

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Department of Employment Services

RECEIVED  
5/11/09

ADRIAN M. FENTY  
MAYOR



JOSEPH P. WALSH  
ACTING DIRECTOR

MAY - 4 2009

Ms. Cheryl Atkinson  
U. S. Department of Labor  
Office of Workforce Security  
200 Constitution Avenue, N.W., Room S-4231  
Washington, D.C. 20210

Re: Application for UI Modernization Incentive Funds – Alternative Based Period Provision

Dear Ms. Atkinson:

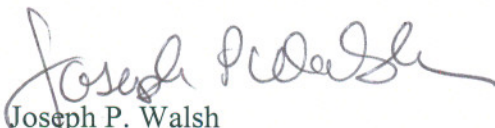
The District of Columbia submits this application and requests certification that we are in compliance with section 2003(a) of Public Law 111.5 that grants a one-third share of the UI modernization incentive funds.

Pursuant to District law we certify that we provide an alternative base period when claimants cannot qualify monetarily for benefits using the base period that excludes the most recent quarter. D.C. Code 51.101(6). Furthermore, this provision does not expire and can only be repealed by the District of Columbia Council.

The District plans to use the funds to pay for unemployment benefits and administrative costs. The District intends to submit a separate application for the additional two-thirds at a later date.

Should you have additional questions in this regard, please do not hesitate to contact me at (202) 671-1900 or have your staff contact Ms. Valerie Kitchings, Interim Associate Director, Office of Unemployment Compensation at (202) 698-5063.

Sincerely,

  
Joseph P. Walsh  
Acting Director

Attachment

Title 51. Social Security. (Refs & Annos)

Chapter 1. Unemployment Compensation. (Refs & Annos)

Subchapter I. GENERAL.

Part A. Administration of the District Unemployment Fund.

◆§ 51-101. Definitions.

As used in this subchapter, unless the context indicates otherwise:

(1) The term "employer" means every individual and type of organization for whom services are performed in employment.

(2)(A) "Employment" means:

(i) Any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1971, including service in interstate commerce, by:

(I) Any officer of a corporation; or

(II) Any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(III) Any individual other than an individual who is an employee under sub-subparagraph (i)(I) or (i)(II) of this subparagraph who performs services for remuneration for any person:

a. As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his principal;

b. As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations; provided, that for purposes of sub-subparagraph (i)(III) of this subparagraph, the term "employment" shall include services described in a. and b. above performed after December 31, 1971, only if:

1. The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

2. The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

3. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(ii)(I) Service performed after December 31, 1971, by an individual in the employ of the District or any of its instrumentalities (or in the employ of the District and 1 or more states or their instrumentalities) for a hospital or institution of higher education; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act (26 U.S.C. §§ 3301 to 3311) solely by reason of § 3306(c)(7) of that Act (26 U.S.C. § 3306(c)(7)) and is not excluded from "employment" under paragraph (2)(A)(iv) of this section;

(II) Service performed after December 31, 1977, in the employ of the District or any of its instrumentalities, or in any instrumentality of the District and 1 or more states or political subdivisions; provided, that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act (26 U.S.C. §§ 3301 to 3311) by § 3306(c)(7)(26 U.S.C. § 3306(c)(7)) of that Act and is not excluded from "employment" under paragraph (2)(A)(iv) of this section.

(iii) Service performed after March 30, 1962, by an individual in the employ of an educational organization, and service performed after December 31, 1971, by an individual in the employ of a religious, charitable, or other organization which is excluded from the term "employment" as defined in the Federal Unemployment Tax Act (26 U.S.C. §§ 3301 to 3311) solely by reason of § 3306(c)(8) of that Act (26 U.S.C. § 3306(c)(8)), except as provided in paragraph (2)(A)(iv);

(iv) For the purposes of sub-subparagraphs (ii) and (iii) of this subparagraph the term "employment" does not apply to service performed after December 31, 1971:

(I) In the employ of:

a. A church or convention or association of churches; or

b. An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(II) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(III) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(IV) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(V) Prior to January 1, 1978, for a hospital in a prison or other correctional institution of the District by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(v) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada, and except in the Virgin Islands until and including December 31st of the year in which the Secretary of Labor approves for the first time an unemployment insurance law of the Virgin Islands submitted to him for approval) after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of

paragraph (2)(B) of this section or the parallel provisions of another state's law), if:

(I) The employer's principal place of business in the United States is located in the District; or

(II) The employer has no place of business in the United States; but

a. The employer is an individual who is a resident of the District; or

b. The employer is a corporation which is organized under the laws of the District or the laws of the United States; or

c. The employer is a partnership or a trust and the number of the partners or trustees who are residents of the District is greater than the number who are residents of any one other state; or

(III) None of the criteria of sub-sub-paragraphs (I) and (II) of this sub-paragraph are met but the employer has elected coverage in the District or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of the District.

(IV) An "American employer", for purposes of this sub-subparagraph, means a person who is:

a. An individual who is a resident of the United States; or

b. A partnership, if two-thirds or more of the partners are residents of the United States; or

c. A trust, if all of the trustees are residents of the United States; or

d. A corporation organized under the laws of the United States or of any state.

(V) As used in this sub-subparagraph the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands as provided in paragraph (2)(A)(v) of this section.

(vi) The term "employment" shall include personal or domestic service in a private home for an employer who paid cash remuneration of \$500 or more in any calendar quarter. "Personal or domestic service" for the purpose of this sub-subparagraph shall include all persons employed by an employer in his capacity as a householder, as distinguished from a person employed by the employer in the pursuit of a trade, occupation, profession, enterprise, or vocation. After December 31, 1977, the term "employment" shall also include personal and domestic service in a local college club or a college fraternity or sorority for an employer who paid cash remuneration of \$500 or more in any calendar quarter in the current or preceding calendar year to individuals employed in such domestic service.

(B)(i) The term "employment" shall include an individual's entire service, performed within, both within and without or entirely without the District if:

(I) The service is localized in the District; or

(II) The service is not localized in any state but some of the service is performed in the District and:

a. The individual's base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in the District; or

b. The individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in the District;

(III) The service is performed anywhere within the United States, the Virgin Islands, or Canada; provided, that:

a. Such service is not covered under the unemployment compensation law of any state, the Virgin Islands, or Canada; and

b. The place from which the service is directed or controlled is in the District.

(ii) Service shall be deemed to be localized within a state if:

(I) The service is performed entirely within such state; or

(II) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(C) Services covered by an arrangement pursuant to § 51-116 between the Director and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employer are deemed to be performed entirely within the District, shall be deemed to be employment if the Director has approved an election of the employer for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be employment for an employer.

(D) Notwithstanding any other provisions of this subsection, the term "employment" shall also include all service performed after January 1, 1955, by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft; provided, that the operating office from which the operations of such vessel or aircraft are ordinarily and regularly supervised, managed, directed, and controlled, is within the District.

(E) The term "employment" shall not include:

(i) Service performed by an individual under 18 years of age as a babysitter;

(ii) Casual labor not in the course of the employer's trade or business;

(iii) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(iv) Service performed in the employ of the United States government or of an instrumentality of the United States which is:

(I) Wholly owned by the United States; or

(II) Exempt from the tax imposed by § 1600 of the Internal Revenue Code of the United States (Title 26, U.S.C.) or by virtue of any other provision of law; provided, that, in the event that the Congress of the United States, on or before the date of the enactment of the chapter, has permitted or in the event that the Congress of the United States shall permit states to require any instrumentalities of the United States to make contributions to an unemployment fund under a state unemployment compensation law, then, to the extent so permitted by Congress, and from and after

the date as of which such permission becomes effective, or January 1, 1940, whichever is the later, all of the provisions of this subchapter shall be applicable to such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employees, individuals, and services; provided further, that if the District of Columbia should not be certified by the Federal Security Agency under § 1603 of the Internal Revenue Code (Title 26, U.S.C.) for any year, the payments required of any instrumentality of the United States or its employees with respect to such year shall be refunded by the Director in accordance with the provisions of § 51-104(i); provided, however, that any employer required to make retroactive payment of any contributions shall be given 30 days from October 17, 1940, within which to make such retroactive payments without incurring any penalty for the late payment of such contributions and all interest charges shall commence 1 month from October 17, 1940;

