

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1020

FINAL READING

Introduced by Lathrop, 12.

Read first time January 20, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Employment Security Law; to amend
2 sections 48-601, 48-602, 48-627, and 48-628, Revised
3 Statutes Cumulative Supplement, 2008, and section 48-652,
4 Revised Statutes Supplement, 2009; to redefine a term; to
5 change eligibility provisions for unemployment benefits;
6 to change provisions relating to disqualification for
7 unemployment benefits; to provide for extension of
8 unemployment benefits; to change provisions relating to
9 experience accounts; to harmonize provisions; to provide
10 an operative date; and to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-601, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 48-601 Sections 48-601 to 48-671 and section 5 of this
4 act shall be known and may be cited as the Employment Security Law.

5 Sec. 2. Section 48-602, Revised Statutes Cumulative
6 Supplement, 2008, is amended to read:

7 48-602 For purposes of the Employment Security Law,
8 unless the context otherwise requires:

9 (1) Base period means ~~the last four completed calendar~~
10 ~~quarters immediately preceding the first day of an individual's~~
11 ~~benefit year, except that the commissioner may prescribe by rule~~
12 ~~and regulation that base period means the first four of the last~~
13 ~~five completed calendar quarters immediately preceding the first~~
14 ~~day of an individual's benefit year, except that for benefit~~
15 ~~years beginning on or after July 1, 2011, if the individual is~~
16 ~~not monetarily eligible for unemployment benefits as determined~~
17 ~~pursuant to subdivision (5) of section 48-627 based upon wages paid~~
18 ~~during the first four of the five most recently completed calendar~~
19 ~~quarters, the department shall make a redetermination of monetary~~
20 ~~eligibility based upon an alternative base period which consists of~~
21 ~~the last four completed calendar quarters immediately preceding the~~
22 ~~first day of the claimant's benefit year;~~

23 (2) Benefits means the money payments payable to an
24 individual with respect to his or her unemployment;

25 (3) Benefit year, with respect to any individual, means

1 the one-year period beginning with the first day of the first week
2 with respect to which the individual first files a valid claim
3 for benefits, and thereafter the one-year period beginning with the
4 first day of the first week with respect to which the individual
5 next files a valid claim for benefits after the termination of his
6 or her last preceding benefit year. Any claim for benefits made in
7 accordance with section 48-629 shall be deemed to be a valid claim
8 for the purpose of this subdivision if the individual has been
9 paid the wages for insured work required under section 48-627. For
10 the purposes of this subdivision a week with respect to which an
11 individual files a valid claim shall be deemed to be in, within,
12 or during that benefit year which includes the greater part of such
13 week;

14 (4) Calendar quarter means the period of three
15 consecutive calendar months ending on March 31, June 30, September
16 30, or December 31, or the equivalent thereof as the Commissioner
17 of Labor may by rule and regulation prescribe;

18 (5) Client means any individual, partnership, limited
19 liability company, corporation, or other legally recognized entity
20 that contracts with a professional employer organization to obtain
21 professional employer services relating to worksite employees
22 through a professional employer agreement;

23 (6) Combined tax means the employer liability consisting
24 of contributions and the state unemployment insurance tax;

25 (7) Combined tax rate means the rate which is applied to

1 wages to determine the combined taxes due;

2 (8) Commissioner means the Commissioner of Labor;

3 (9) Contribution rate means the percentage of the
4 combined tax rate used to determine the contribution portion of
5 the combined tax;

6 (10) Contributions means that portion of the combined tax
7 based upon the contribution rate portion of the combined tax rate
8 which is deposited in the state Unemployment Compensation Fund as
9 required by sections 48-648 and 48-649;

10 (11) Department means the Department of Labor;

11 (12) Employment office means a free public employment
12 office or branch thereof, operated by this state or maintained as
13 a part of a state-controlled system of public employment offices,
14 including public employment offices operated by an agency of a
15 foreign government;

16 (13) Fund means the Unemployment Compensation Fund
17 established by section 48-617 to which all contributions and
18 payments in lieu of contributions required and from which all
19 benefits provided shall be paid;

