

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 51.**  
**SOCIAL SECURITY.**

**CHAPTER 1.**  
**UNEMPLOYMENT COMPENSATION.**

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**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 1. UNEMPLOYMENT COMPENSATION.**

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**TABLE OF CONTENTS**

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**Subchapter I. General.**

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- Part A. Administration of the District Unemployment Fund.
  - § 51-101. Definitions.
  - § 51-102. District Unemployment Fund.
  - § 51-103. Employer contributions.
  - § 51-104. Payment of employer contributions.
  - § 51-105. Service of process on nonresident employers.
  - § 51-106. Deposit in Unemployment Trust Fund; contents of Fund; balance.
  - § 51-107. Determination of amount and duration of benefits.
  - § 51-108. Payment of benefits and refunds.
  - § 51-109. Eligibility for benefits.
  - § 51-109.01. Eligibility for benefits; Educational Stepladder program.
  - § 51-110. Disqualification for benefits.
  - § 51-111. Determination of claims; hearing; appeal; witness fees.
  - § 51-112. Review of Board's decision.
  - § 51-113. Administration of provisions of subchapter; disclosure of information.
  - § 51-114. Payment of administrative expenses.
  - § 51-115. District of Columbia Unemployment Compensation Board; powers and duties; tenure of office; compensation.
  - § 51-116. Reciprocal arrangements authorized.
  - § 51-117. Records and reports; inspection; penalties for violation.
  - § 51-118. Protection of rights and benefits; child support obligations.
  - § 51-119. Penalties for false statements or representations.
  - § 51-120. Disposition of fines.
  - § 51-121. Representation of Board in court.
  - § 51-122. All audits by Office of the Inspector General.
  - § 51-123. Right to amend or repeal reserved.
  - § 51-124. Severability.
  - § 51-125. Effective date.
  - § 51-126. Short title.
  - § 51-127. Duties of the Mayor.
- Part B. Domestic Violence.
  - § 51-131. Separation from employment due to domestic violence.
  - § 51-132. Supporting evidence required to support payment of benefits due to domestic violence.
  - § 51-133. Employer liability.
  - § 51-134. Employee awareness training.
  - § 51-135. Reporting requirement.
  - § 51-136. Disclosure of information pertaining to domestic violence claimant.

**Subchapter II. Miscellaneous.**

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- § 51-151. Employer contributions by the District of Columbia.
- § 51-152. Unemployment Compensation Study Commission on the Solvency of the District Unemployment Fund.[Expired]

### **Subchapter III. Shared Work Program.**

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- § 51-171. Definitions.
- § 51-172. Shared work unemployment compensation program.
- § 51-173. Employer participation in the shared work unemployment compensation program.
- § 51-174. Approval of shared work plan.
- § 51-175. Effective date and expiration of shared work plan.
- § 51-176. Modification of shared work plan.
- § 51-177. Employee eligibility for shared work benefits.
- § 51-178. Payment of shared work benefits.

# **CHAPTER 1. UNEMPLOYMENT COMPENSATION.**

## **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-subparagraphs (I) and (II) of this sub-subparagraph 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.

(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, § 1; 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; 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*

For temporary (225 day) amendment of section, see § 101 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 1201 of Fiscal Year 1998 Revised Budget Support Temporary Act of 1997 (D.C. Law 12-59, March 20, 1998, law notification 45 DCR 2094).

For temporary (225 day) amendment of section, see § 2(a) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001 (D.C. Law 14- 75, March 6, 2002, law notification 49 DCR 2809).

For temporary (225 day) amendment of section, see § 2(a) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002 (D.C. Law 14- 171, July 23, 2002, law notification 49 DCR \_ ).

*Temporary Addition of Section*

Sections 2 and 3 of D.C. Law 18-199 added sections to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) "Affected unit" means an employer or its specified department, shift, or other unit of 2 or more employees that is designated by an employer to participate in a shared work plan.

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

"(3) "Fringe benefit" means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.

"(4) "Fund" means the District Unemployment Fund established by section 2 of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 947; D.C. Official Code § 51-102).

"(5) "Normal weekly hours of work" means the lesser of:

"(A) Forty hours; or

"(B) The average obtained by dividing the total number of hours worked per week during the preceding 12-week period by 12.

"(6) "Participating employee" means an employee who works a reduced number of hours under a shared work plan and is otherwise eligible for unemployment.

"(7) "Participating employer" means an employer who has a shared work plan in effect.

"(8) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

"(9) "Shared work plan" means a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.

"(10) "Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

"Sec. 3. Shared work unemployment compensation program.

"(a) The Director shall establish a voluntary shared work unemployment compensation program as provided by this section. The Director may adopt rules and establish procedures necessary to administer the shared

work unemployment compensation program.

"(b) An employer who wishes to participate in the shared work unemployment compensation program shall submit a written shared work plan to the Director for the Director's approval. As a condition for approval, a participating employer shall agree to furnish the Director with reports relating to the operation of the shared work plan as requested by the Director. The employer shall monitor and evaluate the operation of the shared work plan as requested by the Director and shall report the findings to the Director.

"(c) The Director may approve a shared work plan if:

"(1) The shared work plan applies to and identifies a specific affected unit;

"(2) The employer has at least 2 employees;

"(3) The employees in the affected unit are identified by name and social security number;

"(4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 20% and not more than 40%;

"(5) The shared work plan applies to at least 10% of the employees in the affected unit;

"(6) The shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit;

"(7) The employer certifies that the program will not be used to reduce the benefits packages offered to employees;

"(8) The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours; and

"(9) The employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or, if a reimbursing employer, has made all payments in lieu of contributions due for all past and current periods.

"(d) If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan shall be approved in writing by the collective bargaining agent.

"(e) A shared work plan shall not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

"(f) The Director shall approve or deny a shared work plan no later than the 30th day after the day the shared work plan is received by the Director. The Director shall approve or deny a shared work plan in writing. If the Director denies a shared work plan, the Director shall notify the employer of the reasons for the denial.

"(g) A shared work plan shall be effective on the date that it is approved by the Director; provided, that, for good cause, a shared work plan may be effective at any time within a period of 14 days prior to the date the plan is approved by the Director. The shared work plan shall expire on the last day of the 12th full calendar month after the effective date of the shared work plan.

"(h) An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as approved by the Director. The employer shall report the changes made to the shared work plan in writing to the Director before implementing the changes. If the original shared work plan is substantially modified, the Director shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (c) of this section. The approval of a modified shared work plan shall not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the Director shall deny approval to the modifications as provided by subsection (f) of this section.

"(i) Notwithstanding any other provisions of the employment security law, an individual shall be unemployed and eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The Director shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer.

"(j) An individual shall be eligible to receive shared work benefits with respect to any week in which the Director finds that:

"(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

"(2) The individual is able to work and is available for additional hours of work or full-time work with the participating employer;

"(3) The individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%.

with a corresponding reduction in wages; and

"(4) The individual's normal weekly hours of work and wages have been reduced as described in paragraph (3) of this subsection for a waiting period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

"(k) The Director shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of \$1, the Director shall reduce the amount to the next lowest multiple of \$1. All shared work benefits under this section shall be payable from the fund.

"(l) The Director shall not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

"(m) An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under section 8(g)(1)(H) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-107(g)(1)(H)), and shall be entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

"(n) The Director may terminate a shared work plan for good cause if the Director determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

"(o) Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than 50 calendar weeks during the 12-month period of the shared work plan; provided, that 2 weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the 12-month period of the shared work plan."

Section 5(b) of D.C. Law 18-199 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).

For temporary (90 day) additions, see §§ 2 and 3 of Keep D.C. Working Emergency Act of 2010 (D.C. Act 18-388, May 5, 2010, 57 DCR 4327).

#### *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.

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 12-60, 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 14-190, 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 as Title 1, Chapter 15, subchapter IV, part A.

#### *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.

## **§ 51-102. DISTRICT UNEMPLOYMENT FUND.**

(a) There is hereby established the District Unemployment Fund, as a special deposit in the Treasury of the United States, into which shall be paid all contributions received or collected pursuant to this subchapter and from which shall be paid all benefits and refunds provided for under this subchapter. The Fund shall consist of 3 separate accounts: (1) a Clearing Account; (2) an Unemployment Trust Fund Account; and (3) a Benefit Account; and be managed and controlled by the Director in the manner provided in this subchapter, and the Director shall keep complete and accurate accounts of the status of the Fund and shall include a statement of such status in its yearly report to Congress.

(b) Any interest required to be paid on advances under title XII of the Social Security Act shall be paid by the date on which such interest is due. No interest payment shall be paid directly or indirectly from amounts in the District Unemployment Fund.

(Aug. 28, 1935, 49 Stat. 947, ch. 794, § 2; June 4, 1943, 57 Stat. 105, ch. 117, §1; Aug. 10, 1984, D.C. Law 5-102, § 2(a), 31 DCR 2902; Sept. 24, 1993, D.C. Law 10-15, § 202, 40 DCR 5420.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 46-102.

1973 Ed., § 46-302.

*Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 102 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

*Temporary Addition of Section*

For temporary (225 day) addition, see § 2 of Unemployment Compensation Funds Appropriation Authorization Temporary Act of 2003 (D.C. Law 15-81, March 10, 2004, law notification 51 DCR 3373).

*Emergency Act Amendments*

For temporary (90 day) authorization of appropriations to improve the administration of the Unemployment Compensation Fund, see § 2 of Unemployment Compensation Funds Appropriation Authorization Emergency Act of 2003 (D.C. Act 15-193, October 24, 2003, 50 DCR 9512).

For temporary (90 day) authorization of appropriations to improve the administration of the Unemployment Compensation Fund, see § 2 of Unemployment Compensation Funds Appropriation Authorization Congressional Review Emergency Act of 2004 (D.C. Act 15-347, February 6, 2004, 51 DCR 1836).

*Legislative History of Laws*

Law 5-102, the "District of Columbia Unemployment Compensation Act Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-377, which was retained by Council. The Bill was adopted on first and second readings on April 30, 1984 and May 15, 1984, respectively. Signed by the Mayor on June 6, 1984, it was assigned Act No. 5-143 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

*References in Text*

Title XII of the Social Security Act, referred to in subsection (b), is 42 U.S.C. §§ 1321-1324.

## **§ 51-103. EMPLOYER CONTRIBUTIONS.**

(a) Each employer who employs 1 or more individuals in any employment shall for each month, beginning with the month of January 1936, and ending December 31, 1939, pay contributions equal to the following percentages of the total wages payable (regardless of the time of payment) with respect to such employment by him during such month:

- (1) With respect to employment during the calendar year 1936, the rate shall be 1%;
- (2) With respect to employment during the calendar year 1937, the rate shall be 2%;
- (3) With respect to employment during the calendar years 1938 and 1939, the rate shall be 3%.

(b) Each employer shall pay contributions equal to 2.7% of wages paid by him during the calendar year 1940 and thereafter with respect to employment after December 31, 1939. After December 31, 1978, each employer shall pay contributions at the rate in effect for the current year as provided by subsections (c)(3), (c)(4)(B), and (c)(8)(A) of this section.

(c)(1) The Director shall maintain a separate account for each employer, and shall credit his account with all of the contributions paid by him after June 30, 1939, with respect to employment subsequent to May 31, 1939; provided, that contributions received after July 1, 1981, by reason of the solvency tax set forth in paragraph (4)(B)(ii) of this subsection shall not be credited to the separate account of each employer. Each year the Director shall credit to each of such accounts having a positive reserve on the computation date, the interest earned from the federal government in the following manner: Each year the ratio of the credit balance in each individual account to the total of all the credit balances in all employer accounts shall be computed as of such computation date, and an amount equal to the interest credited to the District's account in the Unemployment Trust Fund in the Treasury of the United States for the 4 most recently completed calendar quarters shall be credited prior to the next computation date on the pro rata basis to all employers' accounts having a credit balance on the computation date. Such amount shall be prorated to the individual accounts in the same ratio that the credit balance in each individual account bears to the total of the credit balances in all such accounts. In computing the amount to be credited to the account of an employer as a result of interest earned by funds on deposit in the Unemployment Trust Fund in the

Treasury of the United States to the account of the District, any voluntary contribution made by an employer after June 30th of any year shall not be considered a part of the account balance of the employer until the next computation date occurring after such voluntary contribution was made. Nothing in this subchapter shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the Fund either on his own behalf or on behalf of such individuals.

(2)(A) Benefits paid to an individual with respect to any week of unemployment which was based on an initial claim filed after June 30, 1939, and before July 1, 1940, shall be charged against the account of his most recent employer. Benefits paid to an individual on an initial claim for benefits filed after June 30, 1940, shall be charged against the accounts of his base period employers, except as specifically provided by subparagraphs (B), (C), (D), and (E) below. The amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to an individual as the base period wages paid to the individual by such employer bear to the total amount of the base period wages paid to the individual by all of his base period employers. All base period employers whose accounts could be charged with benefits paid to an individual with respect to a claim made pursuant to this subchapter shall be given notice of potential charges.

(B) After December 31, 1971, benefits paid to an individual for any week during which he is attending a training or retraining course under the provision of § 51-110(d)(2) shall not be charged against such employer accounts, except that this subparagraph shall not apply to employers who have elected to make payments in lieu of contributions under subsection (f) or (h) of this section.

(C) After December 31, 1971, extended benefits paid to an exhaustee under the provisions of § 51-107(g) shall not be charged against such employer accounts, except that this provision shall not apply to employers who have elected to make payments in lieu of contributions under subsection (f) or (h) of this section.

(D) Commencing with the first full calendar quarter following the effective date of this subchapter, but no earlier than January 1, 1979, benefits paid to an individual subsequent to a disqualification imposed under the provisions of § 51-110(a) or (b) shall not be charged against such employer accounts, except that this provision shall not apply to employers who have elected to make payments in lieu of contributions under subsection (f) or (h) of this section.

(E) Benefits paid to an individual with respect to any week of unemployment during which the individual is a continuing part-time employee of an employer other than the separating employer shall not be charged to the continuing employer's account, except this provision shall not apply to those employers who have elected to make payments in lieu of contributions under subsection (f) or (h) of this section.

(3)(A) After January 1, 1983, each employer newly subject to this subchapter shall pay contributions at a rate equal to the average rate on taxable wages of all employers for the preceding 12-month period ending June 30th (rounded to the next higher tenth of 1%) or 2.7%, whichever is higher, until he has been an employer for a sufficient period to meet the requirement to qualify for a reduced rate based on experience as provided in paragraph (4) of this subsection.

(B) Employers electing to become liable for payments in lieu of contributions shall make payments pursuant to subsection (h) of this section.

(4)(A) After December 31, 1978, contribution rates of all employers whose accounts could have been charged with benefits paid throughout the 36- consecutive-calendar-month period ending on the computation date applicable to such year or part thereof shall be determined in accordance with the provisions of subparagraph (B) of this paragraph.

(B)(i) If the balance of the Fund referred to in § 51-106 as of September 30, in any calendar year exceeds 3% of the total payrolls of employers subject to contributions under this subchapter on the preceding June 30, Table I in subsection (c)(8)(A) of this section shall be used to compute rates for employers pursuant to subparagraph (A) of this paragraph.

(ii) If the balance of the Fund as of September 30 in any calendar year shall be greater than 2.5% but not in excess of 3% of the total payrolls of employers subject to contributions under this subchapter on the preceding June 30, Table II in subsection (c)(8)(A) of this section shall be used to compute the rates for employers pursuant to subparagraph (A) of this paragraph.

(iii) If the balance of the Fund as of September 30 in any calendar year shall be greater than 2% but not in excess of 2.5% of the total payrolls of employers subject to contributions under this subchapter on the preceding June 30, Table III in subsection (c)(8)(A) of this section shall be used to compute rates for employers pursuant to subparagraph (A) of this paragraph.

(iv) If the balance of the Fund on September 30 of any calendar year shall be greater than 1.5% but not in excess of 2% of the total payrolls subject to contributions on the preceding June 30, Table IV in subsection (c)(8)(A) of this section shall be used to compute rates for employers pursuant to subparagraph (A) of this paragraph.

(v) If the balance of the Fund on September 30 of any calendar year shall be greater than .8% but not in excess of 1.5% of the total payrolls of employers subject to contributions under this



subchapter on the preceding June 30, Table V in subsection (c)(8)(A) of this section shall be used to compute rates for employers pursuant to subparagraph (A) of this paragraph.

(vi) If the balance of the Fund on September 30 of any calendar year shall not be greater than .8% of the total payrolls of employers subject to contributions under this subchapter on the preceding June 30, Table VI in subsection (c)(8)(A) of this section shall be used to compute employer rates pursuant to subparagraph (A) of this paragraph.

(C) When the Director finds that the continuity of an employer's employment experience has been interrupted solely by reason of 1 or more of the owners, officers, managers, partners, or majority stockholders of such employer's employing enterprise having served in the armed forces of the United States of America or any of its allies during a time of war, such employer's employment experience shall be deemed to have been continuous throughout the period that such individual or individuals so served in such armed forces, including the period up to the time it again resumes the status of an employer liable for contributions under this subchapter, provided it resumes such status within 2 years from the date of discharge of such individual or individuals or from the date of the termination of such war, whichever date is the earlier. For the purposes of this subparagraph, in determining an employer's contribution rate his average annual payroll shall be the average of his last 3 annual payrolls.

(5) The Director shall for any uncompleted portion of the calendar year beginning July 1, 1943, and for each calendar year thereafter classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, except as provided in subsection (c)(3) of this section. Each employer's contribution rate for each subsequent year or part thereof shall be calculated on the basis of his records filed with the Director and benefit payments disbursed through the applicable computation date. The Director shall compute rates for the second 6 months of 1963 for all employers first acquiring the necessary 12 months' benefit experience under subsection (c)(4)(A) of this section on the computation date June 30, 1963. Such rates shall be based upon such employer's experience in the payment of contributions and benefits charged against his account through June 30, 1963, prior to the crediting of his account with Trust Fund interest. All employers issued a rate for the second 6 months of 1963, under this subsection, shall have a computation date of September 30, 1963, for the calendar year 1964.

(6) If, as of the date such classification of employers is made, the Director finds that an employing unit has failed to file any report in connection therewith, or has filed a report which the Director finds incorrect or insufficient, the Director shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to it at the time, and notify the employing unit thereof by registered mail addressed to its last-known address. Unless such employing unit shall file the report or a correct or sufficient report, as the case may be, within 15 days after the mailing of such notice, the Director shall compute such employing unit's rate of contribution on the basis of such estimates, and the rates so determined shall be subject to increase, but not to reduction, on the basis of subsequently ascertained information.

(7)(A) After December 31, 2005, if any employer transfers all or a portion of its trade or business to another employer, the transferee shall be determined a successor for the purposes of this section.

(i) If the Director is unable to get information upon which to determine what portion of the business has been transferred, the Director may, in the Director's discretion, make such determination based upon the quarterly payrolls of the employers involved for the last complete calendar quarter prior to the transfer and the first complete calendar quarter after such transfer.

(ii) In the event of a transfer of a portion of the assets of a covered employer's business by any means whatever, otherwise than in the ordinary course of trade, such transfer shall be deemed a transfer of business and shall constitute the transferee a successor hereunder, unless the director, on the Director's own motion or on application of an interested party, finds that all of the following conditions exist:

(I) The transferee has not assumed any of the transferor's obligations;

(II) The transferee has not continued or resumed transferor's goodwill;

(III) The transferee has not continued or resumed the business of the transferor, either in the same establishment or elsewhere; and

(IV) The transferee has not employed substantially the same employees as those the transferor had employed in connection with the assets transferred.

(B) The successor, if not already subject to this section, shall become an "employer" subject hereto on the date of such transfer, and shall accordingly become liable for contributions hereunder from and after said date.

