payable with respect to such week
11 are less than the individual's weekly benefit amount, but shall not
12 include any individual on a leave of absence or on paid vacation
13 leave. When an agreement between the employer and a bargaining unit
14 representative does not allocate vacation pay allowance or pay in
15 lieu of vacation to a specified period of time during a period of
16 temporary layoff or plant shutdown, the payment by the employer or
17 his or her designated representative will be deemed to be wages
18 as defined in this section in the week or weeks the vacation is
19 actually taken;

20 (28) Unemployment Trust Fund shall mean the trust fund
21 in the Treasury of the United States of America established under
22 section 904 of the federal Social Security Act, 42 U.S.C. 1104, as
23 such section existed on March 2, 2001, which receives credit from
24 the state Unemployment Compensation Fund;

25 (29) Wages, except with respect to services performed
26 in employment as provided in subdivisions (4)(c) and (d) of
27 section 48-604, shall mean all remuneration for personal services,

1 including commissions and bonuses, remuneration for personal
2 services paid under a contract of hire, and the cash value of
3 all remunerations in any medium other than cash. The reasonable
4 cash value of remuneration in any medium other than cash shall be
5 estimated and determined in accordance with rules and regulations
6 prescribed by the commissioner. After December 31, 1985, wages
7 shall include tips which are received while performing services
8 which constitute employment and which are included in a written
9 statement furnished to the employer pursuant to section 6053(a) of
10 the Internal Revenue Code as defined in section 49-801.01.

11 With respect to services performed in employment in
12 agricultural labor as is provided in subdivision (4)(c) of section
13 48-604 or in domestic service as is provided in subdivision (4)(d)
14 of section 48-604, wages shall mean cash remuneration for such
15 services.

16 The term wages shall not include:

17 (a) The amount of any payment, including any amount paid
18 by an employer for insurance or annuities or into a fund to
19 provide for such payment, made to, or on behalf of, an individual
20 in employment or any of his or her dependents under a plan
21 or system established by an employer which makes provision for
22 such individuals generally or for a class or classes of such
23 individuals, including any amount paid by an employer for insurance
24 or annuities or into a fund to provide for any such payment, on
25 account of (i) sickness or accident disability, except, in the case
26 of payments made to an employee or any of his or her dependents,
27 this subdivision (i) shall exclude from wages only payments which

1 are received under a workers' compensation law, (ii) medical and
2 hospitalization expenses in connection with sickness or accident
3 disability, or (iii) death;

4 (b) The payment by an employer, without deduction from
5 the remuneration of the employee, of the tax imposed upon an
6 employee under section 3101 of the Internal Revenue Code as defined
7 in section 49-801.01;

8 (c) Any payment on account of sickness or accident
9 disability, or medical or hospitalization expenses in connection
10 with sickness or accident disability, made by an employer to, or
11 on behalf of, an individual after the expiration of six calendar
12 months following the last calendar month in which such individual
13 worked for such employer;

14 (d) Any payment made to, or on behalf of, an individual
15 or his or her beneficiary (i) from or to a trust described in
16 section 401(a) of the Internal Revenue Code as defined in section
17 49-801.01 which is exempt from tax under section 501(a) of the
18 Internal Revenue Code as defined in section 49-801.01 at the time
19 of such payment unless such payment is made to an employee of the
20 trust as remuneration for services rendered as such employee and
21 not as a beneficiary of the trust or (ii) under or to an annuity
22 plan which, at the time of such payment, meets the requirements
23 of section 401 of the Internal Revenue Code as defined in section
24 49-801.01;

25 (e) Any payment made to, or on behalf of, an employee
26 or his or her beneficiary (i) under a simplified employee pension
27 as defined by the commissioner, (ii) under or to an annuity

1 contract as defined by the commissioner, other than a payment
2 for the purchase of such contract which is made by reason of
3 a salary reduction agreement, whether evidenced by a written
4 instrument or otherwise, (iii) under or to an exempt governmental
5 deferred compensation plan as defined by the commissioner, (iv)
6 to supplement pension benefits under a plan or trust, as defined
7 by the commissioner, to take into account some portion or all of
8 the increase in the cost of living since retirement, but only if
9 such supplemental payments are under a plan which is treated as a
10 welfare plan, or (v) under a cafeteria benefits plan;