20 (14) Hospital means an institution which has been
21 licensed, certified, or approved by the Department of Health and
22 Human Services as a hospital;

23 (15) Institution of higher education means an institution
24 which: (a) Admits as regular students only individuals having a
25 certificate of graduation from a high school or the recognized

1 equivalent of such a certificate; (b) is legally authorized in this
2 state to provide a program of education beyond high school; (c)
3 provides an educational program for which it awards a bachelor's
4 degree or higher or provides a program which is acceptable for
5 full credit toward such a degree, a program of postgraduate or
6 postdoctoral studies, or a program of training to prepare students
7 for gainful employment in a recognized occupation; and (d) is
8 a public or other nonprofit institution; notwithstanding any of
9 the foregoing provisions of this subdivision, all colleges and
10 universities in this state are institutions of higher education for
11 purposes of this section;

12 (16) Insured work means employment for employers;

13 (17) Leave of absence means any absence from work:

14 (a) Mutually and voluntarily agreed to by the employer and the
15 employee; (b) mutually and voluntarily agreed to between the
16 employer and the employee's bargaining agent; or (c) to which the
17 employee is entitled to as a matter of state or federal law;

18 (18) Paid vacation leave means a period of time while
19 employed or following separation from employment in which the
20 individual renders no services to the employer but is entitled to
21 receive vacation pay equal to or exceeding his or her base weekly
22 wage;

23 (19) Payments in lieu of contributions means the money
24 payments to the Unemployment Compensation Fund required by sections
25 48-649, 48-652, 48-660.01, and 48-661;

1 (20) Professional employer agreement means a written
2 professional employer services contract whereby:

3 (a) A professional employer organization agrees to
4 provide payroll services, employee benefit administration, or
5 personnel services for a majority of the employees providing
6 services to the client at a client worksite;

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

9 (c) Employer responsibilities for worksite employees,
10 including those of hiring, firing, and disciplining, are shared
11 between the professional employer organization and the client
12 by contract. The term professional employer agreement shall not
13 include a contract between a parent corporation, company, or other
14 entity and a wholly owned subsidiary;

15 (21) Professional employer organization means any
16 individual, partnership, limited liability company, corporation, or
17 other legally recognized entity that enters into a professional
18 employer agreement with a client or clients for a majority of a
19 client's workforce at a client worksite. The term professional
20 employer organization does not include an insurer as defined in
21 section 44-103 or a temporary help firm;

22 (22) State includes, in addition to the states of the
23 United States of America, any dependency of the United States, the
24 Commonwealth of Puerto Rico, the Virgin Islands, and the District
25 of Columbia;

1 (23) State unemployment insurance tax means that portion
2 of the combined tax which is based upon the state unemployment
3 insurance tax rate portion of the combined tax rate and which
4 is deposited in the State Unemployment Insurance Trust Fund as
5 required by sections 48-648 and 48-649;

6 (24) State unemployment insurance tax rate means the
7 percentage of the combined tax rate used to determine the state
8 unemployment insurance tax portion of the combined tax;

9 (25) Temporary employee means an employee of a temporary
10 help firm assigned to work for the clients of such temporary help
11 firm;

12 (26) Temporary help firm means a firm that hires
13 its own employees and assigns them to clients to support or
14 supplement the client's work force in work situations such as
15 employee absences, temporary skill shortages, seasonal workloads,
16 and special assignments and projects;

17 (27) Unemployed means an individual during any week in
18 which the individual performs no service and with respect to which
19 no wages are payable to the individual or any week of less than
20 full-time work if the wages payable with respect to such week are
21 less than the individual's weekly benefit amount, but does not
22 include any individual on a leave of absence or on paid vacation
23 leave. When an agreement between the employer and a bargaining unit
24 representative does not allocate vacation pay allowance or pay in
25 lieu of vacation to a specified period of time during a period of

1 temporary layoff or plant shutdown, the payment by the employer or
2 his or her designated representative will be deemed to be wages
3 as defined in this section in the week or weeks the vacation is
4 actually taken;