(C) The successor shall take over and continue the employer's account, including its reserve and all other aspects of its experience under this section, in proportion to the payroll assignable to the transferred business as determined for the purposes of this section by the Director. However, his successor shall take over only the reserve actually credited to the account of the transferor or for

which the transferor has filed a claim with the Director at the date of transfer. The successor shall be secondarily liable for any amounts owed by the employer to the Fund at the time of such transfer; but such liability shall be proportioned to the extent of the transfer of business and shall not exceed the value of the assets transferred.

(D) The benefit chargeability of a successor's account under subsection (c) of this section, if not accrued before the transfer date, shall begin to accrue on the transfer date in case the transferor's benefit chargeability was then accruing; or shall begin to accrue on the date otherwise applicable to the successor, or on the date otherwise applicable to the transferor, whichever is earlier, in case the transferor's benefit chargeability was not accruing on the transfer date. Similarly, benefits from a successor's account, if not chargeable before the transfer date, shall become chargeable on the transfer date, in case the transferor was then chargeable for benefit payments; or shall become chargeable on the date otherwise applicable to the successor or on the date otherwise applicable to the transferor, whichever is earlier, in case the transferor was chargeable for benefit payments on the transfer date.

(E) The account taken over by the successor employer shall remain chargeable with respect to accrued benefit and related rights based on employment in the transferred business, and all such employment shall be deemed employment performed for such employer.

(F) Notwithstanding any other provisions of this section, if the successor employer was an employer subject to this subchapter prior to the date of transfer, his rate of contributions the remainder of the calendar year shall be his rate with respect to the period immediately preceding his date of acquisition. If the successor was not an employer prior to the date of transfer, his rate shall be the rate applicable to the transferor or transferors with respect to the period immediately preceding the date of transfer; provided, that there was only 1 transferor or there were only transferors with identical rates; if the transferor rates were not identical, the successor's rate shall be the highest rate applicable to any of the transferors with respect to the period immediately preceding the date of transfer. The rate of the transferor, if still subject to the chapter, will not be redetermined and shall remain the rate with respect to the period immediately preceding the date of transfer.

(G) For future years, for the purposes of subsection (c) of this section, the Director shall determine the "experience under this section" of the successor employer's account and of the transferring employer's account by allocating to the successor employer's account for each period in question the respective proportions of the transferring employer's payroll, contributions, and the benefit charges which the Director determines to be properly assignable to the business transferred.

(8) Variations from the standard rates of contributions for each calendar year or part thereof shall be determined as of the applicable computation date in accordance with the following requirements:

(A) As of the computation date, the total benefits paid after June 30, 1939, then chargeable or charged to any employer's account, shall be subtracted from the total of all contributions credited to his account with respect to employment since May 31, 1939. The result of this computation shall be known as the employer's reserve and the employer's contribution rate for the ensuing calendar year shall be established under Table I, II, III, IV, V, or VI of this subparagraph in accordance with the provisions of paragraph (4)(B) of this subsection.

#### TABLE I

- 0.1% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;
- 0.2% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;
- 0.5% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;
- 0.8% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;
- 1.1% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;
- 1.4% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;
- 1.7% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;
- 2.0% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;
- 2.3% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;
- 2.6% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual

taxable payroll;

2.9% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

3.2% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

4.2% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

4.5% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's average annual taxable payroll;

4.8% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

5.1% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

5.4% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

#### TABLE II

0.6% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;

1.0% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;

1.3% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;

1.6% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;

1.9% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;

2.1% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;

2.3% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;

2.5% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;

2.7% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;

2.9% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual taxable payroll;

3.1% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

3.3% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

4.6% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

4.9% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's average annual taxable payroll;

5.2% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

5.5% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

5.8% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

#### TABLE III

1.0% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;

1.4% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;

1.7% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;

2.0% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;

2.3% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;

2.5% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;

2.7% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;

2.9% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;

3.0% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;

3.2% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual taxable payroll;

3.4% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

3.6% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

5.0% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

5.3% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's average annual taxable payroll;

5.6% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

5.9% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

6.2% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

TABLE IV

1.3% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;

1.7% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;

2.0% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;

2.3% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;

2.6% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;

2.8% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;

3.0% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;

3.2% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;

3.4% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;

3.6% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual taxable payroll;

3.8% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

4.0% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

5.4% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

5.7% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's

average annual taxable payroll;

6.0% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

6.3% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

6.6% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

#### TABLE V

1.6% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;

2.0% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;

2.3% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;

2.6% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;

2.9% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;

3.1% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;

3.3% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;

3.5% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;

3.7% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;

3.9% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual taxable payroll;

4.1% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

4.2% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

5.8% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

6.1% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's average annual taxable payroll;

6.4% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

6.7% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

7.0% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

#### TABLE VI

1.9% if such reserve equals or exceeds 8.0% of the employer's average annual taxable payroll;

2.3% if such reserve equals or exceeds 7.5% but is less than 8.0% of the employer's average annual taxable payroll;

2.6% if such reserve equals or exceeds 7.0% but is less than 7.5% of the employer's average annual taxable payroll;

2.9% if such reserve equals or exceeds 6.5% but is less than 7.0% of the employer's average annual taxable payroll;

3.2% if such reserve equals or exceeds 6.0% but is less than 6.5% of the employer's average annual taxable payroll;

3.4% if such reserve equals or exceeds 5.5% but is less than 6.0% of the employer's average annual taxable payroll;

3.6% if such reserve equals or exceeds 5.0% but is less than 5.5% of the employer's average annual taxable payroll;

3.8% if such reserve equals or exceeds 4.5% but is less than 5.0% of the employer's average annual taxable payroll;

4.0% if such reserve equals or exceeds 4.0% but is less than 4.5% of the employer's average annual taxable payroll;

4.2% if such reserve equals or exceeds 3.0% but is less than 4.0% of the employer's average annual taxable payroll;

4.3% if such reserve equals or exceeds 1.5% but is less than 3.0% of the employer's average annual taxable payroll;

4.4% if such reserve equals or exceeds 0.0% but is less than 1.5% of the employer's average annual taxable payroll;

6.2% if such reserve exceeds minus 2.5% but is less than 0.0% of the employer's average annual taxable payroll;

6.5% if such reserve exceeds minus 5.0% but is less than or equal to minus 2.5% of the employer's average annual taxable payroll;

6.8% if such reserve exceeds minus 7.5% but is less than or equal to minus 5.0% of the employer's average annual taxable payroll;

7.1% if such reserve exceeds minus 10.0% but is less than or equal to minus 7.5% of the employer's average annual taxable payroll;

7.4% if such reserve is equal to or less than minus 10.0% of the employer's average annual taxable payroll.

(B) Except as otherwise provided in this section, whenever through inadvertence or mistake erroneous charges or credits are found to have been made to experience-rating accounts, the same shall be readjusted as of the date of discovery and such readjustment shall not affect any computation or rate assigned prior to the date of discovery but shall be used on the next computation date in calculating future contribution rates.

(C) Repealed.

(9) As used in this subsection:

(A) The term "annual payroll" means the total amount of wages for employment paid by an employer during a 12-month period ending 90 days prior to the computation date.

(B) The term "average annual payroll," except for the purposes of paragraph (4)(C) of this subsection, means the average of the annual payrolls of any employer for the 3 consecutive 12-month periods ending 90 days prior to the computation date; provided, that for an employer whose account could have been charged with benefit payments throughout at least 12 but less than 36 consecutive calendar months ending on the computation date, the term "average annual payroll" means the total amount of wages for employment paid by him during the 12-month period ending 90 days prior to the computation date.

(C) The term "base-period wages" means the wages paid to an individual during his base period for employment.

(D) The term "base-period employers" means the employers by whom an individual was paid his base-period wages.

(E) The term "most recent employer" means that employer who last employed such individual immediately prior to such individual's filing an initial claim for benefits.

(10) At least 1 month prior to the final date upon which the first contributions for any calendar year or part thereof become due from any employer at a contribution rate determined under this subsection, the Director shall notify such employer of his rate of contributions and of the benefit charges upon which such rate was based. Such determination shall become conclusive and binding upon the employer unless, within 30 days after the mailing of notice thereof to his last-known address, or in the absence of mailing, within 30 days after the delivery of such notice, the employer files an application for review and a redetermination, setting forth his reasons therefor. Upon receipt of such application, the Director shall voluntarily adjust such matter or shall grant an opportunity for a fair hearing and promptly notify the employer thereof. All such hearings shall be held before a Contribution Rate Review Committee composed of 3 members who shall be employees of the Director and appointed by the Director. The findings and decision of this Committee shall not be subject to review by the Office of the Inspector General. No employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability of his account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to § 51-111, except on the ground that the services on the basis of which such benefits were found to be chargeable do not constitute services performed in employment for him and only in the event that he was not a party to such determination,

redetermination, or decision or to any other proceedings under this subchapter in which the character of such services was determined. The employer shall be promptly notified in writing of the Director's denial of his application or of the Director's redetermination. An employer aggrieved by the Director's decision may seek review of such determination in the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act.

(11) After December 31, 1971, the separate account established for an employer under the provisions of paragraph (1) of this subsection shall be discontinued effective the calendar quarter next succeeding 3 calendar years after the employer has been determined out of business. Thereafter no employer shall have any right to or interest in such discontinued account.

(d) The contributions payable pursuant to subsections (b) and (c) of this section shall become due and be paid by each employer to the Director in accordance with such regulations as the Board may prescribe, and shall not be deducted in whole or in part from the wages of individuals in such employer's employ.

(e)(1) From December 31, 1939, to January 1, 1955, wages, for the purpose of this section, shall not include any amount in excess of \$3,000 paid by an employer to any person arising out of his or her employment during any calendar year. From January 1, 1955, to December 31, 1971, wages shall not include any amount in excess of \$3,000 actually paid by an employer to any person during any calendar year. From January 1, 1972, through December 31, 1977, inclusive, wages shall not include any amount in excess of \$4,200. From January 1, 1978, through December 31, 1981, taxable wages shall not include any amount in excess of \$6,000. For the purpose of determining employer contributions after January 1, 1982, the term "wages" shall not include any amount in excess of \$7,500 (or in excess of the limitation on the amount of taxable wages fixed by the Federal Unemployment Tax Act (26 U.S.C. § 3306), whichever is greater) actually paid by an employer to any person during the calendar year. After December 31, 1954, the term "employment" for the purpose of this subsection shall include services constituting employment under any employment security law of a state or of the federal government. After December 31, 1971, the term "employment" for the purpose of this subsection shall include services constituting employment performed in the employ of a transferor as determined under the provisions of subsection (c)(7) of this section. For the purpose of determining employer contributions after January 1, 1983, the term "wages" shall not include any amount in excess of \$8,000 (or in excess of the limitation on the amount of taxable wages fixed by the Federal Unemployment Tax Act (26 U.S.C. § 3306), whichever is greater) actually paid by an employer to any person arising out of employment during any calendar year.

(2) After January 1, 1993, the term "wages" shall not include any amount in excess of \$9,000 actually paid to any person arising out of employment in any succeeding calendar year.

(3) After January 1, 1994, the term "wages" shall not include any amount in excess of \$9,500 actually paid to any person arising out of employment in any succeeding calendar year; provided, however that should the balance in the Fund referred to in § 51-106 exceed \$40 million as of September 30, 1993, then the term "wages" contained in paragraph (2) of this subsection shall be applicable.

(4) After January 1, 1995, the term "wages" shall not include any amount in excess of \$10,000 actually paid to any person arising out of employment in any succeeding calendar year; provided, however, that should the balance in the Fund referred to in § 51-106 exceed \$80 million as of September 30, 1994, then the term "wages" contained in paragraph (3) of this subsection shall be applicable; be it further provided, however, that if the term "wages" has the same meaning as in paragraph (2) of this subsection as of December 31, 1994, then the term "wages" shall not include any amount in excess of \$9,500 actually paid to any person arising out of employment in any succeeding calendar year.

(5) After January 1, 1996, the term "wages" shall not include any amount in excess of \$10,000 actually paid to any person arising out of employment in any succeeding calendar year; provided, however, that should the balance in the Fund referred to in § 51-106 exceed \$120 million as of September 30, 1995, then the term "wages" contained in paragraph (4) of this subsection shall be applicable.

(6) After January 1, 1997, the term "wages" shall not include any amount in excess of \$9,000 actually paid to any person arising out of employment in 1997 or in any succeeding calendar year.

(f)(1) In the event the District of Columbia should elect to cover employees under this subchapter under the provisions of § 51-101(2)(H)(i), or in the event any of its instrumentalities are required to be covered under this subchapter, in lieu of contributions required of employers under this subchapter, the District of Columbia shall pay into the Fund an amount equivalent to the amount of benefits paid to individuals based on wages paid by the District. If benefits paid an individual are based on wages paid by the District of Columbia and 1 or more other employers, the amount payable by the District to the Fund shall bear the same ratio to total benefits paid to the individual as the base-period wages paid to the individual by the District of Columbia bears to the total amount of the base-period wages paid to the individual by all of his base-period employers.

(2) The amount of payment required under this section shall be ascertained by the Director quarterly and shall be paid from the general funds of the District at such time and in such manner as the Mayor of the District of Columbia may prescribe except that to the extent that benefits are paid on wages paid by the District from special administrative funds, the payment by the District into the Unemployment Fund shall be made from such special funds. The District of Columbia shall be liable only for 50% of any extended benefits paid.

(3) After December 31, 1977, the District shall be provided the option of financing the costs of benefits paid to employees of the District by electing to pay contributions under the provisions of subsection (c) of this section or by electing to become liable for payments in lieu of contributions under the same terms and conditions provided for nonprofit organizations in subsection (h) of this section, except as provided in the following sentence. For weeks of unemployment beginning January 1, 1979, and thereafter, the District will be chargeable if it elects to pay contributions, or will be liable if it elects to make payments in lieu of contributions, for the cost of regular benefits plus 100% of any extended benefits paid that are attributable to service in the employ of the District.

(g) Contributions due under this subchapter with respect to wages for insured work shall, for the purpose of this section, be deemed to have been paid to the Fund as of the date payment was made as contributions therefor under another state or federal employment security law if payment into the Fund of such contributions is made on such terms as the Director finds will be fair and reasonable as to all affected interests; provided, that liability to the Fund shall not exceed contributions for the 3 calendar years next preceding the quarter in which liability was determined. Payments to the Fund under this subsection shall be deemed to be contributions for purposes of this section.

(h) Notwithstanding any other provisions of this section, benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and subsection (i) of this section, a nonprofit organization is an organization (or group of organizations) described in § 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under § 501(a) of such Code.

(1) Any nonprofit organization which, pursuant to § 51-101(2)(A)(iii), is, or becomes, subject to this subchapter on or after January 1, 1972, shall pay contributions under the provisions of subsection (c) of this section, unless it elects, in accordance with this paragraph to pay to the Director for the District Unemployment Fund an amount equal to the amount of regular benefits plus one-half of the amount of extended benefits paid that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(A) Any nonprofit organization which is, or becomes, subject to this subchapter on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than 1 taxable year beginning with January 1, 1972; provided, that it files with the Director a written notice of its election within the 30-day period immediately following such date or within a like period immediately following the date of enactment of this subparagraph whichever occurs later.

(B) Any nonprofit organization which becomes subject to this subchapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of that and the next year beginning with the date on which such liability begins by filing a written notice of its election with the Director not later than 30 days immediately following the date of the determination of such liability.

(C) Any nonprofit organization which makes an election in accordance with subparagraph (A) or subparagraph (B) of this paragraph will continue to be liable for payments in lieu of contributions until it files with the Director a written notice terminating its election not later than 30 days prior to the beginning of the taxable year for which such termination shall first be effective.

(D) Any nonprofit organization which has been paying contributions under this subchapter for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the Director not later than 30 days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminal by the organization for that and the next year.

(E) The Director may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(F) The Director, in accordance with such regulations as the Board may prescribe, shall notify each nonprofit organization of any determination which the Director may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of subsection (c) of this section.



(G) Any nonprofit organization which elects to make payments in lieu of contributions into the District Unemployment Compensation Fund as provided in this paragraph shall not be liable to make such payments with respect to the benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in § 51-101(3)(c) to the extent that the Unemployment Compensation Fund is reimbursed for such benefits pursuant to § 121 of the Unemployment Compensation Amendments of 1976 (26 U.S.C. § 3304, note).

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this paragraph including either subparagraph (A) or subparagraph (B) of this paragraph.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the Director, the Director shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid that is attributable to service in the employ of such organization.

(B)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this subparagraph. Such method of payment shall become effective upon approval by the Director.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the Director, the Director shall bill each nonprofit organization for an amount representing 1 of the following:

(I) For 1972, one-fourth of 1% of its total payroll for 1971;

(II) For years after 1972, such percentage of its total payroll for the immediately preceding calendar year as the Director shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year;

(III) For any organization which did not pay wages throughout the 4 calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the Director shall determine.

(iii) At the end of each taxable year, the Director may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the Director shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with subparagraph (C) of this paragraph. If the total payments exceed the amount so determined for the taxable year, all or a part of the excess may, at the discretion of the Director, be refunded from the Fund or retained in the Fund as part of the payments which may be required for the next taxable year.

(C) Payment of any bill rendered under subparagraph (A) or subparagraph (B) of this paragraph shall be made not later than 30 days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (E) of this paragraph.

(D) Payments made by a nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(E) The amount due specified in any bill from the Director shall be conclusive on the organization unless, not later than 15 days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the Director, setting forth the grounds for such application or appeal. The Director shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization files an appeal as set forth in subsection (c)(10) of this section, setting forth the grounds for the appeal.

(F) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to § 51-104(c), apply to past due contributions.

(3) In the discretion of the Director, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within 30 days after the effective date of its election, to execute and file with the Director a surety bond approved by the Director, or it may elect instead to deposit with the Director money. The amount of such bond or deposit shall be

determined in accordance with the provisions of this paragraph.

(A) The amount of the bond or deposit required by this paragraph shall be equal to one-fourth of 1% of the organization's total wages paid for employment as defined in § 51-101(2)(A)(iii) for the 4 calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such 4 calendar quarters, the amount of the bond or deposit shall be as determined by the Director.

(B) Any bond deposited under this paragraph shall be in force for a period of not less than 2 taxable years and shall be renewed with the approval of the Director at such times as the Director may prescribe, but not less frequently than at 2-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The Director shall require adjustments to be made in a previously filed bond as he deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within 15 days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in § 51-104(c), shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

(C) Any deposit of money in accordance with this paragraph shall be retained by the Director in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The Director may deduct from the money deposited under this paragraph by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in § 51-104(c). The Director shall require the organization within 15 days following any deduction from a money deposit under the provisions of this subparagraph to deposit sufficient additional money to make whole the organization's deposit at the prior level. The Director may, at any time, review the adequacy of the deposit made by any organization. If, as the result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within 15 days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(D) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided under this paragraph, the Director may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the 4-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided, that the Director may extend for good cause the applicable filing, deposit or adjustment period by not more than 15 days.

(4) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under paragraph (2) of this subsection, the Board may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(5) Each employer that is liable for payments in lieu of contributions shall pay to the Director for the fund the amount of regular benefits plus one-half of the amount of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than 1 employer and 1 or more of such employers are liable for payments in lieu of contributions, the amount payable to the Fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subparagraph (A) or subparagraph (B) of this paragraph.

(A) If benefits paid to an individual are based on wages paid by 1 or more employers that are liable for payments in lieu of contributions and on wages paid by 1 or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(B) If benefits paid to an individual are based on wages paid by 2 or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(6) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subsection (h)(1) of this section, may file a joint application to the

Director for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this paragraph. Upon approval of the application, the Director shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than 2 years and thereafter until terminated at the discretion of the Director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The Director shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this paragraph, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this paragraph by members of the group and the time and manner of such payments.