11 (f) Remuneration paid in any medium other than cash to an
12 individual for service not in the course of the employer's trade or
13 business;

14 (g) Benefits paid under a supplemental unemployment
15 benefit plan which satisfies the eight points set forth in Internal
16 Revenue Service Revenue Ruling 56-249 as the ruling existed on
17 March 2, 2001, and is in compliance with the standards set forth in
18 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
19 rulings existed on March 2, 2001; and

20 (h) Remuneration for service performed in the employ of
21 any state in the exercise of his or her duties as a member of the
22 Army National Guard or Air National Guard or in the employ of the
23 United States of America as a member of any military reserve unit;

24 (30) Week shall mean such period of seven consecutive
25 days as the commissioner may by rule and regulation prescribe;

26 (31) Week of unemployment with respect to any individual
27 shall mean any week during which he or she performs less than

1 full-time work and the wages payable to him or her with respect to
2 such week are less than his or her weekly benefit amount;

3 (32) Wholly owned subsidiary means a corporation,
4 company, or other entity which has eighty percent or more of
5 its outstanding voting stock or membership owned or controlled,
6 directly or indirectly, by the parent entity; and

7 (33) Worksite employee shall mean a person receiving
8 wages or benefits from a professional employer organization
9 pursuant to the terms of a professional employer agreement for work
10 performed at a client's worksite.

11 Sec. 2. Section 48-627, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 48-627 An unemployed individual shall be eligible to
14 receive benefits with respect to any week, only if the Commissioner
15 of Labor finds:

16 (1) He or she has registered for work at, and thereafter
17 continued to report at, an employment office in accordance with
18 such rules and regulations as the commissioner may prescribe,
19 except that the commissioner may, by rule and regulation, waive
20 or alter either or both of the requirements of this subdivision
21 as to individuals attached to regular jobs and as to such other
22 types of cases or situations, with respect to which he or she
23 finds that compliance with such requirements, would be oppressive,
24 or would be inconsistent with the purposes of the Employment
25 Security Law, except that no such rule or regulation shall conflict
26 with section 48-623. An individual attending an apprenticeship
27 program established pursuant to section 302(c)(5) of the federal

1 Labor-Management Relations Act, 29 U.S.C. 2842, as such section
2 existed on January 1, 2007, shall not be required to register for
3 work while attending the apprenticeship training program;

4 (2) He or she has made a claim for benefits, in
5 accordance with section 48-629;

6 (3) He or she is able to work and is available for
7 work. No individual, who is otherwise eligible, shall be deemed
8 ineligible, or unavailable for work, because he or she is on
9 vacation without pay during such week, if such vacation is not
10 the result of his or her own action as distinguished from any
11 collective action by a collective-bargaining agent or other action
12 beyond his or her individual control, and regardless of whether he
13 or she has not been notified of the vacation at the time of his
14 or her hiring. Receipt of a non-service-connected total disability
15 pension by a veteran at the age of sixty-five or more shall not
16 of itself bar the veteran from benefits as not able to work.
17 An otherwise eligible individual while engaged in (a) a training
18 course approved for him or her by the commissioner or (b) an
19 apprenticeship program established pursuant to section 302(c)(5) of
20 the federal Labor-Management Relations Act, 29 U.S.C. 2842, as such
21 section existed on January 1, 2007, shall be considered available
22 for work for the purposes of this section. An inmate in a penal or
23 custodial institution shall be considered unavailable for work for
24 purposes of this section;

25 (4) He or she has been unemployed for a waiting period
26 of one week. No week shall be counted as a week of unemployment
27 for the purpose of this subdivision (a) unless it occurs within

1 the benefit year, which includes the week with respect to which he
2 or she claims payment of benefits, (b) if benefits have been paid
3 with respect thereto, or (c) unless the individual was eligible
4 for benefits with respect thereto, as provided in sections 48-627
5 and 48-628, except for the requirements of this subdivision and of
6 subdivision (6) of section 48-628;