5 (28) Unemployment Trust Fund means the trust fund in the
6 Treasury of the United States of America established under section
7 904 of the federal Social Security Act, 42 U.S.C. 1104, as such
8 section existed on March 2, 2001, which receives credit from the
9 state Unemployment Compensation Fund;

10 (29) Wages, except with respect to services performed in
11 employment as provided in subdivisions (4)(c) and (d) of section
12 48-604, means all remuneration for personal services, including
13 commissions and bonuses, remuneration for personal services paid
14 under a contract of hire, and the cash value of all remunerations
15 in any medium other than cash. The reasonable cash value of
16 remuneration in any medium other than cash shall be estimated and
17 determined in accordance with rules and regulations prescribed by
18 the commissioner. After December 31, 1985, wages includes tips
19 which are received while performing services which constitute
20 employment and which are included in a written statement furnished
21 to the employer pursuant to section 6053(a) of the Internal Revenue
22 Code as defined in section 49-801.01.

23 With respect to services performed in employment in
24 agricultural labor as is provided in subdivision (4)(c) of section
25 48-604, wages means cash remuneration and the cash value of

1 commodities not intended for personal consumption by the worker
2 and his or her immediate family for such services. With respect
3 to services performed in employment in domestic service as is
4 provided in subdivision (4)(d) of section 48-604, wages means cash
5 remuneration for such services.

6 The term wages does not include:

7 (a) The amount of any payment, including any amount paid
8 by an employer for insurance or annuities or into a fund to
9 provide for such payment, made to, or on behalf of, an individual
10 in employment or any of his or her dependents under a plan
11 or system established by an employer which makes provision for
12 such individuals generally or for a class or classes of such
13 individuals, including any amount paid by an employer for insurance
14 or annuities or into a fund to provide for any such payment, on
15 account of (i) sickness or accident disability, except, in the case
16 of payments made to an employee or any of his or her dependents,
17 this subdivision (i) shall exclude from wages only payments which
18 are received under a workers' compensation law, (ii) medical and
19 hospitalization expenses in connection with sickness or accident
20 disability, or (iii) death;

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

25 (c) Any payment on account of sickness or accident

1 disability, or medical or hospitalization expenses in connection
2 with sickness or accident disability, made by an employer to, or
3 on behalf of, an individual after the expiration of six calendar
4 months following the last calendar month in which such individual
5 worked for such employer;

6 (d) Any payment made to, or on behalf of, an individual
7 or his or her beneficiary (i) from or to a trust described in
8 section 401(a) of the Internal Revenue Code as defined in section
9 49-801.01 which is exempt from tax under section 501(a) of the
10 Internal Revenue Code as defined in section 49-801.01 at the time
11 of such payment unless such payment is made to an employee of the
12 trust as remuneration for services rendered as such employee and
13 not as a beneficiary of the trust or (ii) under or to an annuity
14 plan which, at the time of such payment, meets the requirements
15 of section 401 of the Internal Revenue Code as defined in section
16 49-801.01;

17 (e) Any payment made to, or on behalf of, an employee
18 or his or her beneficiary (i) under a simplified employee pension
19 as defined by the commissioner, (ii) under or to an annuity
20 contract as defined by the commissioner, other than a payment
21 for the purchase of such contract which is made by reason of
22 a salary reduction agreement, whether evidenced by a written
23 instrument or otherwise, (iii) under or to an exempt governmental
24 deferred compensation plan as defined by the commissioner, (iv)
25 to supplement pension benefits under a plan or trust, as defined

1 by the commissioner, to take into account some portion or all of
2 the increase in the cost of living since retirement, but only if
3 such supplemental payments are under a plan which is treated as a
4 welfare plan, or (v) under a cafeteria benefits plan;

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

8 (g) Benefits paid under a supplemental unemployment
9 benefit plan which satisfies the eight points set forth in Internal
10 Revenue Service Revenue Ruling 56-249 as the ruling existed on
11 March 2, 2001, and is in compliance with the standards set forth in
12 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
13 rulings existed on March 2, 2001; and