(v) Service performed in the employ of a Senator, Representative, Delegate, or Resident Commissioner, insofar as such service directly assists him in carrying out his legislative duties;

(vi) Service with respect to which unemployment compensation is payable under any other unemployment compensation system established by an act of Congress;

(vii) Service performed in any calendar quarter in the employ of any organization exempt from income tax under § 101 of the Internal Revenue Code of the United States (Title 26, U.S.C.), if:

(I) The remuneration for such service does not exceed \$50; or

(II) Such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(viii) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(ix) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(I) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(II) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(x) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to state law;

(xi) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(xii) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(xiii) Service covered by an arrangement between the Director and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by such employer's duly approved election are deemed to be performed entirely within such agency's state;

(xiv) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an individual if he performed service on and in connection with such vessel or aircraft when outside the United States;

(xv) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except:

(I) Service performed in connection with the catching or taking of salmon or halibut, for commercial purposes; and

(II) Service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(xvi) Service performed in the employ of a Senator, Representative, Delegate, Resident Commissioner or any organization composed solely of a group of the foregoing, insofar as such service is in connection with political matters;

(xvii) Service performed after April 1, 1962, in the employ of a public international organization designated by the President as entitled to enjoy the privileges, exemptions, and immunities provided under the International Organizations Immunities Act (22 U.S.C. §§ 288 to 288f-3);

(xviii) Service performed by a prisoner employed in the District of Columbia's prison industries program, unless the prisoner is employed in a prison industry approved under the Bureau of Justice Assistance Private Sector Prison Industry Enhancement Certification Program as defined in § 24-231.01(1); or

(xix) Service performed by the Mayor, a member of the Council of the District of Columbia, or a member of the District of Columbia Board of Education.

(F) If the services performed during one-half or more of any pay period by an individual in employment for the person employing him constitute employment, all the services of such individual in employment for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual in employment for the person employing him do not constitute employment, then none of the services of such individual in employment for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than 31 consecutive days) for which a payment of remuneration is ordinarily made to the individual in employment by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an individual in employment for the person employing him, where any of such service is excepted by paragraph (2)(E)(vi) of this section.

(G) Notwithstanding any of the provisions of paragraph (2)(E) of this section, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment

Tax Act (26 U.S.C. §§ 3301 to 3311) is required to be covered under this subchapter.

(H)(i) Any localized service performed for an employing unit, which is excluded under the definition of employment in paragraph (2) of this section and with respect to which no payments are required under the employment security law of another state or of the federal government may be deemed to constitute employment for all purposes of this subchapter; provided, that the Director has approved a written election to that effect filed by the employing unit for which the service is performed, as of the date stated in such approval. No election shall be approved by the Director unless it:

(I) Includes all the service of the type specified in each establishment or place of business for which the election is made; and

(II) Is made for not less than 2 calendar years.

(ii) Any service which, because of an election by an employing unit under paragraph (2)(H)(i) of this section, is employment subject to this subchapter shall cease to be employment subject to the subchapter as of January first of any calendar year subsequent to the 2 calendar years of the election, only if not later than March 15th of such year, either such employing unit has filed with the Director a written notice to that effect, or the Director on his own motion has given notice of termination of such coverage.