7 (5) For any benefit year beginning on or before December
8 31, 2005, he or she has, within his or her base period, been paid
9 a total sum of wages for employment by employers equal to not
10 less than one thousand six hundred dollars, of which sum at least
11 eight hundred dollars has been paid in each of two quarters in
12 his or her base period, and subsequent to filing the claim which
13 establishes the previous benefit year, the individual has insured
14 work in at least four weeks. For any benefit year beginning on
15 or after January 1, 2006, he or she has, within his or her base
16 period, been paid a total sum of wages for employment by employers
17 equal to not less than two thousand five hundred dollars, of which
18 sum at least eight hundred dollars has been paid in each of two
19 quarters in his or her base period, and subsequent to filing the
20 claim which establishes the previous benefit year, the individual
21 has earned wages in insured work of at least six times his or
22 her weekly benefit amount for the previous benefit year. Commencing
23 January 1, 2007, and each January 1 thereafter, the amount which an
24 individual is required to earn within his or her base period shall
25 be adjusted annually. The adjusted amount shall be equal to the
26 then current amount adjusted by the cumulative percentage change in
27 the Consumer Price Index for All Urban Consumers published by the

1 Federal Bureau of Labor Statistics for the one-year period ending
2 on the previous September 30. For the purposes of this subdivision,
3 (a) wages shall be counted as wages for insured work for benefit
4 purposes with respect to any benefit year only if such benefit year
5 begins subsequent to the date on which the employer, by whom such
6 wages were paid, has satisfied the conditions of section 48-603
7 or subsection (3) of section 48-661, with respect to becoming an
8 employer, and (b) with respect to weeks of unemployment beginning
9 on or after January 1, 1978, wages for insured work for benefit
10 purposes with respect to any benefit year shall include wages
11 paid for services as defined by subdivision (4) (a), (b), (c), or
12 (d) of section 48-604 to the extent that such services were not
13 services in employment under subdivision (4) (a) of section 48-604
14 or section 48-661 immediately prior to September 2, 1977, even
15 though the employer by whom such wages were paid had not satisfied
16 the conditions of subdivision (8), (9), (10), or (11) of section
17 48-603 with respect to becoming an employer at the time such wages
18 were paid except to the extent that assistance under Title II of
19 the federal Emergency Jobs and Unemployment Assistance Act of 1974
20 was paid on the basis of such services; and

21 (6) He or she is participating in reemployment services
22 at no cost to such individual as directed by the commissioner,
23 such as job search assistance services, if the individual has been
24 determined to be likely to exhaust regular benefits and to need
25 reemployment services pursuant to a profiling system established
26 by rule and regulation of the commissioner which is in compliance
27 with section 303(j) (1) of the federal Social Security Act, unless

1 the commissioner determines that: (a) The individual has completed
2 such services; or (b) there is justifiable cause for the claimant's
3 failure to participate in such services.

4 Sec. 3. Section 48-628, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 48-628 An individual shall be disqualified for benefits:

7 (1)(a) For the week in which he or she has left work
8 voluntarily without good cause, if so found by the commissioner,
9 and for the twelve weeks which immediately follow such week.
10 A temporary employee of a temporary help firm has left work
11 voluntarily without good cause if the temporary employee does not
12 contact the temporary help firm for reassignment upon completion
13 of an assignment and the temporary employee has been advised by
14 the temporary help firm of his or her obligation to contact the
15 temporary help firm upon completion of assignments and has been
16 advised by the temporary help firm that the temporary employee may
17 be denied benefits for failure to do so; or

18 (b) For the week in which he or she has left work
19 voluntarily for the sole purpose of accepting previously secured,
20 permanent, full-time, insured work, which he or she does accept,
21 which offers a reasonable expectation of betterment of wages or
22 working conditions, or both, and for which he or she earns wages
23 payable to him or her, if so found by the commissioner, and for not
24 more than one week which immediately follows such week;

25 (2) For the week in which he or she has been discharged
26 for misconduct connected with his or her work, if so found by
27 the commissioner, and for the twelve weeks which immediately