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

18 (30) Week means such period of seven consecutive days as
19 the commissioner may by rule and regulation prescribe;

20 (31) Week of unemployment with respect to any individual
21 means any week during which he or she performs less than full-time
22 work and the wages payable to him or her with respect to such week
23 are less than his or her weekly benefit amount;

24 (32) Wholly owned subsidiary means a corporation,
25 company, or other entity which has eighty percent or more of

1 its outstanding voting stock or membership owned or controlled,
2 directly or indirectly, by the parent entity; and

3 (33) Worksite employee means a person receiving wages or
4 benefits from a professional employer organization pursuant to the
5 terms of a professional employer agreement for work performed at a
6 client's worksite.

7 Sec. 3. Section 48-627, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 48-627 An unemployed individual shall be eligible to
10 receive benefits with respect to any week, only if the Commissioner
11 of Labor finds:

12 (1) He or she has registered for work at, and thereafter
13 continued to report at, an employment office in accordance with
14 such rules and regulations as the commissioner may prescribe,
15 except that the commissioner may, by rule and regulation, waive or
16 alter either or both of the requirements of this subdivision as to
17 individuals attached to regular jobs and as to such other types of
18 cases or situations, with respect to which he or she finds that
19 compliance with such requirements, would be oppressive, or would
20 be inconsistent with the purposes of the Employment Security Law,
21 except that no such rule or regulation shall conflict with section
22 48-623;

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

25 (3) He or she is able to work and is available for

1 work. No individual, who is otherwise eligible, shall be deemed
2 ineligible, or unavailable for work, because he or she is on
3 vacation without pay during such week, if such vacation is not
4 the result of his or her own action as distinguished from any
5 collective action by a collective-bargaining agent or other action
6 beyond his or her individual control, and regardless of whether he
7 or she has not been notified of the vacation at the time of his or
8 her hiring. An individual who is otherwise eligible shall not be
9 deemed unavailable for work or failing to engage in an active work
10 search solely because such individual is seeking part-time work if
11 the majority of the weeks of work in an individual's base period
12 include part-time work. For purposes of this subdivision, seeking
13 only part-time work shall mean seeking less than full-time work
14 having comparable hours to the individual's part-time work in the
15 base period, except that the individual must be available for work
16 at least twenty hours per week. Receipt of a non-service-connected
17 total disability pension by a veteran at the age of sixty-five
18 or more shall not of itself bar the veteran from benefits as not
19 able to work. An otherwise eligible individual while engaged in a
20 training course approved for him or her by the commissioner shall
21 be considered available for work for the purposes of this section.
22 An inmate in a penal or custodial institution shall be considered
23 unavailable for work for purposes of this section;

24 (4) He or she has been unemployed for a waiting period
25 of one week. No week shall be counted as a week of unemployment

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

8 ~~(5) For any benefit year beginning on or before December~~
9 ~~31, 2005, he or she has, within his or her base period, been paid~~
10 ~~a total sum of wages for employment by employers equal to not less~~
11 ~~than one thousand six hundred dollars, of which sum at least eight~~
12 ~~hundred dollars has been paid in each of two quarters in his or her~~
13 ~~base period, and subsequent to filing the claim which establishes~~
14 ~~the previous benefit year, the individual has insured work in at~~
15 ~~least four weeks. (5)(a) For any benefit year beginning on or after~~
16 ~~January 1, 2006, he or she has, within his or her base period,~~
17 ~~been paid a total sum of wages for employment by employers equal to~~
18 ~~not less than two thousand five hundred dollars, of which sum at~~
19 ~~least eight hundred dollars has been paid in each of two quarters~~
20 ~~in his or her base period, and subsequent to filing the claim which~~
21 ~~establishes the previous benefit year, the individual has earned~~
22 ~~wages in insured work of at least six times his or her weekly~~
23 ~~benefit amount for the previous benefit year.~~

24 (b) For any benefit year beginning on or after July 1,
25 2011, he or she has (i) within his or her base period, been paid