(i) Notwithstanding any provisions in subsection (h) of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by subsection (c) of this section and, pursuant to subsection (h) of this section, elects within 30 days after January 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which began on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.

(j) Notwithstanding any of the provisions of this subchapter, no employer's experience rating account shall be charged and no employer shall be liable for payments in lieu of contributions with respect to extended benefit payments which are wholly reimbursed to the District of Columbia by the federal government.

(k) Notwithstanding any provisions of this subchapter, no employer's experience rating account shall be charged with respect to benefits paid to any individual whose base-period wages include wages for previously uncovered services as defined in § 51-101(3)(C) to the extent that the Unemployment Insurance Fund is reimbursed for such benefits pursuant to § 121 of the Unemployment Compensation Amendments of 1976 (26 U.S.C. § 3304, note).

(l)(1) Commencing January 1, 1992, an interest surcharge of 0.1% shall be added to the contribution rate of each employer required to pay contributions by this subchapter, excepting those reimbursing employers subject to the requirements of subsection (h) of this section.

(2) All interest surcharges collected under this subsection shall be considered separate from contributions required by subsection (c) of this section and shall be deposited in the Interest Account established by § 51-114(c) and shall not be credited to the individual accounts of employers.

(3) No interest surcharge shall be required for any year following the year in which the amount of interest-bearing advances has been reduced to zero; provided, however, that an interest surcharge shall be reimposed by the Director of the Department of Employment Services ("Director") for the calendar year following any year in which an interest-bearing advance remains outstanding on October 1 and where there are not sufficient funds in the Interest Account to pay the interest due for that year.

(m)(1) Commencing January 1, 2006, an administrative funding assessment of .2% of all wages as defined in subsection (e)(6) of this section shall be paid by all employers liable for contributions required by subsections (b) and (c) of this section and by all employers liable for payments in lieu of contributions required by subsection (h) of this section. The administrative funding assessment shall be paid quarterly, but shall be separate and distinct from contributions or payments in lieu of contributions.

(2) All administrative funding assessment payments collected shall be deposited into the Unemployment and Workforce Development Administrative Fund established by § 51-114(d) and shall not be credited to the accounts of individual employers.

(3) Repealed.

(4)(A) For calendar quarters commencing after September 30, 2007, if the administrative funding assessments required by paragraph (1) of this subsection are not paid when due, there shall be added thereto interest at the rate of 1.5% per month, or fraction thereof, from the date the assessments became due until paid. Interest shall not be charged to a court-appointed fiduciary when the assessment payments are not paid timely because of a court order.

(B) If an administrative funding assessment is not paid on or before the first day of the second month following the close of the calendar quarter for which it is due, there shall be added a

penalty of 10% of the amount due. The penalty shall not be less than \$100; provided, that for good cause shown, the penalty may be waived by the Director of the Department of Employment Services.

(n) Notwithstanding any other provision of this subchapter, all assignments of contribution rates and transfers of experience in any year commencing after December 31, 2005 shall be made in accordance with the following:

(1) If an employer transfers all or a portion of its trade or business to another employer and, at the time of transfer, there exists any common ownership, management, or control of the 2 employers, the unemployment experience for the trade or business shall be transferred to the employer receiving the trade or business. The contribution rates of both employers shall be recalculated and made effective on the 1st day of the next rating year. Any penalties that may be imposed on the transfer under § 51-104 shall be retroactive to the beginning of the year in which the transfer occurred.

(2) If a person is not subject to this subchapter at the time it acquires the trade or business of an employer subject to this subchapter, the unemployment experience of that trade or business shall not be transferred if the Director determines that the acquisition was solely or primarily for purpose of obtaining a lower contribution rate. In such event, the person shall be assigned a new employer rate under subsection (c)(3)(A) of this section. The Director shall use objective criteria to determine whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower contribution rate, including:

(A) The cost of acquiring the trade or business enterprise;

(B) Whether the trade or business was continued by the person after acquisition;

(C) The length of time that the trade or business was continued; and

(D) Whether a substantial number of new employees were hired to perform duties unrelated to the trade or business activity prior to the acquisition.

(3) The Director shall establish procedures to identify the transfer or acquisition of a trade or business for the purposes of this subchapter.

(Aug. 28, 1935, 49 Stat. 947, ch. 794, § 3; July 2, 1940, 54 Stat. 731, ch. 524, § 1; Nov. 21, 1941, 55 Stat. 781, ch. 500, § 1; Nov. 9, 1942, 56 Stat. 1016, ch. 636; June 4, 1943, 57 Stat. 105, ch. 117, §1; July 11, 1946, 60 Stat. 527, ch. 557; July 26, 1947, 61 Stat. 494, ch. 342, §§ 1, 2; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Aug. 31, 1954, 68 Stat. 989, ch. 1139, § 1; Mar. 30, 1962, 76 Stat. 47, Pub. L. 87-424, §§ 3-5; Sept. 27, 1962, 76 Stat. 633, Pub. L. 87-705, § 1; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(44)(A); Dec. 22, 1971, 85 Stat. 760, Pub. L. 92-211, § 2(14)-(26); Dec. 7, 1974, 88 Stat. 1617, Pub. L. 93-515, title III, § 301(1); May 13, 1975, D.C. Law 1-2, § 1(1), 21 DCR 3941; Mar. 3, 1979, D.C. Law 2-129, § 2(h)-(q), 25 DCR 2451; Mar. 16, 1982, D.C. Law 4-86, § 2(a), (b), 29 DCR 429; Sept. 17, 1982, D.C. Law 4-147, § 2(a)-(d), 29 DCR 3347; May 7, 1983, D.C. Law 5-3, § 2(a)-(h), 30 DCR 1371; Aug. 10, 1984, D.C. Law 5-102, § 2(b), 31 DCR 2902; Mar. 13, 1985, D.C. Law 5-124, §§ 2(a)(1), (a)(2), (b), 4, 31 DCR 5165; Feb. 24, 1987, D.C. Law 6-189, § 2, 33 DCR 7935; Mar. 16, 1988, D.C. Law 7-91, § 2(a), 35 DCR 712; Mar. 16, 1993, D.C. Law 9-200, § 2(a), 39 DCR 9217; Sept. 24, 1993, D.C. Law 10-15, §§ 102, 203, 40 DCR 5420; May 16, 1995, D.C. Law 10-255, §§ 39(b), 49(d), 41 DCR 5193; Mar. 26, 1999, D.C. Law 12-175, § 202(a), 45 DCR 7193; Oct. 20, 2005, D.C. Law 16-33, § 2042(a), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 97, 53 DCR 6794; Mar. 8, 2007, D.C. Law 16-233, § 2(a), 54 DCR 374; Sept. 18, 2007, D.C. Law 17-20, § 2042(a), 54 DCR 7052; Mar. 3, 2010, D.C. Law 18-111, § 1011, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, §§ 2192(a), 2202(a), 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 2002(a), 59 DCR 8025.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-103.

1973 Ed., § 46-303.

##### *Effect of Amendments*

D.C. Law 16-33 added subsec. (m).

D.C. Law 16-191, in subsec. (m)(1), substituted "of .2%" for "of 2%".

D.C. Law 16-233, in subsec. (c)(7)(A), substituted "After December 31, 2005, if any employer transfers all or a portion of its trade or business to another employer" for "If all or substantially all of the business of any employer is transferred" in the lead-in language, substituted "what portion" for "whether or not all or substantially all" in sub-subpar. (i), and substituted "a portion" for "all or substantially all" in sub-subpar. (ii); and added subsec. (n).

D.C. Law 17-20, in subsec. (m)(3), substituted "commencing after December 31, 2008, the assessment rate for the next calendar year" for ", the assessment rate for the calendar year commencing after January 1 of the

following calendar year"; and added subsec. (m)(4).

D.C. Law 18-111, in subsec. (m)(3), substituted "December 31, 2013" for "December 31, 2008".

D.C. Law 18-223, in subsec. (m)(2), substituted "Unemployment and Workforce Development Administrative Fund" for "Administrative Assessment Account"; and repealed subsec. (m)(3), which had read as follows:

"(3) If the amount collected from the administrative funding assessment exceeds \$4 million in any calendar year commencing after December 31, 2013, the assessment rate for the next calendar year shall be adjusted so as to yield tax revenue not exceeding \$4 million."

D.C. Law 19-168 repealed subsec. (c)(8)(C), which formerly read:

"(C)(i) During those periods when the additional benefits program created by § 51-107(i) is in effect there shall be added to each employer's rate of contribution, determined in accordance with subparagraph (A) of this paragraph, an additional tax of 0.6%. Revenues collected from the added tax shall not be credited to the individual accounts of employers. Reimbursable employers shall pay additional reimbursements equal to amounts paid to claimants in their former employ for the additional benefits program as they do for the regular benefits program.

"(ii) The added tax shall trigger "on" in accordance with the additional benefits program trigger, and shall be assessed retroactively to the first day of the calendar quarters in which the additional benefits program becomes operational, and will be collected for each quarter in which the additional benefits program is in effect."

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2 of District of Columbia Unemployment Compensation Act Temporary Amendment Act of 1986 (D.C. Law 6-122, June 19, 1986, law notification 33 DCR 3926).

For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Unemployment Compensation Act Temporary Amendment Act of 1992 (D.C. Law 9-89, April 8, 1992, law notification 40 DCR ).

For temporary (225 day) amendment of section, see § 102 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 2(a) of District of Columbia Unemployment Compensation Tax Stabilization Temporary Amendment Act of 1997 (D.C. Law 12-2, May 7, 1997, law notification 44 DCR 2988).

For temporary (225 day) amendment of section, see § 2(a) of Unemployment Compensation Tax Stabilization Second Temporary Amendment Act of 1998 (D.C. Law 12-95, April 30, 1998, law notification 45 DCR 2786).

For temporary (225 day) amendment of section, see § 2(b) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001 (D.C. Law 14- 75, March 6, 2002, law notification 49 DCR 2809).

For temporary (225 day) amendment of section, see § 2(b) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002 (D.C. Law 14- 171, July 23, 2002, law notification 49 DCR \_ ).

For temporary (225 day) amendment of section, see § 2(a) of Unemployment Compensation Contributions Federal Conformity Temporary Amendment Act of 2006 (D.C. Law 16-121, June 6, 2006, law notification 53 DCR 5359).

#### *Emergency Act Amendments*

For temporary amendment of section, see § 2(a) of the Unemployment Compensation Tax Stabilization Emergency Amendment Act of 1997 (D.C. Act 12-1, January 23, 1997, 44 DCR 1469), § 2(a) of the Unemployment Compensation Tax Stabilization Second Emergency Amendment Act of 1997 (D.C. Act 12-247, January 13, 1998, 45 DCR 767), § 2(a) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-303, March 20, 1998, 45 DCR 1895), § 2(a) of the Unemployment Compensation Tax Stabilization Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-521, December 9, 1998, 46 DCR 2102), and § 2(a) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

For temporary (90-day) amendment of section, see § 2(a) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

For temporary (90 day) amendment of section, see § 2(b) 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(b) 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(b) 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 § 2042(a) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Contributions Federal Conformity Emergency Amendment Act of 2006 (D.C. Act 16-286, February 27, 2006, 53 DCR 1639).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Contributions Federal Conformity Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-334, March 23, 2006, 53 DCR 2599).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Contributions Federal Conformity Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-662, December 28, 2006, 54 DCR 1116).

For temporary (90 day) amendment of section, see § 2042(a) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 1011 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 1011 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see §§ 2192, 2202(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

#### *Legislative History of Laws*

Law 1-2, the "Unemployment Compensation Act--Amendment," was introduced in Council and assigned Bill No. 1-9, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first and second readings on February 18, 1975, and March 4, 1975, respectively. Signed by the Mayor on March 10, 1975, it was assigned Act No. 1-3 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

Law 4-86, the "Unemployment Trust Fund Revenue Temporary Act of 1981," was introduced in Council and assigned Bill No. 4-378, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on December 15, 1981, and January 5, 1982, respectively. Signed by the Mayor on January 18, 1982, it was assigned Act No. 4-140 and transmitted to both Houses of Congress for its review. Law 4-86 was repealed by § 3 of Law 4-147, effective September 17, 1982.

Law 4-147, the "Unemployment Trust Fund Revenue and Conformity Act of 1982," was introduced in Council and assigned Bill No. 4-431, which was referred to the Committee on Housing and Economic Affairs. The Bill was adopted on first and second readings on July 6, 1982, and July 20, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-218 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-3, see Historical and Statutory Notes following § 51-102.01.

For legislative history of D.C. Law 5-102, see Historical and Statutory Notes following § 51-102.

Law 5-124, the "District of Columbia Unemployment Compensation Act Second Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-454, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on July 10, 1984, and September 12, 1984, respectively. Signed by the Mayor on October 1, 1984, it was assigned Act No. 5-177 and transmitted to both Houses of Congress for its review.

Law 6-189, the "District of Columbia Unemployment Compensation Act Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-410, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on November 25, 1986, it was assigned Act No. 6-240 and transmitted to both Houses of Congress for its review.

Law 7-91, the "D.C. Unemployment Compensation Act Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-256, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on December 8, 1987, and January 5, 1988, respectively.

Signed by the Mayor on January 25, 1988, it was assigned Act No. 7-133 and transmitted to both Houses of Congress for its review.

Law 9-200, the "District of Columbia Unemployment Compensation Act Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-390, which was referred to the Committee on Labor. The Bill was adopted on first and second readings on October 6, 1992, and November 4, 1992, respectively. Signed by the Mayor on November 25, 1992, it was assigned Act No. 9-325 and transmitted to both Houses of Congress for its review. D.C. Law 9-200 became effective on March 16, 1993.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

Law 12-175, the "Fiscal Year 1999 Budget Support Act of 1998," was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998 and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Law 16-233, the "Unemployment Compensation Contributions Federal Conformity Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-510, which was referred to Committee on Government Operations. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-589 and transmitted to both Houses of Congress for its review. D.C. Law 16-233 became effective on March 8, 2007.

Law 17-20, the "Fiscal Year 2008 Budget Support Act of 2007", was introduced in Council and assigned Bill No. 17-148 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2007, and June 5, 2007, respectively. Signed by the Mayor on June 28, 2007, it was assigned Act No. 17-63 and transmitted to both Houses of Congress for its review. D.C. Law 17-20 became effective on September 18, 2007.

Law 18-111, the "Fiscal Year 2010 Budget Support Act of 2009", was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012", was introduced in Council and assigned Bill No. 19-743, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to both Houses of Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

#### *Effective Dates*

Section 3(b) of D.C. Law 7-91 provided that the amendments to §§ 51-103 and 51-107 shall be effective beginning January 1, 1988.

#### *References in Text*

The District of Columbia Administrative Procedure Act, referred to in paragraph (c)(10), is Chapter 5 of Title 2.

Section 501 of the Internal Revenue Code of 1954, referred to in subsection (h), is codified as 26 U.S.C. § 501.

#### *Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (l)(3), (m), (n), (o), (p), (q), (r), and (s), the act shall expire on

December 31, 1985.

Expiration of former Table IV minimum rate: Section 2(a)(3) of D.C. Law 5-124 provided that the 0.8% minimum rate contained in Table IV shall expire on December 31, 1987. Table IV, which was set forth in (c)(8)(A), was deleted by D.C. Law 7-91.

Short title of subtitle E of title II of Law 16-33: Section 2041 of D.C. Law 16-33 provided that subtitle E of title II of the act may be cited as This subtitle may be cited as the Unemployment Compensation Administrative Funding Assessment Amendment Act of 2005.

Application of Law 16-233: Section 3 of D.C. Law 16-233 provided that the act shall apply as of January 19, 2007.

Short title: Section 2041 of D.C. Law 17-20 provided that subtitle E of title II of the act may be cited as the "Unemployment Compensation Administration Improvement Amendment Act of 2007".

Short title: Section 1010 of D.C. Law 18-111 provided that subtitle B of title I of the act may be cited as the "Unemployment Compensation Modernization Amendment Act of 2009".

Section 2192(b) Of D.C. Law 18-223 provides:

"(b) This section shall apply as of October 20, 2005."

Short title: Section 2201 of D.C. Law 18-223 provided that subtitle Q of title II of the act may be cited as the "Unemployment and Workforce Development Administrative Assessment Account Amendment Act of 2010".

Short title: Section 2001 of D.C. Law 19-168 provided that subtitle A of title II of the act may be cited as "Unemployment Compensation Additional Benefits Trust Fund Stabilization Amendment Act of 2012".

## **§ 51-104. PAYMENT OF EMPLOYER CONTRIBUTIONS.**

(a) The contributions required by § 51-103, or payment in lieu of contributions under § 51-103(h), shall be paid to and collected by the Director, and shall, immediately upon collection, be deposited in the Clearing Account of the Fund. All moneys so required to be paid to and collected by the Director shall be subject to audit by the Office of the Inspector General.

(b)(1)(A) Not later than the last day of the following month after the close of each calendar quarter, or at such other time as the Director may by regulations prescribe, every employer shall make a return of, and shall pay the contributions which shall have accrued with respect to wages paid during such quarter with respect to employment, with the following exceptions:

(i) An employer with a household employee may make a return of and pay the contributions that have accrued with respect to the household employee on an annual basis on April 15th to the Department of Employment Services; and

(ii) As provided in § 51-103(h).

(B) The Director of Department of Employment Services shall prescribe such regulations as the director deems necessary to carry out the purpose of allowing household employer to convert from a quarterly system of payments and filing to annual filing.

(2) Employers who employ 250 employees or more in a calendar quarter shall file wage reports by magnetic tape or other machine readable method approved by the Director. Employers subject to this provision who fail to file wage reports using magnetic tape or other approved method shall be deemed to have failed to file a timely contribution report and shall be subject to the interest and penalty provisions of subsection (c) of this section until such time as the report is filed using magnetic tape or other approved method.

(c)(1) If the contributions or payments in lieu of contributions under § 51- 103(h) are not paid when due, there shall be added thereto interest at the rate of 1 1/2 % per month or fraction thereof from the date they become due until paid. Interest shall not run against a court-appointed fiduciary when the contributions or payments in lieu of contributions under § 51-103(h) are not paid timely because of a court order.

(2) If contributions are not paid or wage reports are not filed on or before the first day of the second month following the close of the calendar quarters for which they are due or payments in lieu of contributions under § 51- 103(h) are not made by that time, there shall be added a penalty of 25% of the amount due. The penalty shall not be less than \$100 and for good cause the penalty may be waived by the Director of the Department of Employment Services.

(d) In the event of the death, dissolution, insolvency, receivership, bankruptcy, composition, or assignment for benefit of creditors of any employer, contributions, or payments in lieu of contributions under § 51- 103(h), then or thereafter due from such employer under this section shall have priority over all other claims, except taxes due the United States or the District, and wages (not exceeding \$600 with respect to any individual) due for services performed within the 3 months preceding such event.