1 follow such week. If the commissioner finds that such individual's
2 misconduct was gross, flagrant, and willful, or was unlawful,
3 the commissioner shall totally disqualify such individual from
4 receiving benefits with respect to wage credits earned prior to
5 discharge for such misconduct. In addition to the twelve-week
6 benefit disqualification assessed under this subdivision, the
7 commissioner shall cancel all wage credits earned as a result
8 of employment with the discharging employer if the commissioner
9 finds that the individual was discharged for misconduct in
10 connection with the work which was not gross, flagrant, and
11 willful or unlawful but which included being under the influence
12 of any intoxicating beverage or being under the influence of any
13 controlled substance listed in section 28-405 not prescribed by
14 a physician licensed to practice medicine or surgery when the
15 individual is so under the influence on the worksite or while
16 engaged in work for the employer;

17 (3) (a) For any week of unemployment in which he or she
18 has failed, without good cause, to apply for available, suitable
19 work when so directed by the employment office or the commissioner,
20 to accept suitable work offered him or her, or to return to his
21 or her customary self-employment, if any, and the commissioner so
22 finds, and for the twelve weeks which immediately follow such week,
23 and his or her total benefit amount to which he or she is then
24 entitled shall be reduced by an amount equal to the number of weeks
25 for which he or she has been disqualified by the commissioner.

26 (b) In determining whether or not any work is suitable
27 for an individual, the commissioner shall consider the degree of

1 risk involved to the individual's health, safety, and morals, his
2 or her physical fitness and prior training, his or her experience
3 and prior earnings, his or her length of unemployment and prospects
4 for securing local work in his or her customary occupation, and the
5 distance of the available work from his or her residence.

6 (c) Notwithstanding any other provisions of the
7 Employment Security Law, no work shall be deemed suitable and
8 benefits shall not be denied under such law to any otherwise
9 eligible individual for refusing to accept new work under any of
10 the following conditions: (i) If the position offered is vacant
11 due directly to a strike, lockout, or other labor dispute; (ii)
12 if the wages, hours, or other conditions of the work offered
13 are substantially less favorable to the individual than those
14 prevailing for similar work in the locality; or (iii) if, as a
15 condition of being employed, the individual would be required to
16 join a company union or to resign from or refrain from joining any
17 bona fide labor organization.

18 (d) Notwithstanding any other provisions in subdivision
19 (3) of this section, no otherwise eligible individual shall be
20 denied benefits with respect to any week in which he or she is in
21 training with the approval of the commissioner or an apprenticeship
22 program established pursuant to section 302(c)(5) of the federal
23 Labor-Management Relations Act, 29 U.S.C. 2842, as such section
24 existed on January 1, 2007, by reason of the application of the
25 provisions in subdivision (3) of this section relating to failure
26 to apply for or a refusal to accept suitable work;

27 (4) For any week with respect to which the commissioner

1 finds that his or her total unemployment is due to a stoppage
2 of work which exists because of a labor dispute at the factory,
3 establishment, or other premises at which he or she is or was
4 last employed, except that this subdivision shall not apply if
5 it is shown to the satisfaction of the commissioner that (a)
6 the individual is not participating in, financing, or directly
7 interested in the labor dispute which caused the stoppage of work
8 and (b) he or she does not belong to a grade or class of workers of
9 which, immediately before the commencement of the stoppage, there
10 were members employed at the premises at which the stoppage occurs,
11 any of whom are participating, financing, or directly interested in
12 the dispute. If in any case, separate branches of work, which are
13 commonly conducted as separate businesses in separate premises, are
14 conducted in separate departments of the same premises, each such
15 department shall, for the purposes of this subdivision, be deemed
16 to be a separate factory, establishment, or other premises;

17 (5) For any week with respect to which he or she
18 is receiving or has received remuneration in the form of (a)
19 wages in lieu of notice, or a dismissal or separation allowance,
20 (b) compensation for temporary disability under the workers'
21 compensation law of any state or under a similar law of the
22 United States, (c) retirement or retired pay, pension, annuity,
23 or other similar periodic payment under a plan maintained or
24 contributed to by a base period or chargeable employer, or (d)
25 a gratuity or bonus from an employer, paid after termination of
26 employment, on account of prior length of service, or disability
27 not compensated under the workers' compensation law. Such payments