1 a total sum of wages for employment by employers equal to not
2 less than three thousand seven hundred seventy dollars, of which
3 sum at least one thousand eight hundred fifty dollars has been
4 paid in one quarter in his or her base period and eight hundred
5 dollars has been paid in a second quarter of his or her base
6 period, and (ii) subsequent to filing the claim which establishes
7 the previous benefit year, earned wages in insured work of at
8 least six times his or her weekly benefit amount for the previous
9 benefit year. Commencing January 1, ~~2007,~~ 2012, and each January
10 1 thereafter, the amount which an individual is required to earn
11 within his or her base period shall be adjusted annually. The
12 adjusted amount shall be equal to the then current amount adjusted
13 by the cumulative percentage change in the Consumer Price Index
14 for All Urban Consumers published by the Federal Bureau of Labor
15 Statistics for the one-year period ending on the previous September
16 30.

17 (c) For the purposes of this subdivision (5), (i) for
18 the determination of monetary eligibility, wages paid within a
19 base period shall not include wages from any calendar quarter
20 previously used to establish a valid claim for benefits, (ii)
21 ~~(a)~~ wages shall be counted as wages for insured work for benefit
22 purposes with respect to any benefit year only if such benefit year
23 begins subsequent to the date on which the employer, by whom such
24 wages were paid, has satisfied the conditions of section 48-603
25 or subsection (3) of section 48-661, with respect to becoming

1 an employer, and ~~(b)~~ (iii) with respect to weeks of unemployment
2 beginning on or after January 1, 1978, wages for insured work for
3 benefit purposes with respect to any benefit year shall include
4 wages paid for services as defined by subdivision (4)(a), (b), (c),
5 or (d) of section 48-604 to the extent that such services were not
6 services in employment under subdivision (4)(a) of section 48-604
7 or section 48-661 immediately prior to September 2, 1977, even
8 though the employer by whom such wages were paid had not satisfied
9 the conditions of subdivision (8), (9), (10), or (11) of section
10 48-603 with respect to becoming an employer at the time such wages
11 were paid except to the extent that assistance under Title II of
12 the federal Emergency Jobs and Unemployment Assistance Act of 1974
13 was paid on the basis of such services; and

14 (6) He or she is participating in reemployment services
15 at no cost to such individual as directed by the commissioner,
16 such as job search assistance services, if the individual has been
17 determined to be likely to exhaust regular benefits and to need
18 reemployment services pursuant to a profiling system established
19 by rule and regulation of the commissioner which is in compliance
20 with section 303(j)(1) of the federal Social Security Act, unless
21 the commissioner determines that: (a) The individual has completed
22 such services; or (b) there is justifiable cause for the claimant's
23 failure to participate in such services.

24 Sec. 4. Section 48-628, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 48-628 An individual shall be disqualified for benefits:

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

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

21 (2) For the week in which he or she has been discharged
22 for misconduct connected with his or her work, if so found
23 by the commissioner, and for the ~~twelve~~ fourteen weeks which
24 immediately follow such week. If the commissioner finds that
25 such individual's misconduct was gross, flagrant, and willful,

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

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

24 (b) In determining whether or not any work is suitable
25 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, by reason of the
22 application of the provisions in subdivision (3) of this section
23 relating to failure to apply for or a refusal to accept suitable
24 work.

25 (e) No individual shall be disqualified for refusing

1 to apply for available, full-time work or accept full-time work
2 under subdivision (3)(a) of this section solely because such
3 individual is seeking part-time work if the majority of the weeks
4 of work in an individual's base period include part-time work. For
5 purposes of this subdivision, seeking only part-time work shall
6 mean seeking less than full-time work having comparable hours to
7 the individual's part-time work in the base period, except that the
8 individual must be available for work at least twenty hours per
9 week;

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

1 to be a separate factory, establishment, or other premises;

