



SOUTH DAKOTA DEPARTMENT OF LABOR
PAMELA S. ROBERTS, SECRETARY

March 19, 2009

Cheryl Atkinson, Administrator
U.S. Department of Labor
Office of Workforce Security
200 Constitution Avenue NW, Room S-4231
Washington, DC 20210

Dear Ms. Atkinson:

Please consider this the South Dakota request for an incentive payment of \$5,882,545. This represents 1/3 of the Unemployment Insurance Modernization funds available under Public Law 111-5.

This application is based on the enactment of South Dakota House Bill 1176, which was signed by Governor Michael M. Rounds on March 13, 2009. This legislation creates an alternative base period.

Please also consider this request to be my certification that:

- The alternative base period legislation is effective July 1, 2009 and will apply to claims effective after that date, and
- The legislation is permanent and not subject to discontinuation other than repeal by the legislature.
- The application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

We will use the incentive funds to pay benefits to workers who establish eligibility by using the new alternative base period.

A copy of HB 1176 is enclosed.

Thank you for your assistance in this matter.

Sincerely,

Pamela S. Roberts
Secretary

AN ACT

ENTITLED, An Act to revise the earnings requirement for the purpose of receiving unemployment insurance benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 61-1-1 be amended to read as follows:

61-1-1. Terms used in this title mean:

- (1) "Annual payroll," the total amount of taxable wages paid by an employer during a calendar year for employment;
- (2) "Base period," the first four out of the last five completed calendar quarters immediately preceding an individual's benefit year. For an individual who fails to meet the qualifications of § 61-6-7 due to the receipt of temporary total disability payments under worker's compensation, the base period is the first four of the last five completed quarters preceding the disability if a claim for unemployment benefits is filed within twenty-four months of the date on which the individual's disability was incurred. For an individual who fails to meet the minimum requirements of § 61-6-7 due to insufficient wages, the base period is the four completed calendar quarters immediately preceding the individual's benefit year. However, no calendar quarter used in one base period of a valid claim may be used in a subsequent base period;
- (3) "Benefit year," the one-year period beginning with the day on which a claimant files a valid new claim for benefits, or the one-year period beginning with the day on which a claimant files a valid new claim after the termination of his last preceding benefit year;
- (4) "Benefits," the money payments payable to an unemployed individual, as provided in this title;
- (5) "Calendar quarter," the period of three consecutive calendar months ending on March

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- thirty-first, June thirtieth, September thirtieth, or December thirty-first;
- (6) "Contributions," the money payments to the state unemployment compensation fund required by this title;
 - (7) "Department," the Department of Labor created by chapter 1-37;
 - (8) "Educational service agency," a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions;
 - (9) "Employment office," a free public employment office, or branch thereof, operated by this state or maintained as part of a state or federal controlled system of public employment offices;
 - (10) "Employment security administration fund," the employment security administration fund established by this title;
 - (11) "Extended benefits," the benefits that are provided in §§ 61-6-29 to 61-6-35, inclusive;
 - (12) "Fund," the unemployment compensation fund established by this title;
 - (13) "Hospital," an institution which has been licensed, certified or approved by the State Department of Health as a hospital;
 - (14) "Institution of higher education," an educational institution which:
 - (a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; and
 - (b) Is legally authorized in this state to provide a program of education beyond high school; and
 - (c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, provides an educational program of postgraduate or postdoctoral studies, or

provides an educational program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are "institutions of higher education";

- (15) "Insured work," employment for employers as defined in §§ 61-1-4 to 61-1-31, inclusive;
- (16) "State," a state of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands;
- (17) "Wages," all remuneration paid for services, including commissions and bonuses. The term does not include remuneration described by §§ 61-1-32 to 61-1-35, inclusive. The term includes tips and other remuneration upon which a tax is imposed by the Federal Unemployment Tax Act and the reasonable cash value of remuneration paid in any medium other than cash determined in accordance with rules promulgated pursuant to chapter 1-26 by the secretary of labor;
- (18) "Week," the period or periods of seven consecutive calendar days ending at midnight. The secretary of labor may promulgate rules pursuant to chapter 1-26 to prescribe that a week is in, within or during that benefit year which includes the greater part. For the purpose of § 61-1-4, if a week includes both December thirty-first and January first, the days of that week up to January first shall be considered one calendar week and the days beginning January first another week;
- (19) "Weekly benefit amount," the amount of benefits an individual is entitled to receive for one week of total unemployment. An individual's weekly benefit amount determined for the first week of his benefit year shall constitute his weekly benefit amount throughout the benefit year.

An Act to revise the earnings requirement for the purpose of receiving unemployment insurance benefits.

I certify that the attached Act originated in the

HOUSE as Bill No. 1176

Karen Gerdes
Chief Clerk

[Signature]
Speaker of the House

Attest:

Karen Gerdes
Chief Clerk

Dawn Bergeson
President of the Senate

Attest:

Trudy Evenstad
Secretary of the Senate

House Bill No. 1176
File No. _____
Chapter No. _____

Received at this Executive Office this 12th day of March, 2009 at 12:26 P.M.

By [Signature]
for the Governor

The attached Act is hereby approved this 13th day of March, A.D., 2009

[Signature]
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed March 13, 2009
at 11:30 o'clock A.M.

[Signature]
Secretary of State

By _____
Asst. Secretary of State