1 made in lump sums shall be prorated in an amount which is
2 reasonably attributable to such week. If the prorated remuneration
3 is less than the benefits which would otherwise be due, he or she
4 shall be entitled to receive for such week, if otherwise eligible,
5 benefits reduced by the amount of such remuneration. The prorated
6 remuneration shall be considered wages for the quarter to which it
7 is attributable. Military service-connected disability compensation
8 payable under 38 U.S.C. chapter 11 and primary insurance benefits
9 payable under Title II of the Social Security Act, as amended,
10 or similar payments under any act of Congress shall not be deemed
11 to be disqualifying or deductible from the benefit amount. No
12 deduction shall be made for the part of any retirement pension
13 which represents return of payments made by the individual. In the
14 case of a transfer by an individual or his or her employer of an
15 amount from one retirement plan to a second qualified retirement
16 plan under the Internal Revenue Code, the amount transferred shall
17 not be deemed to be received by the claimant until actually paid
18 from the second retirement plan to the claimant. No deduction shall
19 be made for any benefit received under a supplemental unemployment
20 benefit plan described in subdivision (29)(g) of section 48-602;

21 (6) For any week with respect to which or a part of which
22 he or she has received or is seeking unemployment benefits under an
23 unemployment compensation law of any other state or of the United
24 States, except that if the appropriate agency of such other state
25 or of the United States finally determines that he or she is not
26 entitled to such unemployment benefits, this disqualification shall
27 not apply;

1 (7) For any week of unemployment if such individual is
2 a student. For the purpose of this subdivision, student shall
3 mean an individual registered for full attendance at and regularly
4 attending an established school, college, or university, unless the
5 major portion of his or her wages for insured work during his or
6 her base period was for services performed while attending school,
7 except that attendance for training purposes under a plan approved
8 by the commissioner for such individual shall not be disqualifying;

9 (8) For any week of unemployment if benefits claimed are
10 based on services performed:

11 (a) In an instructional, research, or principal
12 administrative capacity for an educational institution, if such
13 week commences during the period between two successive academic
14 years or terms, or when an agreement provides instead for a similar
15 period between two regular, but not successive, terms during such
16 period, if such individual performs such services in the first
17 of such academic years or terms and if there is a contract or
18 reasonable assurance that such individual will perform services in
19 any such capacity for any educational institution in the second of
20 such academic years or terms;

21 (b) In any other capacity for an educational institution,
22 if such week commences during a period between two successive
23 academic years or terms, if such individual performs such services
24 in the first of such academic years or terms, and if there is
25 a reasonable assurance that such individual will perform such
26 services in the second of such academic years or terms, except
27 that if benefits are denied to any individual for any week under

1 subdivision (8)(b) of this section and such individual was not
2 offered an opportunity to perform such services for the educational
3 institution for the second of such academic years or terms, such
4 individual shall be entitled to a retroactive payment of the
5 benefits for each week for which the individual filed a timely
6 claim for benefits and for which benefits were denied solely by
7 reason of subdivision (8)(b) of this section;

8 (c) In any capacity described in subdivision (8)(a) or
9 (b) of this section if such week commences during an established
10 and customary vacation period or holiday recess if such individual
11 performs such services in the period immediately before such
12 vacation period or holiday recess, and there is a reasonable
13 assurance that such individual will perform such services in
14 the period immediately following such vacation period or holiday
15 recess;

16 (d) In any capacity described in subdivision (8)(a) or
17 (b) of this section in an educational institution while in the
18 employ of an educational service agency, and such individual shall
19 be disqualified as specified in subdivisions (8)(a), (b), and (c)
20 of this section. As used in this subdivision, educational service
21 agency shall mean a governmental agency or governmental entity
22 which is established and operated exclusively for the purpose of
23 providing services to one or more educational institutions; and

24 (e) In any capacity described in subdivision (8)(a) or
25 (b) of this section in an educational institution if such services
26 are provided to or on behalf of the educational institution while
27 in the employ of an organization or entity described in section

1 3306(c) (7) or 3306(c) (8) of the Federal Unemployment Tax Act, 26
2 U.S.C. 3306(c) (7) or (8), and such individual shall be disqualified
3 as specified in subdivisions (8) (a), (b), and (c) of this section;