(e) If any employer liable to pay the contribution, or payments in lieu of contributions under § 51-103(h), imposed by § 51-103 neglects and refuses to pay the same after demand, the amount (including any



interest) shall be a lien upon all of the property and rights to property, whether real or personal, belonging to such person. Such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the Director with the Recorder of Deeds of the District of Columbia. The Director may cause a civil action to be filed in the Superior Court of the District of Columbia to enforce the aforesaid lien by sale of any property or rights to property, whether real or personal, of the delinquent employer affected by said lien. All persons having liens upon or claiming any interest in the property or rights to property sought to be sold, as aforesaid, shall be made parties to the proceedings and brought into court. The Court shall proceed to adjudicate all matters involved therein and finally determine the merits of all claims to a lien upon the property and rights to the property in question, and in all cases where a claim or interest of the Director therein is established, may decree a sale of such property and rights of property by the proper officer of the Court, and any sale made pursuant to such proceedings shall be made subject to any and all valid liens existing against said property or rights to property, at the date of filing of the notice of lien. Such action shall be heard by the Court at the earliest possible date, and shall be entitled to preference on the calendar of the Court over all other civil actions except petitions for judicial review of this subchapter. In any suit to enforce a lien hereunder the owner of the property or rights of property affected by said lien may be allowed to file with the clerk of the Superior Court of the District of Columbia a written undertaking with 2 or more sureties to be approved by the Court, or with corporate surety approved by the Court, to the effect that he and they will pay the judgment that may be recovered and costs which judgment shall be rendered against all the persons so undertaking. Upon the approval of said undertaking the property or rights of property shall be released from such lien. No such undertaking shall be approved by the Court until the owner of the property or rights of property in question shall have given at least 2 days' notice to the Director of his intention to apply to the Courts therefor. Each notice shall give the names and residences of the persons intended to be offered as sureties and the time when the motion for such approval will be made, and such sureties shall make oath if required that they are worth over and above all debts and liabilities double the amount of said lien. The Director may appear and object to such approval. When corporate surety is offered and the undertaking bears a certificate of the Clerk of the Superior Court of the District of Columbia that said corporation holds authority from the Secretary of the Treasury to do business in the District of Columbia and has a process agent therein, no notice shall be required. Such an undertaking as above mentioned may be offered before any suit is brought in order to discharge the property from such lien, in which case notice shall be given as aforesaid to the Director and the same proceedings shall be had as above directed in relation to the undertaking to be given after the commencement of the suit, except that when the surety is a corporation of the Clerk of said Superior Court of the District of Columbia that said corporation holds authority from the Secretary of the Treasury to do business in the District of Columbia, and has a process agent therein, no notice shall be required; and said undertaking shall be to the effect that the owner of said property or rights of property and his said sureties will pay any judgment that may be rendered in any suit that may thereafter be brought for the enforcement of said lien. If such undertaking be approved before any suit is brought, the surety or sureties may be made parties to such suit; if the undertaking be approved after suit is brought, the surety or sureties shall ipso facto become parties to the suit, and in either case the decree of the Court shall be against the surety or sureties as well as the owner. Subject to such regulations as the Council of the District of Columbia may prescribe, the Director shall issue a certificate of release of the lien if the Director finds that the liability for the amount of the contribution, or payments in lieu of contributions under § 51-103(h), imposed, together with all interest in respect thereof, has been satisfied or for any other reason deemed proper by the Director. Such lien shall continue to be valid for a period of 10 years from the date of filing of the notice thereof with the Recorder of Deeds of the District of Columbia, unless the same shall have been released of record, as hereinbefore provided. The foregoing remedy of the Director shall be cumulative and no action taken by the Director shall be or be construed to be an election on the part of the Director to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this subchapter.

(f) Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is a part of its usual trade, occupation, profession, or business, said employing unit shall report to the Director, in accordance with applicable regulations, the name and address of each and every such contractor or subcontractor so employed. Unless such report is made the employing unit shall for all purposes of the chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged solely in performing such employment. Any employing unit who thus becomes liable for and pays contributions with respect to individuals in the employ of any such contractor or subcontractor, however, may recover same from such contractor or subcontractor.

(g) In payment of any contribution, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to \$.01.

(h) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by the Director or Director's designated agent in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection (including collection thereof by distraint), or by civil action in the name of the Director, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest or penalty thereon from an employer shall be heard by the Court at the earliest

possible date and shall be entitled to preference upon the calendar of the Court over all other civil actions except petitions for judicial review of this subchapter. This subsection shall not be construed to mean that the Director shall be required to use only this means of collecting delinquent contributions but the Director may use any other legal method which the Director deems advisable.

(i) If, not later than 3 years after the date on which any contributions (or payments in lieu of contributions under § 51-103(h)) or interest thereon were paid, an employing unit which has paid such contributions (or payments in lieu of contributions under § 51-103(h)) or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution with subsequent contribution payments (or payments in lieu of contributions under § 51-103(h)) or for a refund thereof because such adjustment cannot be made, and the Director shall determine that such contributions (or payments in lieu of contributions under § 51-103(h)) or interest on any portion thereof was erroneously collected, the Director shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments (or payments in lieu of contributions under § 51-103(h)) by it, or if such adjustment cannot be made the Director shall refund said amount, without interest, from the Clearing Account or Benefit Account upon checks issued by the Director or the Director's duly authorized agent. For like cause and within the same period, adjustment or refund may be so made on the Director's own initiative. Should benefits have been paid based upon work records filed by the employing unit, claiming an adjustment or refund, such benefit should be disregarded for purposes of figuring such adjustment or refund, and any such benefit payments already having been made at the time of the adjustment or refund, based upon records filed with this Director by such employing unit, shall to that extent be allowed and shall not be deemed to have been paid erroneously.

(j) The Director in the Director's discretion, whenever the Director may deem it administratively advisable, may charge off of the Director's books any unpaid account due the Director or any credit due an employer who has been out of business for a period of more than 3 years. Whenever an account is charged off by the Director, there shall be placed in the records of the Director a reason for such action.

(k) The Council of the District of Columbia, or the executive officer provided for under § 51-115(b), with the consent of the Council, may prescribe the extent, if any, to which any ruling, regulation, or decision relating to this subchapter shall be applied without retroactive effect.

(l)(1) The Director may compromise any civil case arising under this subchapter. Whenever a compromise is made by the Director in each such case, there shall be placed in the records of the Director the opinion of an attorney of the Director with the reasons therefor, including a statement of:

- (A) The amount of the contributions, or payments in lieu of contributions under § 51-103(h), due;
- (B) The amount of interest due on the same; and
- (C) The amount actually paid in accordance with the terms of the compromise.

(2) There is hereby established in the Treasury of the United States a special escrow account into which the Director shall deposit all funds received in connection with an offer of compromise. Such funds shall be kept in such escrow account until final action is had upon the offer of compromise and shall not be subject to offset for any indebtedness whatsoever. In the event the compromise is approved, the funds shall be transferred to the District Unemployed Compensation Funds. In the event the compromise is disapproved, the funds shall be immediately returned to the individual who made the offer of compromise.

(m)(1) If any employer liable to pay contributions or payments in lieu of contributions under § 51-103(h) files a wage report for the purposes of determining the amount of contributions due under this subchapter but fails to pay contributions, interest, or penalties, the Director may assess the amount of contributions, interest, or penalties due on the basis of the information submitted and shall give written notice of such assessment to the employer. In the event such report is subsequently found to be incorrect additional assessments may be made, notwithstanding paragraph (4) of this subsection.

(2) If an employer liable to pay contributions, or payments in lieu of contributions under § 51-103(h), fails to file, on or before the prescribed date, a wage report for purposes of determining the amount of contributions due under this subchapter or if such wage report when filed is deemed by the Director to be incorrect or insufficient, then the employer shall file a correct and sufficient report within 10 days after the Director requires same by written notice, and upon failure to do so, the Director shall assess the amount of contributions, interest, penalties due from such employer on the basis of such information as the Director may be able to obtain, and shall give written notice of such assessment to the employer.

(3) If the Director believes that the collection of any contribution, payment in lieu of contribution, interest, or penalty under the provisions of this subchapter will be jeopardized by delay, the Director may, whether or not the time prescribed in this subchapter for the filing of reports or the payment of contributions has expired, immediately assess such contributions, payment in lieu of contributions, interest, or penalty and shall give written notice of such assessment to the employer.

(4) Assessments made pursuant to this subsection shall be final and irrevocably fix the amount of contributions, interest, or penalties due and payable unless the employer shall file an appeal to the

Director, pursuant to duly prescribed regulations, within 15 days of the mailing of such determination or the Director on the Director's own motion reduces the amount of the assessment; provided, however, that any employer appealing an assessment shall first pay such contributions, interest and penalties. After a hearing, the appeal tribunal shall enter a decision affirming, modifying, or setting aside the assessment and shall promptly give the employer written notice of its decision.

(n) The contributions, payments in lieu of contributions, interest, and penalties thereon required by this subchapter shall become, from the time due and payable, a personal debt of the person liable to pay the same to the Director. For purposes of this subchapter, the term "person" shall include any officer of a corporation having 35 or fewer shareholders, any employee of such corporation responsible for the payment of contributions, interest, and penalties, and any member of a partnership or association responsible for the payment of contributions, payments in lieu of contributions, interest, and penalties, and any member of a partnership or association responsible for the payment of contributions, payments in lieu of contributions, interest, and penalties.

(o) In addition to all other methods granted to the Director to effect the collection of delinquent contributions payment in lieu of contributions, interest, and penalties, the Director shall have the authority to seek the suspension or cancellation of any business, professional, alcoholic beverage, occupancy, or other license held by any employer subject to this subchapter.

(p)(1) For purposes of this subsection, the term:

(A) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard of the prohibitions under this subsection.

(B) "Person" means an individual, a trust, estate, partnership, association, company, or corporation.

(C) "Trade or business" includes the employer's workforce.

(D) "Violates or attempts to violate" includes acts evidencing an intent to evade, misrepresentation, or willful nondisclosure of material information.

(2) Any person that knowingly violates or attempts to violate any provision of this subchapter related to the calculation, determination, or assignment of contribution rates, or knowingly advises another person in a way that results in a violation of any of those provisions, shall be subject to the following penalties:

(A) If the person is an employer subject to this subchapter, the highest rate shall be assigned for the duration of the rate year in which the violation or attempted violation occurred and for the following 3 consecutive years; provided, that if the employer is already subject to the highest rate for the year that the violation or attempted violation occurred or if the increased rate would be less than 2% for that year, an additional 2% of taxable wages shall be imposed for that year and for the following 3 consecutive years.

(B) If the person is not an employer subject to this subchapter, a fine shall be imposed in the amount of \$5,000 for the 1st violation and in an amount not to exceed \$25,000 for each additional violation. Fines shall be enforced by civil action brought by the Director and shall be deposited in the Special Administrative Expense Fund established by § 51-114(b).

(3) Any violation of this subsection may also be prosecuted on information brought by the Attorney General for the District of Columbia in the Superior Court. Any person that is convicted shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$5,000, imprisoned not more than 180 days, or both, and shall be liable for costs of prosecution.

(4) This subsection shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the Secretary of Labor.

(Aug. 28, 1935, 49 Stat. 948, ch. 794, § 4; July 2, 1940, 54 Stat. 731, ch. 524, § 1; June 4, 1943, 57 Stat. 108, ch. 117; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 10, 1952, 66 Stat. 543, 547, ch. 649, §§ 2(b), 6; Aug. 31, 1954, 68 Stat. 992, ch. 1139, § 1; July 25, 1958, 72 Stat. 417, Pub. L. 85-557, § 1; July 5, 1966, 80 Stat. 265, Pub. L. 89-493, § 14; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(44)(B); Dec. 22, 1971, 85 Stat. 767, Pub. L. 92-211, § 2(27)-(34); Mar. 16, 1982, D.C. Law 4-86, § 2(c), 29 DCR 429; Sept. 17, 1982, D.C. Law 4-147, § 2(e), 29 DCR 3347; May 7, 1983, D.C. Law 5-3, § 2(i), (j), 30 DCR 1371; Mar. 13, 1985, D.C. Law 5-124, § 2(c), 31 DCR 5165; Sept. 24, 1993, D.C. Law 10-15, §§ 103, 204, 40 DCR 5420; Apr. 4, 2001, D.C. Law 13-270, § 2(a), 48 DCR 1620; Mar. 8, 2007, D.C. Law 16-233, § 2(b), 54 DCR 374.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-105.

1973 Ed., § 46-304.

##### *Effect of Amendments*

D.C. Law 13-270 rewrote subsec. (b), par. (1) which had read:

"(b)(1) Not later than the last day of the following month after the close of each calendar quarter, or at such other time as the Board may by regulations prescribe, every employer shall make a return of, and shall pay the contributions which shall have accrued with respect to, wages paid during such quarter with respect to employment; except as provided in § 51-103(h). Wages unpaid solely because of a court order appointing a fiduciary shall be deemed constructively paid when due. Each such return shall be filed with the Director, and shall contain such information and be made in such manner as the Board may by regulation prescribe. No extension of time for filing the return or for payment of the contributions shall be allowed to any employer, except as herein provided."

D.C. Law 16-233 added subsec. (p).

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 107 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 2(b) of Unemployment Compensation Contributions Federal Conformity Temporary Amendment Act of 2006 (D.C. Law 16-121, June 6, 2006, law notification 53 DCR 5359).

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2(b) of Unemployment Compensation Contributions Federal Conformity Emergency Amendment Act of 2006 (D.C. Act 16-286, February 27, 2006, 53 DCR 1639).

For temporary (90 day) amendment of section, see § 2(b) of Unemployment Compensation Contributions Federal Conformity Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-334, March 23, 2006, 53 DCR 2599).

For temporary (90 day) amendment of section, see § 2(b) of Unemployment Compensation Contributions Federal Conformity Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-662, December 28, 2006, 54 DCR 1116).

#### *Legislative History of Laws*

For legislative history of D.C. Law 4-86, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 4-147, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 5-3, see Historical and Statutory Notes following § 51-102.01.

For legislative history of D.C. Law 5-124, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

Law 13-270, the "Unemployment Compensation Administration Enhancement Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-651, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 16, 2001, it was assigned Act No. 13-561 and transmitted to both Houses of Congress for its review. D.C. Law 13-270 became effective on April 4, 2001.

For Law 16-233, see notes following § 51-103.

#### *References in Text*

Section 51-115(b), referred to in subsection (k), was repealed Sept. 24, 1993, by D.C. Law 10-15, § 213.

#### *Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (l)(3), (m), (n), (o), (p), (q), (r), and (s) of D.C. Law 5-3, D.C. Law 5-3 shall expire on December 31, 1985.

Application of Law 16-233: Section 3 of D.C. Law 16-233 provided that the act shall apply as of January 19, 2007.

## **§ 51-105. SERVICE OF PROCESS ON NONRESIDENT EMPLOYERS.**

Any nonresident employer, for whom services constituting employment subject to this subchapter are performed, shall be deemed to have appointed the Director of the Department of Transportation of the District of Columbia as his true and lawful attorney upon whom may be served all processes in any action or proceedings against such nonresident arising out of, or incident to, this subchapter, and said employment shall be a signification that any such process against him served, as herein provided, shall have the same effect and validity as if served on him personally in the District of Columbia. Service of

such process shall be made by leaving a copy thereof (with a fee of \$2) in the hands of the Director of the Department of Transportation of the District of Columbia, or other persons in charge of his office, and such service shall be sufficient service upon such nonresident; provided, that notice of such service and a copy of the process are forthwith sent, by registered mail, by the plaintiff to the defendant and the defendant's return receipt attached to the writ and entered with the initial pleading. The court in which the action is pending may order such extensions as may be necessary to afford the defendant a reasonable opportunity to defend the action, and no judgment by default in any such action shall be granted until at least 20 days shall have elapsed after the notice of such service has been sent to the defendant as hereinabove prescribed.

(Aug. 28, 1935, 49 Stat. 949, ch. 794, § 5; June 4, 1943, 57 Stat. 111, ch. 117, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 46-106.

1973 Ed., § 46-305.

*Miscellaneous Notes*

Department of Vehicles and Traffic abolished: The Department of Vehicles and Traffic, including the Director, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 54 of the Board of Commissioners, dated June 30, 1953, as amended September 1, 1953, established a Department of Vehicles and Traffic, headed by a Director, a Board of Revocation and Review of Hackers' Identification Cards, a Motor Vehicle Parking Agency, and a Commissioners' Traffic Advisory Board; prescribed the functions thereof; and abolished the previously existing Department of Vehicles and Traffic, the Registrar of Titles and Tags, the Board of Revocation and Review of Hackers' Identification Cards, the Driver Improvement Section, and the Motor Vehicle Parking Agency. Reorganization Order No. 54 was repealed and replaced by Organization Order Nos. 105, 106, 107, and 108, dated May 17, 1955. Organization Order No. 105 continued the Department of Vehicles and Traffic and prescribed the functions thereof. The Department of Vehicles and Traffic was redesignated as the Department of Motor Vehicles by Commissioners' Order No. 58-919, dated June 10, 1958. The Department of Highways was replaced by Reorganization Order No. 58-1116, dated July 15, 1958, which Order established the Department of Highways and Traffic. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Plan No. 2 of 1975 combined the Department of Motor Vehicles and the Department of Highways and Traffic to form the Department of Transportation.

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

**§ 51-106. DEPOSIT IN UNEMPLOYMENT TRUST FUND; CONTENTS OF FUND; BALANCE.**

(a) All moneys received in the District Unemployment Fund from sources other than the Unemployment Trust Fund, except as provided in § 51-105(i) and § 51-101(2)(E)(iv), shall be immediately paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund, to be held in trust for the District upon the terms and conditions provided in § 1104 of Title 42, United States Code.

(b) The Fund shall consist of:

- (1) All employer contributions and payments in lieu of contributions collected under this subchapter;
- (2) Interest earned upon the money in the Fund;
- (3) Any property or securities acquired through the use of money belonging to the Fund;
- (4) All earnings of such property or securities;
- (5) All money credited to the District account in the Unemployment Trust Fund pursuant to § 1103 of Title 42, United States Code; and
- (6) All other money received for the Fund from any other source.

(c) In determining the balance in the Fund for the purpose of § 51-103(c)(4)(B), there shall be excluded:

- (1) Any amount credited to the District's account in the Unemployment Trust Fund pursuant to § 1103 of Title 42, United States Code which has been appropriated for expenses of administration, whether or not such amount has been withdrawn from the Fund;
- (2) Any amount paid in advance into the Fund by an employer under any type of coverage pursuant to which reimbursement of benefits paid is permitted in lieu of contributions required of employers;
- (3) Any amount paid in advance into the Fund by the federal government under the provisions of any

federal law that requires or permits the District to pay benefits from the Fund and provides for advances by the federal government or reimbursement of all or part of such benefits; and

(4) Any estimated or other contributions not legally due and payable with respect to the calendar quarter ending September 30th of the year for which the balance in the Fund is determined.

(d) In determining the balance in the Fund for purposes of § 51- 103(c)(4)(B), there shall be included negative entries corresponding to any amounts owed to the federal unemployment account as a result of advances to the Fund in accordance with title XII of the Social Security Act (42 U.S.C. §§ 1321 to 1324).

(Aug. 28, 1935, 49 Stat. 949, ch. 794, § 7; renumbered § 6, June 4, 1943, 57 Stat. 112, ch. 117; Mar. 3, 1979, D.C. Law 2-129, § 2(r), 25 DCR 2451.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-107.

1973 Ed., § 46-306.

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

### **§ 51-107. DETERMINATION OF AMOUNT AND DURATION OF BENEFITS.**

(a) On and after January 1, 1938, benefits shall become payable from the Benefit Account of the District Unemployment Fund. All benefits shall be paid through employment offices, in accordance with such regulations as the Board may prescribe.

(b)(1) An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (computed to the next higher multiple of \$1) of his total wages for insured work paid during that quarter of his base period in which such total wages were highest, with such other following limitations. The Director shall determine annually a maximum weekly benefit amount by computing 66 2/3 % of the average weekly wage paid to employees in insured work, and shall on or before January 1st of the calendar year in which it shall be effective announce by publication in at least 1 newspaper of general circulation in the District, the maximum weekly benefit amount so determined. Such computation shall be made by determining total wages reported as paid for insured work by employers in each 12-month period ending June 30th and dividing said total wages by a figure resulting from 52 times the average of mid-month employment reported by employers for the same period. For the period from March 30, 1962, to December 31, 1962, the maximum weekly benefit amount shall be determined and announced by the Director in accordance with the foregoing formula on the basis of wages and employment in the 12-month period ending June 30, 1961. The maximum weekly benefit amount so determined and announced for a calendar year shall apply only to those claims filed in that year qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in said amount for a subsequent calendar year. If the maximum weekly benefit amount is not a multiple of \$1, then said maximum weekly benefit amount shall be computed to the next multiple of \$1.