2 (5) For any week with respect to which he or she
3 is receiving or has received remuneration in the form of (a)
4 wages in lieu of notice, or a dismissal or separation allowance,
5 (b) compensation for temporary disability under the workers'
6 compensation law of any state or under a similar law of the
7 United States, (c) retirement or retired pay, pension, annuity,
8 or other similar periodic payment under a plan maintained or
9 contributed to by a base period or chargeable employer, or (d)
10 a gratuity or bonus from an employer, paid after termination of
11 employment, on account of prior length of service, or disability
12 not compensated under the workers' compensation law. Such payments
13 made in lump sums shall be prorated in an amount which is
14 reasonably attributable to such week. If the prorated remuneration
15 is less than the benefits which would otherwise be due, he or she
16 shall be entitled to receive for such week, if otherwise eligible,
17 benefits reduced by the amount of such remuneration. The prorated
18 remuneration shall be considered wages for the quarter to which it
19 is attributable. Military service-connected disability compensation
20 payable under 38 U.S.C. chapter 11 and primary insurance benefits
21 payable under Title II of the Social Security Act, as amended,
22 or similar payments under any act of Congress shall not be deemed
23 to be disqualifying or deductible from the benefit amount. No
24 deduction shall be made for the part of any retirement pension
25 which represents return of payments made by the individual. In the

1 case of a transfer by an individual or his or her employer of an
2 amount from one retirement plan to a second qualified retirement
3 plan under the Internal Revenue Code, the amount transferred shall
4 not be deemed to be received by the claimant until actually paid
5 from the second retirement plan to the claimant. No deduction shall
6 be made for any benefit received under a supplemental unemployment
7 benefit plan described in subdivision (29)(g) of section 48-602;

8 (6) For any week with respect to which or a part of which
9 he or she has received or is seeking unemployment benefits under an
10 unemployment compensation law of any other state or of the United
11 States, except that if the appropriate agency of such other state
12 or of the United States finally determines that he or she is not
13 entitled to such unemployment benefits, this disqualification shall
14 not apply;

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

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

25 (a) In an instructional, research, or principal

1 administrative capacity for an educational institution, if such
2 week commences during the period between two successive academic
3 years or terms, or when an agreement provides instead for a similar
4 period between two regular, but not successive, terms during such
5 period, if such individual performs such services in the first
6 of such academic years or terms and if there is a contract or
7 reasonable assurance that such individual will perform services in
8 any such capacity for any educational institution in the second of
9 such academic years or terms;

10 (b) In any other capacity for an educational institution,
11 if such week commences during a period between two successive
12 academic years or terms, if such individual performs such services
13 in the first of such academic years or terms, and if there is
14 a reasonable assurance that such individual will perform such
15 services in the second of such academic years or terms, except
16 that if benefits are denied to any individual for any week under
17 subdivision (8)(b) of this section and such individual was not
18 offered an opportunity to perform such services for the educational
19 institution for the second of such academic years or terms, such
20 individual shall be entitled to a retroactive payment of the
21 benefits for each week for which the individual filed a timely
22 claim for benefits and for which benefits were denied solely by
23 reason of subdivision (8)(b) of this section;

24 (c) In any capacity described in subdivision (8)(a) or
25 (b) of this section if such week commences during an established

1 and customary vacation period or holiday recess if such individual
2 performs such services in the period immediately before such
3 vacation period or holiday recess, and there is a reasonable
4 assurance that such individual will perform such services in
5 the period immediately following such vacation period or holiday
6 recess;

7 (d) In any capacity described in subdivision (8)(a) or
8 (b) of this section in an educational institution while in the
9 employ of an educational service agency, and such individual shall
10 be disqualified as specified in subdivisions (8)(a), (b), and (c)
11 of this section. As used in this subdivision, educational service
12 agency shall mean a governmental agency or governmental entity
13 which is established and operated exclusively for the purpose of
14 providing services to one or more educational institutions; and

15 (e) In any capacity described in subdivision (8)(a) or
16 (b) of this section in an educational institution if such services
17 are provided to or on behalf of the educational institution while
18 in the employ of an organization or entity described in section
19 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26
20 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified
21 as specified in subdivisions (8)(a), (b), and (c) of this section;