(3) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employer shall be treated as wages received from his employer. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with the regulations prescribed by the Council of the District of Columbia, except that such term "wages" shall not include:

(A) The amount of any payment with respect to services performed on and after the effective date of this subchapter, made to, or on behalf of, an individual in its employ under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of:

(i) Retirement; or

(ii) Sickness or accident disability; or

(iii) Medical and hospitalization, expenses in connection with sickness or accident disability; or

(iv) Death, provided such individual:

(I) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contribution to premiums) paid by his employer; and

(II) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(B) The payment by an employer (without deduction from the remuneration of the



individual in employment) of the tax imposed upon an individual in its employ under § 1400 of the Internal Revenue Code (Title 26, U.S.C.); or

(C) With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this paragraph, the term "previously uncovered services" means services which were not employment as defined in paragraph (2)(A) of this section and were not services covered pursuant to paragraph (2)(H) of this section at any time during the 1-year period ending December 31, 1975, and which were newly covered services as mandated by the Unemployment Compensation Amendments of 1976 (Pub. L. 94-566; 90 Stat. 2667), except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567; 88 Stat. 1850), was paid on the basis of such services.

(4) "Earnings" means all remuneration payable for personal services, including wages, commissions, and bonuses, and the cash value of all remuneration payable in any medium other than cash whether received from employment, self-employment, or any other work. After August 29, 1946, back pay awarded under any statute of the District or of the United States shall be treated as earnings. Gratuities received by an individual in the course of his work shall be treated as earnings. The reasonable cash value of any remuneration payable in any medium other than cash, and a reasonable amount of gratuities shall be estimated and determined in accordance with the regulations prescribed by the Board.

(5) An individual shall be deemed "unemployed" with respect to any week during which he performs no service and with respect to which no earnings are payable to him or with respect to any week of less than full-time work if 80% of the earnings payable to him with respect to such week are less than his weekly benefit amount plus \$20.

(6) "Base period" means:

(A) The first 4 out of the last 5 completed calendar quarters immediately preceding the first day of the individual's benefit year; or

(B) Alternatively, for benefit years effective on or after the applicability date of this chapter, for any individual who does not have sufficient wages in the base period as described above, the last 4 completed calendar quarters immediately preceding the first day of the individual's benefit year, if such period qualifies the individual for benefits under § 51-107(c). Wages that fall within the base period of claims established under this paragraph are not available for reuse in qualifying for any subsequent benefit years.

(7) The term "benefits" means the money payments to an individual, as provided in this subchapter, with respect to his unemployment including any dependent's allowance paid under the provisions of § 51-108.

(8) "Benefit year" with respect to any individual means the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52- consecutive-week period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with § 51-111 shall be deemed to be "valid claim" for the purposes of this subsection if the individual has during his base period been paid wages for employment by employers as required by the provisions of § 51-107.

(9) The term "computation date" means the 30th day of June of each year as of which rates of contributions are determined for the next following calendar year, except that the first computation date under the provisions of this subchapter shall be the last day of the third calendar quarter immediately preceding the effective date of this subchapter, as of which rates of contribution, commencing with the effective date of this subchapter, are

determined for the remainder of that calendar year.

(10) The term "Board" means the District of Columbia Unemployment Compensation Board established by § 51-115.

(11) "Calendar quarter" means the period of 3 consecutive months ending on March 31st, June 30th, September 30th, or December 31st, or the equivalent thereof as the Council of the District of Columbia may by regulation prescribe.

(12) The term "District" means the District of Columbia.

(13) "Employment office" means a free public employment office or branch thereof operated by this or any other state as a part of a state-controlled system of public employment offices or by a federal agency or any agency of a foreign government charged with the administration of an unemployment insurance program or free public employment offices.

(14) The term "month" means calendar month; except as the Council of the District of Columbia may otherwise prescribe.

(15) The term "week" means the calendar week or such period of 7 consecutive days as the Council of the District of Columbia may by regulation prescribe.

(16) "Fund" means the District Unemployment Fund established by § 51-102, to which all contributions required and from which all benefits provided under this subchapter shall be paid.

(17) "State" includes, in addition to the states of the United States of America, the District of Columbia (herein referred to as the "District"), the Commonwealth of Puerto Rico, and the Virgin Islands.

(18) "Employing unit" means any individual or type of organization, including the District government and its instrumentalities (as specified in paragraph (2)(A)(ii) of this section, any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has, or subsequent to January 1, 1936, had, in its employ 1 or more individuals performing services for it within the District.