(2)(A) Effective January 1, 1986, through December 31, 1987, the maximum weekly benefit amount shall be \$250.

(B)(i) Effective January 1, 1988, and for each calendar year thereafter, the maximum weekly benefit amount shall be determined by the Director of the Department of Employment Services ("Director") by computing 50% of the average weekly wage paid to employees in insured work, unless the Director certifies to the Council on or before September 30th of the preceding year that the financial condition of the District Unemployment Compensation Trust Fund would be worsened by adoption and implementation of a maximum weekly benefit amount determined by that method. Any such certification by the Director shall be accompanied by a recommended maximum weekly benefit amount which shall not be less than the maximum weekly benefit amount then in effect and which shall become the maximum weekly benefit amount for the next calendar year, unless the Council passes a resolution disapproving the Director's recommendation within 45 days after its receipt.

(ii) For benefit years commencing on or after January 5, 1997, the maximum weekly benefit amount shall be \$309.

(iii) For benefit years commencing on or after April 12, 2005, the maximum weekly benefit amount shall be \$359.

(C) If the Council passes a resolution of disapproval the maximum weekly benefit amount then in effect shall continue in effect for the next calendar year.

(D) Each year the Director shall, on or before January 1st of the calendar year in which it shall be effective, announce by publication in at least 1 newspaper of general circulation in the District, the maximum weekly benefit amount.

(E) The computation of the average weekly wage paid to employees in insured work shall be made by determining total wages reported as paid for insured work by employers in each 12-month period ending March 31st and dividing said total wages by a figure resulting from 52 times the average of mid-month employment reported by employers for the same period.

(F) The maximum weekly benefit amount, however determined, announced for a calendar year shall apply only to those claims filed in that year qualifying for the maximum weekly benefit amount. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum amount for any subsequent calendar year.

(G) If the maximum weekly benefit amount, however computed, is not a multiple of \$1, then it shall be rounded down to the next lower multiple of \$1.

(c)(1) To qualify for benefits an individual must have:

(A) Been paid wages for employment of not less than \$1300 in 1 quarter in his base period;

(B) Been paid wages for employment of not less than \$1950 in not less than 2 quarters in such period; and

(C) Received during such period wages the total amount of which is equal to at least one and one-half times the amount of his wages actually received in the quarter in such period in which his wages were the highest.

(2) If a claimant satisfies the above except that he received wages over the amount necessary to become eligible for maximum benefits, in the quarter in which his wages were the highest, then the additional wages received in such quarter shall not be considered in determining eligibility. Notwithstanding the provisions of paragraph (1)(C) of this subsection, any otherwise qualified individual, the total amount of whose wages during such period is less than the amount required to have been received during such period under such paragraph, may qualify for benefits, if the difference between the amounts so required to have been received and the total amount of his wages during such period does not exceed \$70, but the amount of his weekly benefit, as computed under subsection (b) of this section, shall be reduced by \$1 if such difference does not exceed \$35, or by \$2 if such difference is more than \$35. Wages received by an individual in the period intervening between the end of his last base period and the beginning of his last benefit year shall not be available for benefit purposes in a subsequent benefit year unless he has, subsequent to the commencement of such last benefit year, performed services for which he received wages for employment as defined in this subchapter, in an amount equal to at least 10 times the weekly benefit amount for which he qualifies in such last benefit year. Benefits payable to an individual with respect to a week shall be reduced, under regulations prescribed by the Board, by any amount received or applied for with respect to such week as a retirement pension or annuity under a public or private retirement plan or system provided, or contributed to, by any base period employer; except that no reduction shall be made under this sentence for any amount received under title II of the Social Security Act. For benefit years beginning on or after July 1, 2004, benefits payable to an individual who applied for or is receiving a retirement pension or annuity under a public or private retirement plan or system provided or contributed to by any base period employer shall, under duly prescribed regulations, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week, provided that the claimant has not made contributions to the pension or annuity. An amount received with respect to a period other than a week shall be prorated by weeks. When an individual's weekly benefit amount is reduced by a pension, the individual's maximum weekly benefit amount shall be deducted from his total amount of benefits determined pursuant to subsection (d) of this section. Benefits payable to an individual with respect to a week shall be reduced by the amount of wages received in lieu of notice of dismissal, defined as dismissal payments that the employer is not legally required to make.

(d) Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to 26 times his weekly benefit amount or 50% of the wages for employment paid to such individual by employers during his base period whichever is the lesser; provided, that the maximum duration of benefits determined on any initial claim made prior to March 15, 1983, shall continue to be 34 weeks during the benefit year to which the initial claim relates. Such total amount of benefits, if not a multiple of \$1, shall be computed to the next lower multiple of \$1.

(e) Any individual who is unemployed in any week as defined in § 51-101(5) and who meets the conditions of eligibility for benefits of § 51-109 and is not disqualified under the provisions of § 51-110 shall be paid with respect to such week an amount equal to the individual's weekly benefit amount less any earnings payable to the individual with respect to such week deductible in accordance with the following formula: \$20 will be added to the weekly benefit amount; from the resulting sum will be subtracted 80% of any earnings payable to the individual for such week. The resulting benefits, if not a multiple of \$1, shall be

computed to the next lower multiple of \$1. In no event shall the amount paid for any week exceed the individual's established weekly benefit amount.

(f) In addition to the benefits payable under the foregoing subsections of this section, each eligible individual who is unemployed in any week shall be paid with respect to such week \$5 for each dependent relative, but not more than \$20 shall be paid to an individual as dependent's allowance with respect to any 1 week of unemployment nor shall any weekly benefit which includes a dependent's allowance be paid in the amount of more than the established maximum benefit amount. An individual's number of dependents shall be determined as of the day with respect to which he first files a valid claim for benefits in any benefit year, and shall be fixed for the duration of such benefit year. The dependent's allowance is not to be taken into consideration in calculating the claimant's total amount of benefits in subsection (d) of this section; provided, however, that this section shall not apply to claims for benefit years commencing on or after January 5, 1997.

(f-1) For claims for benefit years commencing after August 9, 2009, and before January 1, 2011, in addition to benefits payable under subsections (a) through (e) of this section, each eligible individual who is unemployed in any week shall be paid with respect to that week \$15 for each dependent relative, but not more than \$50 or 1/2 of the individual's weekly benefit amount, whichever is less, with respect to any 1 week of unemployment. The amount of the dependent's allowance paid to an individual shall not be charged to the individual account of an employer. The number of dependents of an individual shall be determined as of the day with respect to which the individual first files a valid claim for benefits in any benefit year and shall remain fixed for the duration of the benefit year. The dependent's allowance shall not be taken into consideration in the total amount of benefits calculated pursuant to subsection (d) of this section.

(g) Notwithstanding any other provisions of this section, this subsection provides a program of extended benefits on and after January 1, 1972.

(1) As used in this subsection, unless the context clearly requires otherwise:

(A) "Extended benefit period" means a period which:

(i) Begins with the third week after a week in which a state "on" indicator occurs; and

(ii) Ends with either of the following weeks, whichever occurs later:

(I) The third week after the first week for which there is a state "off" indicator; or

(II) The 13th consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to the District.

(B) For weeks commencing after September 25, 1982, there is a state "on" indicator for the District for a week if the rate of insured unemployment under this subchapter for the period consisting of such week and the immediately preceding 12 weeks:

(i) Equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and

(ii) Equaled or exceeded 5%; provided, that with respect to benefits for weeks of unemployment beginning on September 26, 1982, the determination of whether there is a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if:

(I) This subparagraph did not contain sub-subparagraph (i) thereof; and

(II) The figure "5" contained in sub-subparagraph (ii) thereof was "6": except, that notwithstanding any such provision of this subsection any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

(C) There is a state "off" indicator for the District for a week if, for the period consisting of that week and the immediately preceding 12 weeks, either sub-subparagraph (i) or (ii) of subparagraph (B) of this paragraph was not satisfied.

(D) "Rate of insured unemployment", for purposes of subparagraphs (B) and (C) of this paragraph, means the percentage derived by dividing: (i) the average weekly number of individuals filing claims for regular benefits in the District for weeks of unemployment with respect to the most recent 13-consecutive-week period as determined on the basis of reports to the Secretary of Labor, by (ii) the average monthly employment covered under this subchapter for the first 4 of the most recent 6 completed calendar quarters ending before the end of such 13- week period.

(E) "Regular benefits" means benefits payable to an individual under this subchapter or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to Chapter 85 of Title 5, United States Code) other than extended benefits.

(F) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to Chapter 85 of Title 5, United States Code) payable to an



individual under the provisions of this subsection for weeks of unemployment in his eligibility period.

(G) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended period, any weeks thereafter which begin in a period.

(H) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(i) Has received, prior to such a week, all of the regular benefits that were available to him under this subchapter or any state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under Chapter 85 of Title 5, United States Code) in his current benefit year that includes such a week; provided, that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefits year, he may subsequently be determined to be entitled to added regular benefits; or

(ii) His benefit year having expired prior to such a week, has no, or insufficient wages on the basis of which he established a new benefit year that would include such a week; and

(iii)(I) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the Secretary of Labor; and

(II) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(I) "State law" means the unemployment insurance law of any state, approved by the Secretary of Labor under § 3304 of the Internal Revenue Code of 1954.

(J) The provisions of subparagraphs (A)-(G) of this paragraph shall not apply to any time these provisions are suspended temporarily or permanently by federal law. If these provisions are suspended by federal law, the provisions of this subchapter which apply to claims for and the payment of regular benefits shall apply to claims for and the payment of extended benefits.

(K)(i) For weeks of unemployment commencing March 15, 2009, there is a state "on" indicator if:

(I) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the 3 most recent months for which data for all states are published before the close of any such week equals or exceeds 6.5%; and

(II) The average rate of total unemployment in the District (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3 months referred to in sub-subparagraph (I) of this sub-subparagraph equals or exceeds 110% of such average rate for either of the corresponding 3-month periods ending in the 2 preceding calendar years.

(ii) There is a state "off" indicator pursuant to this subparagraph for weeks of unemployment commencing December 6, 2009, or such other week as the Congress may specify in any subsequent amendment to section 2005 of the Assistance for Unemployed Workers and Struggling Families Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 123 Stat. 436).

(L)(i) For weeks of unemployment commencing March 15, 2009, there is a state high unemployment period "on" indicator if the total unemployment insurance rate as established in subparagraph (K) of this paragraph equals or exceeds 8%.

(ii) Notwithstanding the provisions of paragraph 5(A) of this subsection, the total unemployment extended benefit amount payable to any individual pursuant to this subparagraph shall be the least of the following amounts:

(I) Eighty percent of the total amount of regular benefits (including any applicable dependents' allowance) that were payable to the individual under this subchapter in the individual's applicable benefit year;

(II) Twenty times the individual's weekly benefit amount (including any applicable dependents allowance) which was payable to the individual under this subchapter for a week of total unemployment in the applicable benefit year; or

(III) Forty-six times the individual's weekly benefit amount (including any applicable dependents allowances) for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits that were paid (or deemed paid) to the

individual under this subchapter with respect to the benefit year.

(iii) There is a state "off" indicator pursuant to this subparagraph for weeks of unemployment commencing December 6, 2009, or such other week as the Congress may specify in any subsequent amendment to section 2005 of the Assistance for Unemployed Workers and Struggling Families Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 123 Stat. 436).

(2) Except when the result would be inconsistent with the other provisions of this subsection, as provided in the regulations of the Board, the provisions of this subchapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(3) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Director finds that with respect to such week:

(A) He is an "exhaustee" as defined in paragraph (1) (H) of this subsection;

(B) He has satisfied the requirements of this subchapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(C) Notwithstanding any other provisions of this paragraph, an individual shall not be eligible for extended benefits if his monetary eligibility for regular benefits was based upon the total base period wages that did not exceed his highest quarterly wages by at least 1 1/2 times.

(4) The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly basic or augmented benefit amount, whichever is appropriate, payable to him during his applicable benefit year.

(5)(A) The total extended benefit amount payable to any eligible individual with respect to his applicable year shall be the least of the following amounts:

(i) Fifty percent of the total amount of regular benefits (including dependents' allowances) which were payable to him under this subchapter in his applicable benefit year;

(ii) Thirteen times his weekly benefit amount (including dependents' allowances) which was payable to him under this subchapter for a week of total unemployment in the applicable benefit year; or

(iii) Thirty-nine times his weekly benefit amount (including dependents' allowances) which was payable to him under this subchapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him under this subchapter with respect to the benefit year.

(B) For purposes of this paragraph, the total regular benefit amount shall be that amount (including dependents' allowances) provided in the individual's monetary determination or the amount of regular benefits (including dependents' allowances) actually received, whichever is the greater.

(C) Notwithstanding any other provisions of this paragraph, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such an individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(6)(A) Whenever an extended benefit period is to become effective in the District (or in all states) as a result of a state or a national "on" indicator, or an extended benefit period is to be terminated in the District as a result of state and national "off" indicators, the Director shall make an appropriate public announcement as provided in the regulations of the Board.

(B) Computations required by the provisions of paragraph (1)(F) of this subsection shall be made by the Director in accordance with regulations prescribed by the Secretary of Labor.

(7)(A) In weeks commencing after June 30, 1981, except as provided in subparagraph (B) of this paragraph, an individual shall not be eligible for extended benefits for such week if:

(i) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate payment plan; and

(ii) No extended benefit period is in effect for such week in such state.

(B) Subparagraph (A) of this paragraph shall not apply with respect to the first 2 weeks for which extended benefits are payable (as determined without regard to this paragraph) pursuant to an interstate benefit payment plan to the individual with respect to the benefit year.

(8)(A) Notwithstanding the provisions of subparagraph (B) of this paragraph, an individual shall be ineligible for payment of extended benefits for any week of unemployment commencing after March 31, 1981, in his eligibility period if the Director finds that during such period:

- (i) He failed to accept any offer of suitable work (as defined under subparagraph (C) of this paragraph) or failed to apply for any suitable work to which he was referred by the Director; or
- (ii) He failed to actively engage in seeking work as prescribed under subparagraph (E) of this paragraph.

(B) Any individual who has been found ineligible for extended benefits by reason of the provisions in subparagraph (A) of this paragraph shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of 10 subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than 10 times the extended weekly benefit amount.

(C) For purposes of this paragraph, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; provided, that the gross average weekly remuneration payable for the work must:

- (i) Exceed the sum of:
  - (I) The individual's extended weekly benefit amount as determined under paragraph (4) of this subsection plus;
  - (II) The amount, if any, of supplemental unemployment benefits (as defined in 26 U.S.C. § 501(c)(17)(D)) payable to such individual for such week; and
- (ii) Pay wages not less than the higher of:
  - (I) The minimum wage provided by 29 U.S.C. § 206 without regard to any exemption; or
  - (II) The applicable state or local minimum wage; provided, further, that no individual shall be denied extended benefits for failure to accept an offer of suitable work or apply for any job which meets the definition of suitability as described above if:
    - (aa) The position was not offered to such individual in writing or was not listed with the employment service;
    - (bb) Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in § 51-110(c) to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subparagraph; or
    - (cc) The individual furnishes satisfactory evidence to the Director that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work for regular benefit claimants in § 51-110(c) without regard to the definition specified by this subparagraph.

(D) Notwithstanding the provisions of subparagraph (B) of this paragraph to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by 26 U.S.C. § 3304(a)(5) and set forth under § 51-110(d)(1).

(E) For the purposes of subparagraph (A)(i) of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if:

- (i) The individual has engaged in a systematic and sustained effort to obtain work during such week; and
- (ii) The individual furnishes tangible evidence that he has engaged in such effort during such week.

(F) The employment service shall refer any claimant entitled to extended benefits under this section to any suitable work which meets the criteria prescribed in subparagraph (C) of this paragraph.

(G) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period if such individual has been disqualified for regular benefits or extended benefits under this section because the individual voluntarily left his most recent work without good cause connected with the work, was discharged for misconduct, or failed to accept an offer of or apply for suitable work, unless such individual has returned to work, has been employed at least 10 weeks, and has earned an amount equal to or greater than 10 times his weekly benefit.

(H) During the extended benefit period, the eligibility requirements of this paragraph shall also apply to those weeks of benefits for which sharable compensation is payable under the terms of 26 U.S.C. § 3304.

(h) Effective October 1, 1983, in the calculation of an individual's weekly benefit amount, all amounts shall be rounded down to the next lower dollar.

(i) Repealed.

(Aug. 28, 1935, 49 Stat. 949, ch. 794, § 8; July 2, 1940, 54 Stat. 732, ch. 524, § 1; renumbered § 7, June 4, 1943, 57 Stat. 112, ch. 117, § 1; Aug. 31, 1954, 68 Stat. 993, ch. 1139, § 1; Mar. 30, 1962, 76 Stat. 48, Pub.

L. 87- 424, §§ 5, 6, 7; Dec. 22, 1971, 85 Stat. 768, Pub. L. 92-211, § 2(35)-(37); May 13, 1975, D.C. Law 1-2, § 1(2), 21 DCR 3941; Mar. 3, 1979, D.C. Law 2-129, § 2(s)-(v), 25 DCR 2451; Sept. 16, 1980, D.C. Law 3-102, § 7, 27 DCR 3630; Feb. 4, 1982, D.C. Law 4-64, § 2, 28 DCR 4936; Mar. 16, 1982, D.C. Law 4-86, § 2(d), 29 DCR 429; Sept. 17, 1982, D.C. Law 4-147, § 2(f), (g), 29 DCR 3347; May 7, 1983, D.C. Law 5-3, § 2(k)-(o), 30 DCR 1371; Aug. 2, 1983, D.C. Law 5-24, § 8, 30 DCR 3341; Aug. 10, 1984, D.C. Law 5-102, § 2(c)-(e), 31 DCR 2902; Mar. 13, 1985, D.C. Law 5-124, § 2(d), 31 DCR 5165; Mar. 14, 1985, D.C. Law 5-159, § 7, 32 DCR 30; Mar. 16, 1988, D.C. Law 7- 91, § 2(b), 35 DCR 712; Feb. 5, 1994, D.C. Law 10-68, § 40(b), 40 DCR 6311; May 16, 1995, D.C. Law 10-255, § 49(a), 41 DCR 5193; Apr. 9, 1997, D.C. Law 11-255, § 52(a), 44 DCR 1271; Mar. 26, 1999, D.C. Law 12-175, § 202(b), (c), 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-261, § 4002(a), 46 DCR 3142; Apr. 5, 2005, D.C. Law 15-282, § 2, 52 DCR 849; Apr. 12, 2005, D.C. Law 15-325, § 2, 52 DCR 851; Apr. 13, 2005, D.C. Law 15-354, § 101, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 90, 54 DCR 6794; Dec. 17, 2009, D.C. Law 18-95, § 2, 56 DCR 8524; July 23, 2010, D.C. Law 18-192, § 2(a), 57 DCR 4500; Sept. 20, 2012, D.C. Law 19-168, § 2002(b), 59 DCR 8025.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-108.

1973 Ed., § 46-307.

##### *Effect of Amendments*

D.C. Law 15-282, in par. (2) of subsec. (c), substituted "For benefit years beginning on or after July 1, 2004, benefits payable to an individual who applied for or is receiving a retirement pension or annuity under a public or private retirement plan or system provided or contributed to by any base period employer shall, under duly prescribed regulations, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week, provided that the claimant has not made contributions to the pension or annuity." for "For any week beginning after March 31, 1980, benefits payable for any week to an individual who has applied for or is receiving a retirement pension or annuity under a public or private retirement plan, including any such sum provided under title II of the Social Security Act, shall, under regulations prescribed by the Board, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week."

D.C. Law 15-325 added subsec. (b)(2)(B)(iii).

D.C. Law 15-354, in subsec. (b), validated a previously made technical correction.