4 (9) For any week of unemployment benefits if
5 substantially all the services upon which such benefits are based
6 consist of participating in sports or athletic events or training
7 or preparing to so participate, if such week of unemployment begins
8 during the period between two successive sport seasons or similar
9 periods, if such individual performed such services in the first
10 of such seasons or similar periods, and if there is a reasonable
11 assurance that such individual will perform such services in the
12 later of such seasons or similar periods;

13 (10) For any week of unemployment benefits if the
14 services upon which such benefits are based are performed by an
15 alien unless such alien is an individual who was lawfully admitted
16 for permanent residence at the time such services were performed,
17 was lawfully present for purposes of performing such services, or
18 was permanently residing in the United States under color of law
19 at the time such services were performed, including an alien who
20 was lawfully present in the United States as a result of the
21 application of section 212(d) (5) of the Immigration and Nationality
22 Act, 8 U.S.C. 1182(d) (5). Any data or information required of
23 individuals applying for benefits to determine whether benefits
24 are not payable to them because of their alien status shall be
25 uniformly required from all applicants for benefits. In the case
26 of an individual whose application for benefits would otherwise be
27 approved, no determination that benefits to such individual are not

1 payable because of his or her alien status shall be made except
2 upon a preponderance of the evidence;

3 (11) Notwithstanding any other provisions of the
4 Employment Security Law, no otherwise eligible individual shall
5 be denied benefits for any week because he or she is in training
6 approved under section 236(a)(1) of the federal Trade Act of 1974,
7 19 U.S.C. 2296(a)(1), nor shall such individual be denied benefits
8 by reason of leaving work to enter such training, if the work left
9 is not suitable employment, or because of the application to any
10 such week in training of provisions of the Employment Security Law,
11 or any applicable federal unemployment compensation law, relating
12 to availability for work, active search for work, or refusal to
13 accept work. For purposes of this subdivision, suitable employment
14 shall mean, with respect to an individual, work of a substantially
15 equal or higher skill level than the individual's past adversely
16 affected employment, as defined for purposes of the federal Trade
17 Act of 1974, and wages for such work at not less than eighty
18 percent of the individual's average weekly wage as determined for
19 purposes of such act;

20 (12) For any week during which the individual is on a
21 leave of absence; and

22 (13) For any week of unemployment benefits or for waiting
23 week credit if he or she has been disqualified from the receipt
24 of benefits pursuant to section 48-663.01 two or more times in
25 the five-year period immediately prior to filing his or her most
26 recent claim. This subdivision shall not apply if the individual
27 has repaid in full any overpayments established in conjunction with

1 the disqualifications assessed under section 48-663.01 during that
2 five-year period.

3 Sec. 4. Section 48-628.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 48-628.01 Good cause for voluntarily leaving employment
6 shall include, but not be limited to, the following reasons:

7 (1) An individual has made all reasonable efforts to
8 preserve the employment but voluntarily leaves his or her work for
9 the necessary purpose of escaping abuse at the place of employment
10 or abuse as defined in section 42-903 between household members;

11 (2) An individual left his or her employment voluntarily
12 due to a bona fide non-work-connected illness or injury that
13 prevented him or her from continuing the employment or from
14 continuing the employment without undue risk of harm to the
15 individual;

16 (3) An individual left his or her employment to accompany
17 his or her spouse to the spouse's employment in a different city or
18 new military duty station;

19 (4) An individual left his or her employment because his
20 or her employer required the employee to relocate;

21 (5)(a) An individual is a construction worker and left
22 his or her employment voluntarily for the purpose of accepting
23 previously secured insured work in the construction industry if the
24 commissioner finds that:

25 (i)(A) The quit occurred within thirty days immediately
26 prior to the established termination date of the job which the
27 individual voluntarily leaves, (B) the specific starting date of

1 the new job is prior to the established termination date of the
2 job which the worker quits, (C) the new job offered employment
3 for a longer period of time than remained available on the job
4 which the construction worker voluntarily quit, and (D) the worker
5 had worked at least twenty days or more at the new job after the
6 established termination date of the previous job unless the new job
7 was terminated by a contract cancellation; or

8 (ii) (A) The construction worksite of the job which the
9 worker quit was more than fifty miles from his or her place of
10 residence, (B) the new construction job was fifty or more miles
11 closer to his or her residence than the job which he or she quit,
12 and (C) the worker actually worked twenty days or more at the new
13 job unless the new job was terminated by a contract cancellation.