(19) The phrase "dependent relative" means a spouse, mother, father, stepmother, stepfather, brother, or sister, who, because of age or physical disability, is unable to work, or a child under 16 years of age, or a child who is unable to work because of physical disability, who is wholly or mainly supported by the individual receiving the benefit. For the purposes of this paragraph the term "child" shall mean any son, daughter, stepson, or stepdaughter, regardless of age, whom the claimant is morally obligated to support.

(20) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for 1 or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state; and the term "American aircraft" means an aircraft registered under the laws of the United States.

(21) The term "principal base period employer" means the employer that paid a claimant the greatest amount of wages used in the computation of his claim. In the event 2 or more employers paid the claimant identical amounts, the employer in such group for whom the claimant most recently worked shall be the principal base period employer.

(22) The term "insured work" means employment for employers.

(23) "Institution of higher education," for the purposes of this section, means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or recognized equivalent of such a certificate;

(B) Is legally authorized in the District to provide a program of education beyond high school;

(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, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and all colleges and universities in the District are institutions of higher education for purposes of this section;

(D) Is a public or other nonprofit institution.

(24) "Hospital" means an institution which has been licensed by the Mayor of the District as a hospital.

(25) The term "Director" means the Director, Department of Employment Services, established by Reorganization Plan No. 1 of 1980.

(26) The term "most recent work" as used in § 51-110(a) and (b) shall mean the employer for whom the individual last performed 30 work days of "employment" as defined in paragraph (2)(B) of this section; provided, however, that should the individual subsequently perform services in "employment" on a less than 30 hour per week basis and then become "unemployed" as defined in paragraph (5) of this section, the subsequent employer shall be considered the "most recent work" if the individual has earned remuneration in its employ of at least 5 times his weekly benefit amount.

#### CREDIT(S)

(Aug. 28, 1935, 49 Stat. 946, ch. 794, § 1; Feb. 13, 1936, 49 Stat. 1138, ch. 68; June 23, 1936, 49 Stat. 1888, ch. 726, § 9; June 25, 1938, 52 Stat. 1112, ch. 680, § 14(a); Apr. 22, 1940, 54 Stat. 149, ch. 127, § 1; July 2, 1940, 54 Stat. 730, ch. 524, § 1; Oct. 17, 1940, 54 Stat. 1204, ch. 898, title I, § 1; June 4, 1943, 57 Stat. 100, ch. 117; Aug. 31, 1954, 68 Stat. 988, ch. 1139, § 1; July 25, 1956, 70 Stat. 643, ch. 724, § 1; July 25, 1958, 72 Stat. 417, Pub. L. 85-557, § 1; Mar. 30, 1962, 76 Stat. 46, Pub. L. 87-424, §§ 1, 2; Oct. 1, 1969, 83 Stat. 130, Pub. L. 91-80, § 1; Dec. 22, 1971, 85 Stat. 756, Pub. L. 92-211, § 2(1)-(13); Mar. 3, 1979, D.C. Law 2-129, § 2(a)-(g), 25 DCR 2451; Apr. 30, 1988, D.C. Law 7-104, § 40, 35 DCR 147; Mar. 27, 1993, D.C. Law 9-260, § 101, 40 DCR 1007; Sept. 24, 1993, D.C. Law 10-15 §§ 101, 201, 40 DCR 5420; Feb. 5, 1994, D.C. Law 10-68, § 40(a), 40 DCR 6311; May 16, 1995, D.C. Law 10-255, § 39(a), 41 DCR 5193; May 8, 1996, D.C. Law 11-117, § 18(c), 43 DCR 1179; Mar. 20, 1998, D.C. Law 12-60, § 1201, 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-264, § 56, 46 DCR 2118; Oct. 1, 2002, D.C. Law 14-190, § 2302(a), 49 DCR 6968.)