D.C. Law 16-191, in subsecs. (b), (g)(8)(C)(ii)(II), and (i)(1)(B), validated previously made technical corrections.

D.C. Law 18-95 added subsecs. (g)(1)(K) and (L).

D.C. Law 18-192 added subsec. (f-1).

D.C. Law 19-168 repealed subsec. (i), which formerly read:

"(i)(1) For the purposes of this subsection, the term:

"(A) 'Additional benefits period' means a period which:

"(i) Begins with the third week after a week in which the rate of insured unemployment, as defined by subparagraph (B) of this paragraph, is 3.75% or higher; provided, that there are no federally assisted programs in effect in the District which provide benefits to claimants who have exhausted their regular benefits; and

"(ii) Ends with whichever of the following weeks occurs first:

"(I) The 11th consecutive week of such period; or

"(II) The week immediately preceding the first week in which any federal program is in effect in the District which provides benefits to claimants who have exhausted their regular benefits; and

"(iii) Provided that no additional benefits period may begin as set forth in sub-subparagraph (i) of this subparagraph before the 14th week following the expiration of a prior additional benefits period.

"(B) 'Rate of insured unemployment' means the percentage, computed to 2 decimal points, derived by dividing:

"(i) The average weekly number of individuals filing claims for regular benefits, extended benefits, additional benefits, and any supplemental federal unemployment benefits for weeks of unemployment with respect to the most recent 13-week period by

"(ii) The average monthly employment covered under this subchapter for the first 4 of the most recent 6 completed calendar quarters ending before the end of such 13-week period.

"(C) 'Regular benefits' means benefits payable to an individual under this subchapter or under any state law other than extended benefits.

"(D) 'Extended benefits' means benefits (including benefits payable to federal civilian employees and ex-servicemen pursuant to Chapter 85 of Title 5, United States Code) payable to an individual under the provisions of subsection (a) of this section for weeks of unemployment in the individual's extended benefit eligibility period.

"(E) 'Additional benefits eligibility period' of an individual means the period consisting of the weeks in the individual's benefit year which begin in an additional benefits period and, if the individual's benefit year ends during an additional benefits period, any weeks thereafter which begin in an additional benefit period.

"(F) 'Exhaustee' means an individual who, with respect to any week of unemployment in the individual's additional benefits eligibility period:

"(i) Has received, prior to such week, all of the requested benefits and all of the extended benefits, if any, there were available to him or her under this subchapter or any state law in the individual's current benefit year that includes such week; provided, that for the purposes of this subparagraph, an individual is deemed to have received all of the regular and extended benefits that were available to him or her although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular or extended benefits; provided further, that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular and extended benefits that were available to him or her although as a result of having earned wages he or she had received by the end of his or her benefit year all of the regular and extended benefits to which he or she would otherwise have been entitled; and

"(ii) The individual has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations by the Secretary of Labor for the federally assisted extended benefits program and the federally supported supplemental compensation program; and

"(iii) The individual has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee.

"(G) 'Cooperating employer' means an employer which has voluntarily agreed to, without compensation, assist the Director in interviewing individuals who apply for phase 2 additional benefits and in evaluating the job readiness of such individuals.

"(H) 'State law' means the unemployment insurance law of any state, approved by the Secretary of Labor under § 3304 of the Internal Revenue Code of 1954.

"(2) There is established an Additional Benefits Program which shall consist of 5 weeks of phase 1 benefits, followed by 5 weeks of phase 2 benefits. During the first 5 weeks, in order to qualify for the second 5 weeks of additional benefits, the claimant must demonstrate that he or she is actively seeking employment. There shall be no waiting period between the expiration of regular benefits and the beginning of additional benefits. The Additional Benefits Program shall be financed by the revenue collected from the additional tax authorized by § 51-103(c)(8)(C)(i). Except when the result would be inconsistent with the other provisions of this subsection, as provided in the regulations of the Board, and except as otherwise provided in this subsection, the provisions of this subchapter which apply to claims for and the payment of regular benefits shall apply to claims for and the payment of additional benefits.

"(A) The weekly additional benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to his or her regular benefit amount, including any dependents' allowances for which he or she was eligible, payable to him or her during his or her applicable benefit year.

"(i) Phase 1 of the additional benefits program shall consist of the weeks during which the individual receives one-half of the total additional benefit amount to which he or she is entitled; provided, that any weekly additional benefit payment which would bring the individual's cumulative total additional benefits received to more than one-half of the total additional benefit amount to which the individual is entitled with respect to his or her applicable benefit year shall be paid to the individual and included in his or her phase 1 additional benefits if the cumulative total of the additional benefits paid to the individual prior to such payment were less than one-half of the total additional benefit amount to which he or she is entitled with respect to his or her applicable benefit year.

"(ii) Phase 2 of the additional benefits program shall consist of the weeks during which the individual is eligible to receive the remaining balance of additional benefits not received during phase 1.

"(B) An individual shall be eligible to receive phase 1 additional benefits with respect to any week of unemployment in his or her eligibility period only if the Director finds that with respect to such week:

(i) The individual is an "exhaustee" as defined in paragraph (1) (F) of this subsection;

"(ii) The individual has satisfied the requirements of this subchapter for the receipt of regular benefits that are applicable to individuals claiming additional benefits, including not being subject to a disqualification for the receipt of regular benefits; and

"(iii) The individual provides tangible evidence that he or she was engaged during such week in a systematic

and sustained effort to obtain work by making contact with at least 3 new employers and seeking work during at least 3 days, except:

"(I) An individual who during such week was attending a training or retraining course with the approval of the Director; and

"(II) An individual who during such week was in training approved under § 236(a)(1) of the Trade Act of 1974; provided, that he or she did not voluntarily leave suitable employment, as defined in § 51-110(i)(2), to enter such training.

"(C) In order to become eligible to receive phase 2 additional benefits, the individual shall:

"(i) Apply for phase 2 additional benefits at the public employment office designated by the Director; and

"(ii) Provide, when applying, the following information pertaining to 5 employer contacts he or she made during phase 1:

"(I) The name and address of the employer;

"(II) The position sought;

"(III) The date of the contact;

"(IV) The name of the employer's representative contacted; and

"(V) The results of the contract; and

"(iii) Report as instructed by the Director to a cooperating employer in his or her occupational category for an assessment of his or her job readiness.

"(D) An individual shall be eligible to receive phase 2 additional benefits with respect to any week of employment in his or her eligibility period only if the Director finds that with respect to such week:

"(i) The individual meets the requirements of subparagraphs (B) (i) and (ii) of this paragraph for the receipt of phase 1 additional benefits; and

"(ii) The individual provides tangible evidence that she or he was engaged during such week in a systematic and sustained effort to obtain work by making contact with at least 5 new employers and seeking work during at least 3 days, except as provided in subparagraph (B)(iii) of this paragraph.

"(E) The Director shall refer to appropriate job counselling or training or retraining course each individual who is judged by a cooperating employer not to be job ready, and the Director shall refer to appropriate job openings each individual who is judged by a cooperating employer to be job ready.

"(F) Whenever an additional benefits period is to become effective or is to be terminated, the Director shall make an announcement to that effect by publication in a newspaper of general circulation, as provided in the regulations of the Board."

*Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 111 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 2(b), (c) of District of Columbia Unemployment Compensation Tax Stabilization Temporary Amendment Act of 1997 (D.C. Law 12-2, May 7, 1997, law notification 44 DCR 2988).

For temporary (225 day) amendment of section, see § 2(b), (c) of Unemployment Compensation Tax Stabilization Second Temporary Amendment Act of 1998 (D.C. Law 12-95, April 30, 1998, law notification 44 DCR 2786).

For temporary (225 day) amendment of section, see § 2(c) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001 (D.C. Law 14- 75, March 6, 2002, law notification 49 DCR 2809).

For temporary (225 day) amendment of section, see § 2(c) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002 (D.C. Law 14- 171, July 23, 2002, law notification 49 DCR \_ ).

For temporary (225 day) amendment of section, see § 2 of Unemployment Compensation Pension Offset Reduction Temporary Amendment Act of 2004 (D.C. Law 15-222, March 16, 2005, law notification 52 DCR 3548).

Section 2 of D.C. Law 18-24 added subsecs. (g)(1)(K) and (L) to read as follows:

"(K)(i) For weeks of unemployment commencing March 15, 2009, there is a state 'on' indicator if:

"(I) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the 3 most recent months for which data for all states are published before the close of any such week equals or exceeds 6.5%; and

"(II) The average rate of total unemployment in the District (seasonally adjusted), as determined by the United

States Secretary of Labor, for the 3 months referred to in sub-sub-subparagraph (I) of this sub-subparagraph equals or exceeds 110% of such average rate for either of the corresponding 3-month periods ending in the 2 preceding calendar years.

"(ii) There is a state 'off' indicator pursuant to this subparagraph for weeks of unemployment commencing December 6, 2009, or such other week as the Congress may specify in any subsequent amendment to section 2005 of the Assistance for Unemployed Workers and Struggling Families Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 123 Stat. 436).

"(L)(i) For weeks of unemployment commencing March 15, 2009, there is a state high unemployment period 'on' indicator if the total unemployment insurance rate as established in subparagraph (K) of this paragraph equals or exceeds 8%.

"(ii) Notwithstanding the provisions of paragraph (5)(A) of this subsection, the total unemployment extended benefit amount payable to any individual pursuant to this subparagraph shall be the least of the following amounts:

"(I) Eighty percent of the total amount of regular benefits (including any applicable dependents' allowance) that were payable to the individual under this act in the individual's applicable benefit year;

"(II) Twenty times the individual's weekly benefit amount (including any applicable dependents' allowance) that was payable to the individual under this act for a week of total unemployment in the applicable benefit year; or

"(III) Forty-six times the individual's weekly benefit amount (including any applicable dependents' allowances) for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits that were paid (or deemed paid) to the individual under this act with respect to the benefit year.

"(iii) There is a state 'off' indicator pursuant to this subparagraph for weeks of unemployment commencing December 6, 2009, or such other week as the Congress may specify in any subsequent amendment to section 2005 of the Assistance for Unemployed Workers and Struggling Families Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 123 Stat. 436)."

Section 4(b) of D.C. Law 18-24 provides that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 18-86 amended subsec. (f) to read as follows:

"(f) In addition to benefits payable under the foregoing subsections of this section, each eligible individual who is unemployed in any week shall be paid with respect to such week \$15 for each dependent relative, but no more than \$50 or 1/2 of the individual's weekly benefit amount, whichever is less, with respect to any one week of unemployment. The amount of the dependent's allowance paid to an individual shall not be charged to the individual accounts of the employers. An individual's number of dependents shall be determined as of the day with respect to which the individual first files a valid claim for benefits in any benefit year and shall remain fixed for the duration of such benefit year. The dependent's allowance shall not be taken into consideration in calculating the total amount of benefits in subsection (d) of this section; provided, that this subsection shall not apply to claims for benefit years commencing prior to August 10, 2009, and shall not apply to claims for benefit years commencing after December 31, 2010."

Section 4(b) of D.C. Law 18-86 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-87 rewrote subsec. (i)(1)(A) to read as follows:

"(A) 'Additional benefits period' means a period:

"(i) That begins after August 29, 2009; provided, that the total rate of unemployment in the District, as determined by the United States Secretary of Labor for the week proceeding August 29, 2009, meets or exceeds 6.5%; provided further, that there are no other federally funded or assisted benefit programs in effect in the District that provide benefits to claimants who have exhausted their regular benefits;

"(ii) That ends after January 16, 2010, or the first day of the week prior to January 16, 2010, in which any new federal program is in effect in the District that provides benefits to claimants who have exhausted all prior regular, extended, or federally funded benefits;

"(iii) In which no initial claim for additional benefits is accepted and no claim for additional benefits is established pursuant to this act, prior to any week commencing after August 29, 2009, or after January 16, 2010; and

"(iv) In which no claim is paid for any week commencing after January 16, 2010."

; in the lead-in language of subsec. (i)(2), substituted the number "10" for the number "5" wherever it appears, deleted the fourth sentence, and inserted the sentence "The Additional Benefits Program shall be financed by funds drawn from the Fund or such other funds as may be available to the Director, and benefits paid shall not be charged to the experience rating accounts of employers." in its place.

Section 4(b) of D.C. Law 18-87 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-16 added subsecs. (g)(1)(M) and (N) to read as follows:

"(M)(i) For weeks of unemployment compensation commencing on or after March 6, 2011, and ending December 31, 2011, there is a state 'on' indicator if:

"(I) The average rate of insured unemployment pursuant to subparagraph (D) of this paragraph for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 5%; and

"(II) The average rate of insured unemployment pursuant to subparagraph (D) of this paragraph consisting of such week and the immediately preceding 12 weeks equals or exceeds 120% of the average of such rates for the corresponding 13- week period ending in each of the preceding 3 calendar years.

"(ii) There is a state 'off' indicator for a week based on the rate of insured unemployment only if for the period consisting of such week and the preceding 12 weeks the calculation set forth in sub-subparagraph (i) of this subparagraph does not result in an 'on' indicator.

"(N)(i) For weeks of unemployment compensation commencing on or after March 6, 2011, and ending December 31, 2011, there is a state 'on' indicator if:

"(I) The average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such weeks equals or exceeds 6.5%; and

"(II) The average rate of total unemployment in the District (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3- month period referred to in sub-sub-subparagraph (I) of this sub-subparagraph, equals or exceeds 110% of such average for any or all of the corresponding 3- month periods ending in the 3 preceding calendar years.

"(ii) There is a 'high unemployment period' pursuant to subparagraph L(i) of this paragraph if sub-subparagraph (i)(I) of this subparagraph were applied by substituting 8% for 6.5%.

"(iii) There is a state 'off' indicator for a week based on the rate of total unemployment only if for the period consisting of the most recent 3 months for which the data for all states are published before the close of such week, only if the calculation set forth in sub-subparagraph (i) of this subparagraph does not result in an 'on' indicator."

Section 4(b) of D.C. Law 19-16 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-96 added subsec. (g)(1)(K)(iii) to read as follows:

"(iii) The state indicators established by this subparagraph shall remain in effect until the week ending 4 weeks prior to the last week of unemployment for which 100% federal sharing is available under section 2005(a) of the Assistance for Unemployed Workers and Struggling Families Act, approved February 17, 2009 (123 Stat. 444; 26 U.S.C. § 3304, note) ("Act"), without regard to the extension of federal sharing of certain claims as provided under section 2005(c) of the Act."

Section 4(b) of D.C. Law 19-96 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary amendment of section, see § 2(b) of the Unemployment Compensation Tax Stabilization Emergency Amendment Act of 1997 (D.C. Act 12-1, January 23, 1997, 44 DCR 1469), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Second Emergency Amendment Act of 1997 (D.C. Act 12-247, January 13, 1998, 45 DCR 767), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-303, March 20, 1998, 45 DCR 1895), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-521, December 9, 1998, 46 DCR 2102), and § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

For temporary (90-day) amendment of section, see § 2(b), (c) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

For temporary (90 day) amendment of section, see § 2(c) 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(c) 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(c) 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 § 2 of Unemployment Compensation Pension Offset Reduction Emergency Amendment Act of 2004 (D.C. Act 15-512, August 2, 2004, 51 DCR 8972).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Pension Offset Reduction Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-584, October 26, 2004, 51 DCR 10676).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Pension Offset Reduction Second Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-720, January 19, 2005, 52 DCR 1795).



For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Extended Benefits Emergency Amendment Act of 2009 (D.C. Act 18-39, April 2, 2009, 56 DCR 2670).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Administrative Modernization Emergency Amendment Act of 2009 (D.C. Act 18-182, August 10, 2009, 56 DCR 6940).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Additional Benefits Program Emergency Amendment Act of 2009 (D.C. Act 18-183, August 10, 2009, 56 DCR 6943).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Additional Benefits Program Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-211, October 21, 2009, 56 DCR 8489).

For temporary (90 day) amendment of section, see § 2(a) of Unemployment Compensation Administrative Modernization Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-212, October 21, 2009, 56 DCR 8491).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Extended Benefits Continuation Emergency Amendment Act of 2011 (D.C. Act 19-67, May 13, 2011, 58 DCR 4252).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Extended Benefits Continuation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-112, July 28, 2011, 58 DCR 6534).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Federally Funded Extended Benefits Maximization Emergency Amendment Act of 2011 (D.C. Act 19-264, December 23, 2011, 58 DCR 11240).

For temporary (90 day) amendment of section, see § 2 of Unemployment Compensation Federally Funded Extended Benefits Maximization Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-309, February 21, 2012, 59 DCR 1686).

For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

#### *Legislative History of Laws*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

Law 3-102, the "Closing of a Public Alley in Square 568, Unemployment Compensation, Motor Vehicle Finance Charges, and Interstate Highway System Withdrawal Act of 1980," was introduced in Council and assigned Bill No. 3-283, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on June 3, 1980, and June 17, 1980, respectively. Signed by the Mayor on July 16, 1980, it was assigned Act No. 3-224 and transmitted to both Houses of Congress for its review.

Law 4-64, the "District of Columbia Unemployment Compensation Act Amendments Act of 1981," was introduced in Council and assigned Bill No. 4-269, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 13, 1981, and October 27, 1981, respectively. Signed by the Mayor on November 4, 1981, it was assigned Act No. 4-110 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 4-86, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 4-147, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 5-3, see Historical and Statutory Notes following § 51-102.01.

Law 5-24, the "Technical and Clarifying Amendments Act of 1983," was introduced in Council and assigned Bill No. 5-169, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 1983, and May 24, 1983, respectively. Signed by the Mayor on June 9, 1983, it was assigned Act No. 5-41 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-102, see Historical and Statutory Notes following § 51-102.

For legislative history of D.C. Law 5-124, see Historical and Statutory Notes following § 51-103.

Law 5-159, the "End of Session Technical Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-91, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 51-101.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 51-103.

Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Law 15-282, the "Unemployment Compensation Pension Offset Reduction Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-526, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-674 and transmitted to both Houses of Congress for its review. D.C. Law 15-282 became effective on April 5, 2005.

Law 15-325, the "Unemployment Compensation Weekly Benefit Amount Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-578, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-675 and transmitted to both Houses of Congress for its review. D.C. Law 15-325 became effective on April 12, 2005.

Law 15-354, the "Technical Amendments Act of 2004", was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

For Law 16-191, see notes following § 51-103.

Law 18-95, the "Unemployment Compensation Extended Benefits Amendment Act of 2009", as introduced in Council and assigned Bill No. 18-188, which was referred to the Committee on Housing and Workforce Development. The bill as adopted on first and second readings on September 22, 2009, and October 6, 2009, respectively. Effective without the Mayor's signature on October 21, 2009, it was assigned Act No. 18-222 and transmitted to both Houses of Congress for its review. D.C. Law 18-95 became effective on December 17, 2009.

Law 18-192, the "Unemployment Compensation Reform Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-455, which was referred to the Committee on Housing and Workforce Development. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on April 14, 2010, it was assigned Act No. 18-401 and transmitted to both Houses of Congress for its review. D.C. Law 18-192 became effective on July 23, 2010.

For history of Law 19-168, see notes under § 51-103.

#### *Effective Dates*

Section 3(b) of D.C. Law 7-91 provided that the amendments to §§ 51-103 and 51-107 shall be effective beginning January 1, 1988.

#### *References in Text*

Title II of the Social Security Act, referred to in subsection (c), is codified as 42 U.S.C. §§ 401 to 433.

Chapter 85 of Title 5, United States Code, referred to in subsections (g) and (i), is 5 U.S.C. § 8501 et seq.

The Railroad Unemployment Insurance Act, referred to in (g)(1)(H)(iii)(I) and (i)(1)(F)(ii), is codified as 45 U.S.C. § 351 et seq.