14 (b) The provisions of this subdivision (5) shall not
15 apply if the individual is separated from the new job under
16 conditions resulting in a disqualification from benefits under
17 subdivision (1) or (2) of section 48-628;

18 (6) An individual accepted a voluntary layoff to avoid
19 bumping another worker;

20 (7) An individual left his or her employment as a result
21 of being directed to perform an illegal act;

22 (8) An individual left his or her employment because of
23 unlawful discrimination or workplace harassment on the basis of
24 race, sex, or age;

25 (9) An individual left his or her employment because of
26 unsafe working conditions; ~~or~~

27 (10) Equity and good conscience demand a finding of good

1 cause; or -

2 (11) An individual has left his or her employment
3 on a temporary basis for a period of time mutually and
4 voluntarily agreed to between the employee and the employer or the
5 employee's bargaining agent and the employer to participate in an
6 apprenticeship training program established pursuant to section
7 302(c)(5) of the federal Labor-Management Relations Act, 29 U.S.C.
8 2842, as such section existed on January 1, 2007.

9 Sec. 5. Section 48-652, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 48-652 (1)(a) A separate experience account shall be
12 established for each employer who is liable for payment of
13 contributions. Whenever and wherever in the Employment Security
14 Law the terms reserve account or experience account are used,
15 unless the context clearly indicates otherwise, such terms shall be
16 deemed interchangeable and synonymous and reference to either of
17 such accounts shall refer to and also include the other.

18 (b) A separate reimbursement account shall be established
19 for each employer who is liable for payments in lieu of
20 contributions. All benefits paid with respect to service in
21 employment for such employer shall be charged to his or her
22 reimbursement account and such employer shall be billed for and
23 shall be liable for the payment of the amount charged when billed
24 by the commissioner. Payments in lieu of contributions received
25 by the commissioner on behalf of each such employer shall be
26 credited to such employer's reimbursement account, and two or more
27 employers who are liable for payments in lieu of contributions may

1 jointly apply to the commissioner for establishment of a group
2 account for the purpose of sharing the cost of benefits paid that
3 are attributable to service in the employ of such employers. The
4 commissioner shall prescribe such rules and regulations as he or
5 she deems necessary with respect to applications for establishment,
6 maintenance, and termination of group accounts authorized by this
7 subdivision.

8 (2) All contributions paid by an employer shall be
9 credited to the experience account of such employer. State
10 unemployment insurance tax payments shall not be credited to
11 the experience account of each employer. Partial payments of
12 combined tax shall be credited so that at least eighty percent
13 of the combined tax payment excluding interest and penalty is
14 credited first to contributions due. In addition to contributions
15 credited to the experience account, each employer's account shall
16 be credited as of June 30 of each calendar year with interest
17 at a rate determined by the commissioner based on the average
18 annual interest rate paid by the Secretary of the Treasury of
19 the United States of America upon the state's account in the
20 Unemployment Trust Fund for the preceding calendar year multiplied
21 by the balance in his or her experience account at the beginning
22 of such calendar year. If the total credits as of such date to
23 all employers' experience accounts are equal to or greater than
24 ninety percent of the total amount in the Unemployment Compensation
25 Fund, no interest shall be credited for that year to any employer's
26 account. Contributions with respect to prior years which are
27 received on or before January 31 of any year shall be considered

1 as having been paid at the beginning of the calendar year. All
2 voluntary contributions which are received on or before March 10 of
3 any year shall be considered as having been paid at the beginning
4 of the calendar year.