#### HISTORICAL AND STATUTORY NOTES

##### Prior Codifications

1981 Ed., § 46-101.

1973 Ed., § 46-301.

## Effect of Amendments

D.C. Law 14-190 rewrote par. (6) which had read as follows:

"(6) 'Base period' means the first 4 out of the last 5 completed calendar quarters immediately preceding the first day of the individual's benefit year."

## Temporary Amendments of Section

Section 1201 of D.C. Law 12-59 added (2)(E)(xix).

Section 2001(b) of D.C. Law 12-59 provided that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 14-75, in par. (5), inserted a new sentence at the end to read as follows: "For benefit weeks in claims commencing on or after September 9, 2001, through March 9, 2002, an individual shall be deemed "unemployed" with respect to any week during which the individual performs no service and with respect to which no earnings are payable to the individual or with respect to any week of less than full time work if 80% of the earnings payable to the individual with respect to such week are less than the individual's weekly benefit amount plus \$40."

Section 5 of D.C. Law 14-75 provided that the act shall apply as of Sept. 9, 2001.

Section 6(b) of D.C. Law 14-75 provides that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 14-171 added a new sentence at the end of subsec. (5) to read as follows:

"For benefit weeks in claims commencing on or after September 9, 2001, through March 9, 2002, an individual shall be deemed 'unemployed' with respect to any week during which the individual performs no service and with respect to which no earnings are payable to the individual or with respect to any week of less than full time work if 80% of the earnings payable to the individual with respect to such week are less than the individual's weekly benefit amount plus \$40."

Section 5(b) of D.C. Law 14-171 provides that the act shall expire after 225 days of its having taken effect.

## Emergency Act Amendments

For temporary amendment of section, see § 1201 of the Fiscal Year 1998 Revised Budget Support Emergency Act of 1997 (D.C. Act 12-152, October 17, 1997, 44 DCR 6196), and see § 1201 of the Fiscal Year 1998 Revised Budget Support Congressional Review Emergency Act of 1997 (D.C. Act 12-239, January 13, 1998, 45 DCR 508).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Terrorist Response Emergency Amendment Act of 2001 (D.C. Act 14- 157, October 25, 2001, 48 DCR 10219).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Terrorist Response Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-215, December 21, 2001, 49 DCR 382).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Terrorist Response Emergency Amendment Act of 2002 (D.C. Act 14- 346, April 24, 2002, 49

DCR 4407).

For temporary (90 day) amendment of section, see §§ 2202(a) and 2204 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

#### Legislative History of Laws

Law 2-129, the "District of Columbia Unemployment Compensation Act Amendments of 1978," was introduced in Council and assigned Bill No. 2-209, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first, amended first, second amended first, and second readings on April 18, 1978, June 27, 1978, July 11, 1978, and July 25, 1978, respectively. Signed by the Mayor on August 30, 1978, it was assigned Act No. 2-267 and transmitted to both Houses of Congress for its review.

Law 7-104, the "Technical Amendments Act of 1987" was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Law 9-260, the "District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-729. The Bill was adopted on first and second readings on December 15, 1992, and January 5, 1993, respectively. Signed by the Mayor on January 25, 1993, it was assigned Act No. 9-408 and transmitted to both Houses of Congress for its review. D.C. Law 9-260 became effective on March 27, 1993.

D.C. Law 10-15, the "D.C. Unemployment Compensation Comprehensive Improvements Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-52, which was referred to the Committee on Labor. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 13, 1993, it was assigned Act No. 10-44 and transmitted to both Houses of Congress for its review. D.C. Law 10-15 became effective on September 24, 1993.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

Law 11-117, the "Prison Industries Act of 1996," was introduced in Council and assigned Bill No. 11-151, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on January 4, 1996, and February 6, 1996, respectively. Signed by the Mayor on February 26, 1996, it was assigned Act No. 11-221 and transmitted to both Houses of Congress for its review. D.C. Law became effective on May 8, 1996.

Law 12-59, the "Fiscal Year 1998 Revised Budget Support Temporary Act of 1997," was introduced in Council and assigned Bill No. 12-350. The Bill was adopted on first and second readings on September 8, 1997, and September 22, 1997, respectively. Signed by the Mayor on October 24, 1997, it was assigned Act No. 12-190 and transmitted to both Houses of Congress for its review. D.C. Law 12-59 became effective on March 20, 1998.