The Trade Expansion Act of 1962, referred to in (g)(1)(H)(iii)(I) and (i)(1)(F)(ii), is P.L. 87-794, codified primarily as 19 U.S.C. § 1801 et seq. and 19 U.S.C. § 1901 et seq.

The Automotive Products Trade Act of 1965, referred to in (g)(1)(H)(iii)(I) and (i)(1)(F)(ii), is codified as 19 U.S.C. §§ 1202 and 2001 et seq.

Section 236(a)(1) of the Trade Act of 1974, referred to in (i)(2)(B)(iii)(II), is codified as 19 U.S.C. § 2296(a)(1).

"Paragraph (1)(F) of this subsection," referred to in subsection (g)(6)(B), should probably be paragraph (1)(D).

"Section 3304 of the Internal Revenue Code of 1954", referred to in (i)(1)(H), is codified as 26 U.S.C. § 3304.

Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act of 2009, referred to in subsecs. (g)(1)(K) and (L), is noted under 26 U.S.C.A. § 3304.

*Editor's Notes*

Subsection (b) of this section, as a result of the expiration of D.C. Law 5-3, which had designated its provisions as paragraphs (1) and (2), and amendment by D.C. Law 5-124, which had added a paragraph (3), presently consists of an undesignated paragraph and a paragraph (3).

In subsection (i)(2)(C)(ii)(IV), a duplicate "of" has been deleted preceding "of the employer", to correct an error in D.C. Law 5-124.

*Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (l)(3), (m), (n), (o), (p), (q), (r), and (s) of D.C. Law 5-3, D.C. Law 5-3 shall expire on December 31, 1985.

## **§ 51-108. PAYMENT OF BENEFITS AND REFUNDS.**

Moneys shall be requisitioned from the District of Columbia account in the Unemployment Trust Fund solely for the payment of benefits and refunds as provided under §§ 51-104(i) and 51-101(2)(E)(iv) in accordance with regulations prescribed by the Director. The Director shall from time to time requisition from the Unemployment Trust Fund such amounts not exceeding the amounts standing to the District of Columbia's account therein as the Director deems necessary for the payment of benefits and refunds for a reasonable future period. Upon receipt of the amount requisitioned, the Director shall deposit it in the benefit account of the District Unemployment Fund in the Treasury of the United States as a special deposit to be used solely to pay the benefits and refunds provided in this subchapter. All payments of benefits shall be made by checks drawn by the Director, or the Director's duly authorized agent, shall be made through the employment offices designated by the Director, and shall be subject to a post, but not a prior, audit by the Office of the Inspector General.

(Aug. 28, 1935, 49 Stat. 950, ch. 794, § 9, renumbered § 8, June 4, 1943, 57 Stat. 114, ch. 117, § 1; Sept. 24, 1993, D.C. Law 10-15, § 206, 40 DCR 5420.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 46-109.

1973 Ed., § 46-308.

*Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 113 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

*Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-109. ELIGIBILITY FOR BENEFITS.**

An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Director:

- (1) That he has made a claim for benefits with respect to such week in accordance with such regulations as the Board may prescribe;
- (2) That he has during his base period been paid wages for employment by employers equal to those required by subsection (c) of § 51-107;
- (3) That he is physically able to work;
- (4)(A) That he is available for work and has registered and inquired for work at the employment office designated by the Director, with such frequency and in such manner as the Director may by regulation prescribe; provided, that failure to comply with this condition may be excused by the Director upon a showing of good cause for such failure; and the Director may by regulation waive or alter the requirements of this subsection as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this subchapter; and
- (B) That he has made a minimum of 2 contacts for new work in such week; provided, that failure to

comply with this condition may be excused by the Director in the manner as the condition imposed by paragraph (4)(A) of this section;

(5) That he has been unemployed for a waiting period of 1 week. No week shall be counted as a week of unemployment for the purposes of this paragraph:

(A) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;

(B) If benefits have been paid with respect thereto; and

(C) Unless the individual was eligible for benefits with respect thereto as provided in this section and § 51-110, except for the requirements of this paragraph and of subsection (f) of § 51-110;

(6) That he is not a prisoner in a District of Columbia correctional or penal institution who was employed in the free community under authority of subchapter V of Chapter 2 of Title 24, or that he has not made a claim for benefits with respect to a week during which he was a prisoner in a District of Columbia correctional or penal institution;

(7)(A) Benefits based on service in employment defined in § 51-101(2)(A)(ii) and (iii) shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this subchapter; except that benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education (as defined in § 51-101(23)) shall not be paid to an individual for any week of unemployment which begins during the period between 2 successive academic years, or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has reasonable assurance of performing services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

(B) Benefits based on service in employment defined in § 51-101(2)(A)(ii) and (iii) shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this subchapter; except, that with respect to weeks of unemployment beginning after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between 2 successive academic years or terms (or, when an agreement provides instead for a similar period between 2 regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. Subparagraph (A) of this paragraph shall apply with respect to benefits payable for weeks of unemployment beginning before January 1, 1978, based on such services.

(C)(i) Effective for weeks of compensation beginning on or after April 1, 1984, with respect to services performed in any capacity other than specified above for an educational institution or in an institution of higher education, benefits shall not be payable on the basis of such services to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is reasonable assurance that such individual will perform such services in the second of such academic years or terms.

(ii) If compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subparagraph.

(D) With respect to any services described in this paragraph, benefits shall not be payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(E)(i) With respect to any services described in this paragraph, benefits shall not be payable on the basis of services in any such capacities to any individual who performed such services in an educational institution while in the employ of an educational service agency.

(ii) For purposes of this subparagraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to 1 or more educational institutions.

(8) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any

week which commences during the period between 2 successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods); and

(9)(A) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of § 1153 or § 1182 of Title 8, United States Code).

(B) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(C) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(Aug. 28, 1935, 49 Stat. 950, ch. 794, § 10; July 2, 1940, 54 Stat. 733, ch. 524, § 1; renumbered § 9, June 4, 1943, 57 Stat. 114, ch. 117, § 1; Mar. 30, 1962, 76 Stat. 49, Pub. L. 87-424, § 8; Nov. 10, 1966, 80 Stat. 1520, Pub. L. 89-803, § 11; Dec. 22, 1971, 85 Stat. 771, Pub. L. 92-211, § 2(38); Mar. 3, 1979, D.C. Law 2-129, § 2(w), (x), 25 DCR 2451; Aug. 10, 1984, D.C. Law 5-102, § 2(f), 31 DCR 2902; Sept. 24, 1993, D.C. Law 10-15, §§ 105, 207, 40 DCR 5420; Apr. 18, 1996, D.C. Law 11-110, § 51, 43 DCR 530; Apr. 9, 1997, D.C. Law 11-255, § 52(b), 44 DCR 1271.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-110.

1973 Ed., § 46-309.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2 of District of Columbia Unemployment Compensation Act Amendments Temporary Act of 1984 (D.C. Law 5-87, June 14, 1984, law notification 31 DCR 3172).

For temporary (225 day) amendment of section, see § 105 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 2 of Unemployment Compensation Public School Employees Temporary Amendment Act of 1993 (D.C. Law 10-60, November 20, 1993, law notification 40 DCR 8453).

For temporary (225 day) amendment of section, see § 2(d) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001 (D.C. Law 14-75, March 6, 2002, law notification 49 DCR 2809).

For temporary (225 day) amendment of section, see § 2(d) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002 (D.C. Law 14-171, July 23, 2002, law notification 49 DCR \_\_).

##### *Emergency Act Amendments*

For temporary amendment of section, see § 2 of the Unemployment Compensation Public School Employees Emergency Amendment Act of 1993 (D.C. Act 10-101, August 9, 1993, 40 DCR 6143).

For temporary amendment of section, see § 2 of the Unemployment Compensation Public School Employees Emergency Amendment Act of 1994 (D.C. Act 10-264, June 24, 1994, 41 DCR 4488).

For temporary amendment of section, see § 2 of the Unemployment Compensation Public School Employees Emergency Amendment Act of 1995 (D.C. Act 11-80, June 28, 1995, 42 DCR 3453).

For temporary (90 day) amendment of section, see § 2(d) 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(d) 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(d) of Unemployment Compensation Terrorist Response Emergency Amendment Act of 2002 (D.C. Act 14-346, April 24, 2002, 49 DCR 4407).

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 5-102, see Historical and Statutory Notes following § 51-102.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 51-107.

### **§ 51-109.01. ELIGIBILITY FOR BENEFITS; EDUCATIONAL STEPLADDER PROGRAM.**

(a) An individual who is receiving benefits pursuant to § 51-109 or has exhausted his or her regular benefits so long as the benefit year on that claim has not expired and who is enrolled in an Educational Stepladder program certificate course shall be eligible for an extension of benefits for the duration of the course, up to a maximum amount of 52 times his or her weekly amount or 100% of the wages for employment paid the individual by employers during his or her base period, whichever is the lesser; provided, that the individual maintains a satisfactory level of attendance and achievement. This total amount includes regular benefits and any federal extension that may be in effect. Any benefits awarded to an individual shall not be chargeable to any base payer employer.

(b) An individual who is ineligible to receive benefits pursuant to § 51-109 and who is enrolled in an Educational Stepladder certificate course may be eligible for a weekly monetary benefit, equal to the unemployment insurance compensation weekly benefit amount a person earning minimum wage would receive for the duration of the course, up to a maximum of 52 times the weekly benefit calculated pursuant to this subsection; provided, that the individual maintains a satisfactory level of attendance and achievement.

(c) The receipt of the benefit described in subsection (b) of this section is not an entitlement but contingent upon the availability of such funds for the purposes of subchapter III of Chapter 16 of Title 32.

(Aug. 28, 1935, 49 Stat. 951, ch. 794, § 9a, as added Dec. 7, 2004, D.C. Law 15-205, § 1155(b)(2), 51 DCR 8441.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Emergency Act Amendments*

For temporary (90 day) addition, see § 1155(b)(2) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) addition, see § 1155(b)(2) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

##### *Legislative History of Laws*

Law 15-205, the "Fiscal Year 2005 Budget Support Act of 2004", was introduced in Council and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

### **§ 51-110. DISQUALIFICATION FOR BENEFITS.**

(a) For weeks commencing after March 15, 1983, any individual who left his most recent work voluntarily without good cause connected with the work, as determined under duly prescribed regulations, shall not be eligible for benefits until he has been employed in each of 10 subsequent weeks (whether or not consecutive) and, notwithstanding § 51-101, has earned wages from employment as defined by this subchapter equal to not less than 10 times the weekly benefit amount to which he would be entitled pursuant to § 51-107(b).

(b)(1) For weeks commencing after January 3, 1993, any individual who has been discharged for gross misconduct occurring in his most recent work, as determined by duly prescribed regulations, shall not be eligible for benefits until he has been employed in each of 10 successive weeks (whether or not consecutive) and, notwithstanding § 51-101, has earned wages from employment as defined by this subchapter equal to not less than 10 times the weekly benefit amount to which he would be entitled pursuant to § 51-107(b).

(2) For weeks commencing after January 3, 1993, any individual who is discharged for misconduct, other than gross misconduct, occurring in the individual's most recent work, as defined by duly prescribed regulations, shall not be eligible for benefits for the first 8 weeks otherwise payable to the individual or until the individual has been employed in each of 8 subsequent weeks (whether or not consecutive) and, notwithstanding § 51-101, has earned wages from employment as defined by this subchapter equal to not less than 8 times the weekly benefit amount to which the individual would have been entitled pursuant to § 51-107(b). In addition, such individual's total benefit amount shall be reduced by a sum equal to 8 times the individual's weekly benefit amount.

(3) The District of Columbia Unemployment Compensation Board shall add to its rules and regulations specific examples of behavior that constitute misconduct within the meaning of this subsection.

(c)(1) For weeks commencing after March 15, 1983, if any individual without good cause (as determined under duly prescribed regulations) fails to apply for new work in covered employment found to be suitable when notified by any employment office or fails to accept any suitable work in covered employment when offered by any employment office, by a union hiring hall, or directly by any employer, that individual shall not be eligible for benefits until he has been employed in each of 10 subsequent weeks (whether or not consecutive) and, notwithstanding § 51-101, has earned remuneration from employment equal to not less than 10 times the weekly benefit amount to which he would be entitled pursuant to § 51-107(b).

(2) In determining whether or not work is suitable, the following shall be considered:

- (A) The physical fitness and prior training, experience, and earnings of the individual;
- (B) The distance of the place of work from the individual's place of residence; and
- (C) The risk involved as to health, safety, or morals.

(3) The term "in covered employment" as used in this section means employment which is insured under this subchapter or any other state or federal unemployment insurance program.

(d)(1) Benefits shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (B) If the wages, earnings, hours, or other conditions of the work offered are less favorable to the individual than those prevailing for similar work in the locality; or
- (C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(2) Compensation shall not be denied to any otherwise eligible individual for any week during which he is attending a training or retraining course with the approval of the Director, and such individual shall be deemed to be otherwise eligible for any such week despite the provisions of § 51-109(4) and subsection (c) of this section.

(3) Notwithstanding any other provision of this subchapter, compensation shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for unemployment compensation.

(4) Compensation shall not be denied to any otherwise eligible individual who leaves his or her most recent work to accompany his or her spouse or domestic partner to a place from which it is impractical to commute to the place of employment. For the purposes of this paragraph, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(5) Compensation shall not be denied to any otherwise eligible individual who leaves his or her most recent work to care for an ill or disabled family member. For the purposes of this paragraph, the term "family member" shall have the same meaning as provided in § 2-1401.02(11B).

(e) If any individual otherwise eligible for benefits fails, without good cause as determined by the Director under regulations prescribed by the Board, to attend a training, retraining, or job counseling course when recommended by the manager of the employment office or by the Director and such course is available at public expense, he shall not be eligible for benefits with respect to any week in which such failure occurred.

(f) An individual shall not be eligible for benefits with respect to any week if it has been found by the Director that such individual is unemployed in such week as a direct result of a labor dispute, other than a lockout, still in active progress in the establishment where he is or was last employed; provided, that this subsection shall not apply if it is shown to the satisfaction of the Director that:

- (1) He is not participating in or directly interested in the labor dispute which caused his unemployment; and
- (2) He does not belong to a grade or class of workers of which, immediately before the commencement of the dispute, there were members employed at the premises at which the dispute occurs, any of whom are participating in or directly interested in the dispute; provided, that if in any

case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(g) An individual shall not be eligible for benefits for any week with respect to which he has received or is seeking unemployment compensation under any other unemployment compensation law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

(h) The eligibility of any individual, who is or has recently been pregnant, for benefits under this subchapter, shall be determined under the same standards and procedures as for any other claimant under this subchapter. There shall be no presumption that a person who is pregnant is physically unable to work, even when pregnancy was an issue with respect to the reason for separation from employment.

(i)(1) Notwithstanding any other provision of this subchapter, no otherwise eligible individual shall be denied benefits for any week because:

(A) He or she is in training approved under § 236(a)(1) of the Trade Act of 1974;

(B) He or she is in such approved training by reason of leaving work to enter such training; provided, that the work left is not suitable employment; or

(C) Because of the application to any such week in training of provisions in this law (or any federal unemployment insurance law administered hereunder) relating to availability for work, active search for work or refusal to accept work.

(D) He or she is enrolled in an approved certificate course authorized by subchapter III of Chapter 16 of Title 32 and maintaining a satisfactory level of attendance and achievement, as required by subchapter III of Chapter 16 of Title 32.

(2) For purposes of this subsection, the term "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages as determined for purposes of the Trade Act of 1974.

(j)(1) Notwithstanding any other provision of this subchapter, an individual who is unemployed within the meaning of this subchapter, has exhausted all regular unemployment benefits provided under this subchapter, including any extensions of benefits, and who is enrolled in and making satisfactory progress in a District-approved training program or in a job training program authorized under the Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C. § 2822), shall be eligible for training extension benefits if the Director determines that the following criteria are met:

(A) The training program will prepare the claimant for entry into a high-demand occupation;

(B) The claimant was separated from employment in a declining occupation or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the claimant's place of prior employment;

(C) The claimant is making satisfactory progress towards completion of the training as determined by the Director, including the submission of written statements from the training program provider; and

(D) The claimant is not receiving similar stipends or other training allowances for non-training costs.

(2) For the purposes of paragraph (1) of this subsection, the term:

(A) "Declining occupation" shall be defined by the Director based upon currently available labor market information.

(B) "High-demand occupation" shall be defined by the Director based upon currently available labor market information.

(C) "Similar stipends" means an amount provided under a program with similar goals, such as providing training to increase employability, and in similar amounts. Similar stipends of non-training cost allowances shall be treated as "earnings" as defined in § 51-101(4).

(3) A claimant who is eligible for a training extension pursuant to this subsection shall be enrolled in training and making satisfactory progress as the Director may determine will increase the employability of the claimant in the District labor market.

(4) The weekly training extension benefit amount payable to the eligible individual shall be equal to the claimant's weekly benefit amount for the most recent benefit year less any deductible or income as determined pursuant to this subchapter. The total amount of training extension benefits payable to a claimant shall not exceed 26 times the claimant's weekly benefit amount of the most recent benefit year.

(5) If the claimant completes the training program, ceases to be making satisfactory progress, or stops



attending the training program, the claimant shall not be eligible for further training extension benefits unless the Director determines that the claimant has resolved the impediment.

(6) A claimant seeking training extension benefits may apply for the benefits at any time prior to the end of the claimant's initial benefit year or the end of any period of extended benefits.

(7) No training extension benefits paid pursuant to this subchapter shall be charged to individual employer accounts.

(Aug. 28, 1935, 49 Stat. 951, ch. 794, § 11; renumbered § 10, June 4, 1943, 57 Stat. 114, ch. 117, § 1; Aug. 31, 1954, 68 Stat. 994, ch. 1139, § 1; Mar. 30, 1962, 76 Stat. 49, Pub. L. 87-424, § 9; Dec. 22, 1971, 85 Stat. 771, Pub. L. 92-211, § 2(39); Nov. 1, 1975, D.C. Law 1-34, § 4, 22 DCR 2553; Mar. 3, 1979, D.C. Law 2-129, § 2(y), (z), (aa)-(cc), 25 DCR 2451; Mar. 16, 1982, D.C. Law 4-86, § 2(e), 29 DCR 429; Sept. 17, 1982, D.C. Law 4-147, § 2(h), (i), 29 DCR 3347; May 7, 1983, D.C. Law 5-3, § 2(p)-(r), 30 DCR 1371; Mar. 13, 1985, D.C. Law 5-124, §§ 2(e), (f), 4, 31 DCR 5165; Sept. 24, 1993, D.C. Law 10-15, §§ 106, 208, 40 DCR 5420; May 16, 1995, D.C. Law 10-255, § 49(b), 41 DCR 5193; Apr. 9, 1997, D.C. Law 11-255, § 52(c), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 56, 45 DCR 745; Dec. 7, 2004, D.C. Law 15-205, § 1155(b)(1), 51 DCR 8441; July 23, 2010, D.C. Law 18-192, § 2(b), 57 DCR 4500.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-111.

1973 Ed., § 46-310.

##### *Effect of Amendments*

D.C. Law 15-205 added subpar. (D) to par. (1) of subsec. (i).

D.C. Law 18-192 added subsecs. (d)(4), (5), and (j).

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 106 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

Section 2(b) of D.C. Law 18-86 added subsec. (j) to read as follows:

"(j)(1)(A) Notwithstanding any other provision of this act, an individual who is unemployed within the meaning of this act, who has exhausted all regular unemployment benefits provided under this act, including any extensions of benefits, and who is enrolled in, and making satisfactory progress in, a District-approved training program or a job training program authorized under the Workforce Investment Act of 1998, approved August 7, 1998 (112 Stat. 936; 29 U.S.C. § 2822), shall be eligible for training extension benefits if the Director determines that the following criteria have been met:

"(i) The training prepares the claimant for entry into a high-demand occupation (if the Director determines that the claimant has been separated from employment in a declining occupation or has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the claimant's place of unemployment);

"(ii) The claimant is making satisfactory progress towards completing the training as determined by the Director, including the submission of written statements from the training program provider; and

"(iii) The claimant is not receiving similar stipends or other training allowances for non-training costs.