5 (3) (a) Each experience account shall be charged only
6 for benefits based upon wages paid by such employer. No benefits
7 shall be charged to the experience account of any employer if (i)
8 such benefits were paid on the basis of a period of employment
9 from which the claimant (A) left work voluntarily without good
10 cause, (B) left work voluntarily due to a nonwork-connected illness
11 or injury, (C) left work voluntarily with good cause to escape
12 abuse as defined in section 42-903 between household members as
13 provided in subdivision (1) of section 48-628.01, (D) left work
14 from which he or she was discharged for misconduct connected with
15 his or her work, ~~or~~ (E) left work voluntarily and is entitled to
16 unemployment benefits without disqualification in accordance with
17 subdivision (3) or (5) of section 48-628.01, or (F) such benefits
18 were paid during a week when the claimant was participating in
19 an apprenticeship program established pursuant to section 302(c)(5)
20 of the federal Labor-Management Relations Act, 29 U.S.C. 2842, as
21 such section existed on January 1, 2007, and (ii) the employer
22 has filed timely notice of the facts on which such exemption is
23 claimed in accordance with rules and regulations prescribed by
24 the commissioner. No benefits shall be charged to the experience
25 account of any employer if such benefits were paid on the basis
26 of wages paid in the base period that are wages for insured work
27 solely by reason of subdivision (5) (b) of section 48-627.

1 (b) Each reimbursement account shall be charged only for
2 benefits paid that were based upon wages paid by such employer in
3 the base period that were wages for insured work solely by reason
4 of subdivision (5) of section 48-627.

5 (c) Benefits paid to an eligible individual shall be
6 charged against the account of his or her most recent employers
7 within his or her base period against whose accounts the maximum
8 charges hereunder have not previously been made in the inverse
9 chronological order in which the employment of such individual
10 occurred. The maximum amount so charged against the account of any
11 employer, other than an employer for which services in employment
12 as provided in subdivision (4)(a) of section 48-604 are performed,
13 shall not exceed the total benefit amount to which such individual
14 was entitled as set out in section 48-626 with respect to base
15 period wages of such individual paid by such employer plus one-half
16 the amount of extended benefits paid to such eligible individual
17 with respect to base period wages of such individual paid by
18 such employer. The commissioner shall by rules and regulations
19 prescribe the manner in which benefits shall be charged against
20 the account of several employers for whom an individual performed
21 employment during the same quarter or during the same base period.
22 Any benefit check duly issued and delivered or mailed to a claimant
23 and not presented for payment within one year from the date of its
24 issue may be invalidated and the amount thereof credited to the
25 Unemployment Compensation Fund, except that a substitute check may
26 be issued and charged to the fund on proper showing at any time
27 within the year next following. Any charge made to an employer's

1 account for any such invalidated check shall stand as originally
2 made.

3 (4) (a) An employer's experience account shall be deemed
4 to be terminated one calendar year after such employer has ceased
5 to be subject to the Employment Security Law, except that if the
6 commissioner finds that an employer's business is closed solely
7 because of the entrance of one or more of the owners, officers,
8 partners, or limited liability company members or the majority
9 stockholder into the armed forces of the United States, or of any
10 of its allies, after July 1, 1950, such employer's account shall
11 not be terminated and, if the business is resumed within two years
12 after the discharge or release from active duty in the armed forces
13 of such person or persons, the employer's experience account shall
14 be deemed to have been continuous throughout such period.

15 (b) An experience account terminated pursuant to this
16 subsection shall be reinstated if (i) the employer becomes subject
17 again to the Employment Security Law within one calendar year after
18 termination of such experience account and the employer makes a
19 written application for reinstatement of such experience account
20 to the commissioner within two calendar years after termination of
21 such experience account and (ii) the commissioner finds that the
22 employer is operating substantially the same business as prior to
23 the termination of such experience account.

24 (5) All money in the Unemployment Compensation Fund shall
25 be kept mingled and undivided. The payment of benefits to an
26 individual shall in no case be denied or withheld because the
27 experience account of any employer does not have a total of

1 contributions paid in excess of benefits charged to such experience
2 account.

3 (6) A contributory or reimbursable employer shall be
4 relieved of charges if the employer was previously charged for
5 wages and the same wages are being used a second time to establish
6 a new claim as a result of the October 1, 1988, change in the base
7 period.

8 Sec. 6. Original sections 48-602, 48-627, 48-628,
9 48-628.01, and 48-652, Revised Statutes Cumulative Supplement,
10 2006, are repealed.