22 (9) For any week of unemployment benefits if
23 substantially all the services upon which such benefits are based
24 consist of participating in sports or athletic events or training
25 or preparing to so participate, if such week of unemployment begins

1 during the period between two successive sport seasons or similar
2 periods, if such individual performed such services in the first
3 of such seasons or similar periods, and if there is a reasonable
4 assurance that such individual will perform such services in the
5 later of such seasons or similar periods;

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

23 (11) Notwithstanding any other provisions of the
24 Employment Security Law, no otherwise eligible individual shall
25 be denied benefits for any week because he or she is in training

1 approved under section 236(a)(1) of the federal Trade Act of 1974,
2 19 U.S.C. 2296(a)(1), nor shall such individual be denied benefits
3 by reason of leaving work to enter such training, if the work left
4 is not suitable employment, or because of the application to any
5 such week in training of provisions of the Employment Security Law,
6 or any applicable federal unemployment compensation law, relating
7 to availability for work, active search for work, or refusal to
8 accept work. For purposes of this subdivision, suitable employment
9 shall mean, with respect to an individual, work of a substantially
10 equal or higher skill level than the individual's past adversely
11 affected employment, as defined for purposes of the federal Trade
12 Act of 1974, and wages for such work at not less than eighty
13 percent of the individual's average weekly wage as determined for
14 purposes of such act;

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

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

25 Sec. 5. (1) In addition to any other unemployment

1 benefits to which an individual is entitled under the Employment
2 Security Law, an individual who has exhausted all regular
3 unemployment benefits for which he or she has been determined
4 eligible shall continue to be eligible for up to twenty-six
5 additional weeks of unemployment benefits if such individual:

6 (a) (i) Was involuntarily separated from employment as a
7 result of a permanent reduction of operations at the individual's
8 place of employment or (ii) is unemployed as the result of a
9 separation from a declining occupation;

10 (b) Is enrolled and making satisfactory progress in a (i)
11 training program approved for him or her by the commissioner or
12 (ii) job training program authorized under the federal Workforce
13 Investment Act of 1998, as amended;

14 (c) Is receiving training which is preparing the
15 individual for entry into a high-demand occupation;

16 (d) Is enrolled in training no later than the end of the
17 benefit year established with respect to the separation that makes
18 the individual eligible for the training benefit. Individuals shall
19 be notified of the enrollment requirement at the time of their
20 initial determination of eligibility for regular benefits; and

21 (e) Is not receiving similar stipends or other training
22 allowances for nontraining costs. Similar stipend means an amount
23 provided under a program with similar aims, such as providing
24 training to increase employability, and in approximately the same
25 amounts.

1 (2) The amount of unemployment benefits payable to an
2 individual for a week of unemployment under this section shall
3 be equal to the amount of unemployment benefits which he or she
4 has been determined eligible for under section 48-624 less any
5 deductions or offsets authorized under the Employment Security Law.

6 (3) If an individual begins to receive unemployment
7 benefits under this section while enrolled in a training program
8 described in subsection (1) of this section during a benefit year,
9 such individual shall continue to receive such benefits so long as
10 he or she continues to make satisfactory progress in such training
11 program, except that such benefits shall not exceed twenty-six
12 times the individual's weekly benefit amount for the most recent
13 benefit year as determined under section 48-624.

14 (4) No benefits shall be payable under this section
15 until the individual has exhausted all (a) regular unemployment
16 benefits, (b) extended benefits as defined in subdivision (6) of
17 section 48-628.02, and (c) unemployment benefits paid entirely from
18 federal funds to which he or she is entitled, including, but not
19 limited to, trade readjustment assistance, emergency unemployment
20 compensation, or other similar federally funded unemployment
21 benefits.

22 (5) For purposes of this section, regular unemployment
23 benefits means all unemployment benefits for which an individual
24 is eligible payable under sections 48-624 to 48-626, extended
25 unemployment benefits payable under section 48-628.02, and any

1 unemployment benefits funded solely by the federal government.