Law 12-60, the "Fiscal Year 1998 Revised Budget Support Act of 1998," was introduced in Council and assigned Bill No. 12-353, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on September 8, 1997, and October 7, 1997, respectively. Signed by the Mayor on October 24, 1997, it was assigned Act No. 12-191 and transmitted to both Houses of Congress for its review. D.C. Law 12-60 became effective on March 20, 1998.

Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Law 14-75, the "Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001", was introduced in Council and assigned Bill No. 14- 383, which was retained by council. The Bill was adopted on first and second readings on October 16, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-195 and transmitted to both Houses of Congress for its review. D.C. Law 14-75 became effective on March 6, 2002.

Law 14-171, the "Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-619, which was retained by Council. The Bill was adopted on first and second readings on April 9, 2002, and May 7, 2002, respectively. Signed by the Mayor on May 20, 2002, it was assigned Act No. 14-364 and transmitted to both Houses of Congress for its review. D.C. Law 14-171 became effective on July 23, 2002.

Law 14-190, the "Fiscal Year 2003 Budget Support Act of 2002", was introduced in Council and assigned Bill No. 14-609, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 7, 2002, and June 4, 2002, respectively. Signed by the Mayor on July 3, 2002, it was assigned Act No. 14-403 and transmitted to both Houses of Congress for its review. D.C. Law 14-190 became effective on October 1, 2002.

#### References in Text

Section 101 of the Internal Revenue Code of the United States, referred to in paragraph (2)(E)(vii), § 1400 of the Internal Revenue Code, referred to in paragraph (3)(B), § 1600 of the Internal Revenue Code of the United States (26 U.S.C.), referred to in paragraph (2)(E)(iv)(II), and § 1603 of the Internal Revenue Code (26 U.S.C.), referred to in paragraph (2)(E)(iv)(II), are references to §§ 101, 1400, 1600, and 1603, respectively, of the Internal Revenue Code, 1939, which were repealed by § 1 of the Act of August 16, 1954, 68A Stat. 915, ch. 736, and are now covered by 26 U.S.C. §§ 501, 502, 521, 3101, 3301, and 3304.

"Reorganization Plan No. 1 of 1980" referred to in paragraph (25) of this section is set out in its entirety following the District of Columbia Self-Government and Governmental Reorganization Act in Volume 1 at page 299.

#### Miscellaneous Notes

Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

Section 2304 of D.C. Law 14-190 provides that this subtitle [subtitle A of title XXIII, §§ 2301 to 2305 of D.C. Law 14-190] shall apply 180 calendar days after October 1, 2002.

Short title of subtitle A of title XXIII of Law 14-190: Section 2301 of D.C. Law 14-190 provided that subtitle A of title XXIII of the act may be cited as the Unemployment Compensation Alternative Base Period Amendment Act of 2002.

DC CODE § 51-101

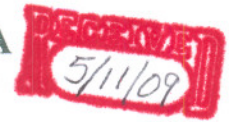
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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Department of Employment Services



ADRIAN M. FENTY  
MAYOR



JOSEPH P. WALSH  
DIRECTOR

MAY - 6 2009

Ms. Cheryl Atkinson  
U. S. Department of Labor  
Office of Workforce Security  
200 Constitution Avenue, N.W., Room S-4231  
Washington, D.C. 20210

Re: Addendum to Application for UI Modernization Incentive Funds – Alternative Based Period Provision

Dear Ms. Atkinson:

The District of Columbia hereby certifies that the submitted application is made in good faith with the intention of providing benefits to unemployed workers who are eligible for benefits. Furthermore, the funds will be used for administrative costs.

Should you have additional questions in this regard, please do not hesitate to contact me or have your staff contact the Interim Associate Director, Valerie E. Kitchings at (202) 698-5063.

Sincerely,

  
Joseph P. Walsh  
Director