2 Sec. 6. Section 48-652, Revised Statutes Supplement,
3 2009, is amended to read:

4 48-652 (1) (a) A separate experience account shall be
5 established for each employer who is liable for payment of
6 contributions. Whenever and wherever in the Employment Security
7 Law the terms reserve account or experience account are used,
8 unless the context clearly indicates otherwise, such terms shall be
9 deemed interchangeable and synonymous and reference to either of
10 such accounts shall refer to and also include the other.

11 (b) A separate reimbursement account shall be established
12 for each employer who is liable for payments in lieu of
13 contributions. All benefits paid with respect to service in
14 employment for such employer shall be charged to his or her
15 reimbursement account and such employer shall be billed for and
16 shall be liable for the payment of the amount charged when billed
17 by the commissioner. Payments in lieu of contributions received
18 by the commissioner on behalf of each such employer shall be
19 credited to such employer's reimbursement account, and two or more
20 employers who are liable for payments in lieu of contributions may
21 jointly apply to the commissioner for establishment of a group
22 account for the purpose of sharing the cost of benefits paid that
23 are attributable to service in the employ of such employers. The
24 commissioner shall prescribe such rules and regulations as he or
25 she deems necessary with respect to applications for establishment,

1 maintenance, and termination of group accounts authorized by this
2 subdivision.

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

1 beginning of the calendar year.

2 (3) (a) Each experience account shall be charged only for
3 benefits based upon wages paid by such employer. No benefits shall
4 be charged to the experience account of any employer if (i) such
5 benefits were paid on the basis of a period of employment from
6 which the claimant (A) left work voluntarily without good cause,
7 (B) left work voluntarily due to a nonwork-connected illness or
8 injury, (C) left work voluntarily with good cause to escape abuse
9 as defined in section 42-903 between household members as provided
10 in subdivision (1) of section 48-628.01, (D) left work from which
11 he or she was discharged for misconduct connected with his or her
12 work, ~~or~~ (E) left work voluntarily and is entitled to unemployment
13 benefits without disqualification in accordance with subdivision
14 (3) or (5) of section 48-628.01, or (F) was involuntarily separated
15 from employment and such benefits were paid pursuant to section
16 5 of this act, and (ii) the employer has filed timely notice of
17 the facts on which such exemption is claimed in accordance with
18 rules and regulations prescribed by the commissioner. No benefits
19 shall be charged to the experience account of any employer if such
20 benefits were paid on the basis of wages paid in the base period
21 that are wages for insured work solely by reason of subdivision
22 ~~(5)(b)~~ (5)(c)(iii) of section 48-627. No benefits shall be charged
23 to the experience account of any employer if such benefits were
24 paid during a week when the individual was participating in
25 training approved under section 236(a)(1) of the federal Trade Act

1 of 1974, 19 U.S.C. 2296(a) (1).

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

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

1 Unemployment Compensation Fund, except that a substitute check may
2 be issued and charged to the fund on proper showing at any time
3 within the year next following. Any charge made to an employer's
4 account for any such invalidated check shall stand as originally
5 made.

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

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

1 the termination of such experience account.

2 (5) All money in the Unemployment Compensation Fund shall
3 be kept mingled and undivided. The payment of benefits to an
4 individual shall in no case be denied or withheld because the
5 experience account of any employer does not have a total of
6 contributions paid in excess of benefits charged to such experience
7 account.

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

13 (7) If an individual's base period wage credits
14 represent part-time employment for a contributory employer and
15 the contributory employer continues to employ the individual to
16 the same extent as during the base period, then the contributory
17 employer's experience account shall not be charged if the
18 contributory employer has filed timely notice of the facts on which
19 such exemption is claimed in accordance with rules and regulations
20 prescribed by the commissioner.

21 Sec. 7. This act becomes operative on July 1, 2011.

22 Sec. 8. Original sections 48-601, 48-602, 48-627, and
23 48-628, Revised Statutes Cumulative Supplement, 2008, and section
24 48-652, Revised Statutes Supplement, 2009, are repealed.