"(B)(i) For the purposes of subparagraph (A)(i) of this paragraph, the terms "declining occupation" and "high-demand occupation" shall be determined by the Director based upon currently available labor market information.

"(ii) For the purposes of subparagraph (A)(iii) of this paragraph, the term "similar stipends" means an amount provided under a program with similar goals, such as providing training to increase employability, and in similar amounts. The stipends for non-training cost allowances shall be treated as "earnings" as defined in this act.

"(2) A claimant who is not subject to the provisions of paragraph (1)(A)(i) of this subsection shall be enrolled in training and making satisfactory progress as the Director may determine will increase the employability of the claimant in the District labor market.

"(3) The weekly training extension benefit amount payable pursuant to this act shall be equal to the claimant's weekly benefit amount for the most recent benefit year less any deductible income as determined by this act. The total amount of training extension benefits payable to a claimant shall not exceed 26 times the claimant's weekly benefit amount of the most recent benefit year.

"(4) If the claimant completes the training program, ceases to be making satisfactory progress, or stops attending the training program, the claimant shall not be eligible for further training extension benefits unless the Director determines that the claimant has resolved the impediment.

"(5) A claimant seeking training extension benefits may apply for the benefits at any time prior to the end of the claimant's initial benefit year or the end of any period of extended benefits.

"(6) No training extension benefits paid pursuant to this act shall be charged to individual employer accounts."

Section 4(b) of D.C. Law 18-86 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 1155(b)(1) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1155(b)(1) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15- 594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) amendment of section, see § 2(b) of Unemployment Compensation Administrative Modernization Emergency Amendment Act of 2009 (D.C. Act 18-182, August 10, 2009, 56 DCR 6940).

For temporary (90 day) amendment of section, see § 2(b) of Unemployment Compensation Administrative Modernization Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-212, October 21, 2009, 56 DCR 8491).

#### *Legislative History of Laws*

Law 1-34, the "Pregnancy Discrimination Act," was introduced in Council and assigned Bill No. 1-101, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 15, 1975, and July 29, 1975, respectively. Signed by the Mayor on August 15, 1975, it was assigned Act No. 1-48 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 4-86, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 4-147, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 5-3, see Historical and Statutory Notes following § 51-102.01.

For legislative history of D.C. Law 5-124, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 51-107.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 42-1904.04.

For Law 15-205, see notes following § 51-109.01.

For Law 18-192, see notes following § 51-107.

#### *References in Text*

"Section 236(a)(1) of the Trade Act of 1974", referred to in (i)(1)(A) is codified as 19 U.S.C. § 2296(a)(1). The "Trade Act of 1974," referred to in paragraph (i)(2), is primarily codified as 19 U.S.C. §§ 2101 et seq., 2211 et seq., 2311 et seq., and 2411 et seq.

#### *Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (l)(3), (m), (n), (o), (p), (q), (r), and (s) of D.C. Law 5-3, D.C. Law 5-3 shall expire on December 31, 1985.

Because of the amendment of the expiration provision in § 4 of D.C. Law 5-3 by § 4 of D.C. Law 5-124, the amendments made in this section by D.C. Law 5-3 are not subject to the December 31, 1985, expiration date.

Unemployment Compensation Board abolished: See Historical and Statutory Notes following § 51-101.

## **§ 51-111. DETERMINATION OF CLAIMS; HEARING; APPEAL; WITNESS FEES.**

(a) Claims for benefits shall be made in accordance with such regulations as the Director may prescribe. Each employer shall post and maintain in places readily accessible to individuals in his service printed statements concerning such regulations or such other matters as the Director may by regulations prescribe. Each employer shall supply such individuals with copies of such printed statements or materials relating to claims for benefits as the Director may by regulation prescribe. Such printed statements or materials shall be supplied by the Director to each employer without cost to him.

(b) Promptly after an individual has filed a claim for benefits, an agent of the Director designated by it for such purpose shall make an initial determination with respect thereto which shall include a determination

with respect to whether or not such benefit may be payable, and if payable, the week with respect to which payments will commence, the maximum duration thereof, and the weekly benefit amount, except that in any case in which the payment or denial of benefits will be determined by the provisions of § 51-110(e), the agent shall promptly transmit such claim to an appeal tribunal which shall make a decision thereon after such investigation as it deems necessary, and after affording the parties opportunity for fair hearing in accordance with subsection (e) of this section, and the claimant and interested parties shall be given notice thereof and permitted to appeal therefrom to the Director and the courts as is provided in this subchapter for notice of, and appeals from, decisions of appeal tribunals. An initial determination may, for good cause, be reconsidered. The claimant and other parties to the proceedings shall be promptly notified of the initial determination or any amended determination and the reasons therefor. Benefits shall be denied or, if the claimant is otherwise eligible, paid promptly in accordance with such initial determination except as hereinafter otherwise provided. The Director shall promptly notify the claimant and any party to the proceeding of its determination, and such determination shall be final within 15 calendar days after the mailing of notice thereof to the party's last-known address or in the absence of such mailing, within 15 calendar days of actual delivery of such notice. The 15-day appeal period may be extended if the claimant or any party to the proceeding shows excusable neglect or good cause. The exception for good cause or excusable neglect shall apply to all claims pending on July 23, 2010, including those in which an appeal has been filed in the Office of Administrative Hearings or in which a petition for review has been filed in the District of Columbia Court of Appeals. If an appeal tribunal affirms an initial determination allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken. If, subsequent to such initial determination, benefits with respect to any week for which a claim has been filed are denied for reasons other than matters included in the initial determination, the claimant shall be promptly notified of the denial and the reasons therefor, and may appeal therefrom in accordance with the procedure herein described for appeals from initial determinations.

(c) To hear and decide appealed claims, the Director shall appoint 1 or more appeal tribunals to hold hearings in accordance with regulations prescribed by the Director at which all parties shall be given opportunity to present evidence and to be heard. In the conduct of such hearings, the parties shall not be bound by common law or statutory rules of evidence or other technical rules of procedure, but the appeal tribunal shall use due diligence to ascertain the true facts of the case.

(d) Each appeal tribunal shall consist of either an examiner regularly employed by the Director on a salaried basis or a body composed of an examiner who shall act as chairman, and, without regard to the civil service laws otherwise applicable, of 1 representative of employees and 1 representative of employers, each designated by the Director. No representative shall be regularly employed by the Director, nor shall any person acting in any case on behalf of the Director have any interest, direct or indirect, in the case. In no case shall the hearings proceed unless the examiner designated as a member of an appeal tribunal is present; and if either or both of such representatives fail to appear for any such hearings or are disqualified from participating in any such hearings, the examiner shall proceed to hear the case; provided, that the Director may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. Each such representative shall be paid for each day on which he actively engaged or was present and prepared to engage in the conduct of any such hearings, such sums, not in excess of \$10, as the Director shall by regulation prescribe.

(e) An appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall, unless such appeal is withdrawn, affirm or modify the finding of facts and the initial determination. The parties shall be duly notified of the decision of such appeal tribunal, together with the reasons therefor. The Director, under regulations prescribed by the Director, may permit further appeal by any party or may, upon the Director's own motion, affirm, reverse, or modify the decision of the appeal tribunal or may set it aside and order a rehearing or the taking of additional evidence before the same or a different appeal tribunal. Unless a petition for such appeal is filed within 10 days of mailing of the decision of an appeal tribunal, or within such 10-day period the Director has taken action on the Director's own motion in accordance with the provisions of this subsection, the decision of the appeal tribunal shall constitute the decision of the Director and shall be effective as such. Any decision of an appeal tribunal which is not so modified or so appealed within such 10-day period is final for all purposes, except as provided in § 51-112, and is not subject to review by the Office of the Inspector General. All decisions rendered by the Director affirming, reversing, or modifying any decision of an appeal tribunal shall become effective immediately, unless the Director shall otherwise order, and are not subject to review by the Office of the Inspector General.

(f) A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at every hearing on any such claim shall be taken down by a stenographer or recording device, but shall not be transcribed except upon order of the Director or in the event of an appeal pursuant to § 51-112. Upon any such appeal, a copy of all the testimony and of the findings of fact upon which the Director's decision was based shall be filed with the court, and the facts so found shall, if supported by evidence, be binding on the court.

(g) Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Director. Such fees shall be deemed part of the expense of administering this subchapter.

(h) The Director shall establish and administer a Claimant-Employer Advocacy Fund, funded with monies collected as interest and penalty payments from employers due to their late filing of wage reports, late

payment of employer contributions, and late payment of payments in lieu of contributions. The Fund shall be used exclusively to support the provision of assistance to and legal representation for claimants and employers involved in administrative appeals of claim determinations made by the Director. The Fund shall support the provision of such assistance and representation for claimants at the Metropolitan Washington Council, AFL-CIO and shall support the provision of such assistance and representation for employers at the D.C. Chamber of Commerce and at the Greater Washington Board of Trade. The total amount of funds which the Director provides from this Fund to the Metropolitan Washington Council, AFL-CIO, shall be twice the combined amount provided to the D.C. Chamber of Commerce and the Greater Washington Board of Trade.

(i) Testimony in hearings arising under this subchapter may be given and received by telephone.

(j) Any finding of fact or law, determination, judgment, conclusion, or final order made by a claims examiner, hearing officer, appeals examiner, the Director, or any other person having the power to make findings of fact or law in connection with any action or proceeding under this subchapter, shall not be conclusive or binding in any separate or subsequent action or proceeding between an individual and his present or prior employer brought before an arbitrator, court, or judge of the District of Columbia or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k)(1) Notwithstanding any other provision of this subchapter, all correspondence, notices, determinations, or decisions required for the administration of this subchapter may be transmitted to claimants, employers, or necessary parties by electronic mail or other means of communication as the claimant, employer, or necessary party may select from the alternative methods of communication approved by the Director. The Director shall issue a list of such approved methods of communication within 45 days of September 20, 2012.

(2) Notwithstanding any other provision of this subchapter, all correspondence, notices, determinations, or decisions issued by the Director may be signed by an electronic signature that complies with the requirements of § 28-4917 and Mayor's Order 2009-118, issued June 25, 2009.

(Aug. 28, 1935, 49 Stat. 951, ch. 794, § 12; renumbered § 11, June 4, 1943, 57 Stat. 116, ch. 117, § 1; Dec. 22, 1971, 85 Stat. 771, Pub. L. 92-211, § 2(40); Mar. 13, 1985, D.C. Law 5-124, § 2(g), 31 DCR 5165; Sept. 24, 1993, D.C. Law 10-15, §§ 107, 209, 40 DCR 5420; July 23, 2010, D.C. Law 18-192, § 2(c), 57 DCR 4500; Sept. 20, 2012, D.C. Law 19-168, § 2012, 59 DCR 8025.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-112.

1973 Ed., § 46-311.

##### *Effect of Amendments*

D.C. Law 18-192, in subsec. (b), substituted "15 calendar days" for "10 days", and inserted "The 15-day appeal period may be extended if the claimant or any party to the proceeding shows excusable neglect or good cause. The exception for good cause or excusable neglect shall apply to all claims pending on July 23, 2010, including those in which an appeal has been filed in the Office of Administrative Hearings or in which a petition for review has been filed in the District of Columbia Court of Appeals.".

D.C. Law 19-168 added subsec. (k).

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 107 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-124, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For Law 18-192, see notes following § 51-107.

For history of Law 19-168, see notes under § 51-103.

##### *Miscellaneous Notes*

Short title: Section 2021 of D.C. Law 19-168 provided that subtitle B of title II of the act may be cited as "Unemployment Compensation Claim Processing Efficiency Amendment Act of 2012".

## **§ 51-112. REVIEW OF BOARD'S DECISION.**

Any person aggrieved by the decision of the Director may seek review of such decision in the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act.

(Aug. 28, 1935, 49 Stat. 953, ch. 794, § 14; renumbered § 13, June 25, 1936, 49 Stat. 1921, ch. 804; June 4, 1943, 57 Stat. 118, ch. 117, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 583, Pub. L. 91-358, title I, §§ 155(c)(44)(C), 163(j)(2); Dec. 7, 1974, 88 Stat. 1617, Pub. L. 93-515, title III, § 301(2); Sept. 24, 1993, D.C. Law 10-15, § 210, 40 DCR 5420.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-113.

1973 Ed., § 46-312.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 210 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

##### *References in Text*

The District of Columbia Administrative Procedure Act, referred to in this section, is Chapter 5 of Title 2.

### **§ 51-113. ADMINISTRATION OF PROVISIONS OF SUBCHAPTER; DISCLOSURE OF INFORMATION.**

(a) The Director is hereby authorized and directed to administer the provisions of this subchapter. The Director is further authorized to employ such officers, examiners, accountants, attorneys, experts, agents, and other persons, and to make such expenditures as may be necessary to administer this subchapter, and to authorize any such person to do any act or acts which could lawfully be done by the Director. The Council of the District of Columbia may, in its discretion, require bond from any employees of the Director engaged in carrying out the provisions of this subchapter.

(b)(1) Notwithstanding any other provision of law, the Director is authorized to prescribe all regulations which may be necessary to implement this subchapter.

(2) Prior to the transmission of proposed regulations to the Council, the Director shall submit all proposed regulations to the Board for approval. The proposed regulations will be deemed approved and transmitted to the Council if the Board does not adopt a resolution of disapproval within 35 calendar days of the Board's receipt of the proposed regulations.

(3) The Director shall be responsible for establishing rules pertaining to the alternative base period, defined in § 51-101(6)(B), which shall be published no later than 180 days following October 1, 2002, and shall include rules for:

(A) Obtaining wage information, if wage information for most recently completed calendar quarter is not available to the Department of Employment Services from regular quarterly reports or wage information that is systematically accessible; and

(B) Notifying claimants of alternative base period eligibility.

(c) The Mayor shall each year, not later than May 1st, submit to Council a report covering the administration and operation of this subchapter during the preceding calendar year, and containing such recommendations as the Mayor wishes to make.

(d)(1) The Director shall, whenever it believes that a change in the contribution or benefit rates is necessary to protect the solvency of the Fund, at once recommend such change to Council of the District of Columbia if in session.

(2) By January 1, 1992, the Mayor shall submit to the Council a report designed to provide sufficient reserves in the Fund on December 30th of each year to meet unemployment benefit payments for the forthcoming calendar year.

(3) By October 15th of each year following March 16, 1988, the Mayor shall submit to the Council an annual status report on the Fund. The report shall include information on:

(A) The computation of the employer tax rate to be used for the forthcoming calendar year; and

(B) A review of the prior 2 years and the current year, a forecast of the solvency of the Fund based on provisions of § 51-103(c)(4)(B)(ii) for the next 5 years, and the statistical and economic assumptions upon which the forecast is based.

(e)(1) In the administration of this subchapter, the Director shall cooperate with the Department of Labor to the fullest extent consistent with the provisions of this subchapter, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure to the District and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970, or other Manpower Acts.

(2) In the administration of the provisions in § 51-107(g), which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the Director shall take such action as may be necessary:

(A) To ensure that the provisions are so interpreted and applied as to meet the requirements of such federal Act as interpreted by the Department of Labor; and

(B) To secure to the District the full reimbursement of the federal share of extended and regular benefits paid under this subchapter that are reimbursable under the federal Act.

(f) Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this subchapter and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner, whether by subpoena or otherwise, revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this subchapter with respect thereto. Subject to such restrictions as the Director may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the agency of any state or the federal agency charged with the administration of programs for food stamps, parent locator services and other support or paternity establishment services, public housing, Medicaid, Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, and supplemental security income, or the Department of Public Welfare of the government of any state, or the National Directory of New Hires established pursuant to section 316(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2209, 42 U.S.C. § 653a) or any District of Columbia State Directory of New Hires established pursuant to § 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or the United States Accounting Office or the Internal Revenue Service of the United States Department of the Treasury, or the District of Columbia Office of Tax and Revenue, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this subchapter. The Director may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this subchapter, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in § 1606(c) of the federal Internal Revenue Code.

(g) In the discharge of the duties imposed by this subchapter, the Director and any duly authorized representative thereof shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this subchapter.

(h) In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Director may invoke the aid of the Superior Court of the District of Columbia in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such Court may issue an order requiring such person to appear before the Director or officer designated by the Director, there to produce records, if so ordered, or to give testimony touching the matter in question; and any failure to obey such order of the Court may be punished by such Court as a contempt thereof. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if in his power so to do, in obedience to the subpoena of the Director, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than 1 year, or both.

(i) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Director or in obedience to the subpoena of the Director or any officer designated by the Director, or in any cause or proceeding instituted by the Director, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce

evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(Aug. 28, 1935, 49 Stat. 953, ch. 794, § 14; renumbered § 13, July 2, 1940, 54 Stat. 733, ch. 524, title I, § 1; June 4, 1943, 57 Stat. 118, ch. 117, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Aug. 31, 1954, 68 Stat. 995, ch. 1139, § 1; Aug. 30, 1964, 78 Stat. 696, Pub. L. 88-514, § 1; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(44)(D); Dec. 22, 1971, 85 Stat. 772, Pub. L. 92-211, § 2(41); Mar. 3, 1979, D.C. Law 2-129, § 2(dd), 25 DCR 2451; Mar. 3, 1979, D.C. Law 2-139, § 3205(a), 25 DCR 5740; Mar. 16, 1982, D.C. Law 4-86, § 2(f), 29 DCR 429; Sept. 17, 1982, D.C. Law 4-147, § 2(j), 29 DCR 3347; May 7, 1983, D.C. Law 5-3, § 2(s), 30 DCR 1371; Mar. 16, 1988, D.C. Law 7-91, § 2(c), 35 DCR 712; Sept. 24, 1993, D.C. Law 10-15, §§ 108, 211, 40 DCR 5420; May 16, 1995, D.C. Law 10-255, § 49(c), 41 DCR 5193; July 24, 1998, D.C. Law 12-132, § 2, 45 DCR 2931; Apr. 20, 1999, D.C. Law 12-241, § 15, 46 DCR 905; Apr. 20, 1999, D.C. Law 12-261, § 4002(b), 46 DCR 3142; Apr. 3, 2001, D.C. Law 13-269, § 111, 48 DCR 1270; June 9, 2001, D.C. Law 13-305, § 409, 48 DCR 334; Oct. 1, 2002, D.C. Law 14-190, § 2302(b), 49 DCR 6968.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-114.

1973 Ed., § 46-313.

##### *Effect of Amendments*

D.C. Law 13-269 inserted "and other support or paternity establishment services" following "parent locator services" in subsec. (f).

D.C. Law 13-305 substituted "or the Internal Revenue Service of the United States Department of the Treasury, or the District of Columbia Office of Tax and Revenue" for "or the Internal Revenue Service of the United States Department of the Treasury" in subsec. (f).

D.C. Law 14-190 added subsec. (b)(3).

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 211 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

For temporary (225 day) amendment of section, see § 2 of District of Columbia Unemployment Compensation Federal Conformity Temporary Amendment Act of 1997 (D.C. Law 12-69, March 20, 1998, law notification 45 DCR 2104).

For temporary (225 day) amendment of section, see § 10 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 10 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 112 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 110 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

For temporary (225 day) amendment of section, see § 15 of Self-Sufficiency Promotion Temporary Amendment Act of 1998 (D.C. Law 12-230, April 20, 1999, law notification 46 DCR 4143).

For temporary (225 day) amendment of section, see § 2(e) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2001 (D.C. Law 14- 75, March 6, 2002, law notification 49 DCR 2809).

For temporary (225 day) amendment of section, see § 2(e) of Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002 (D.C. Law 14- 171, July 23, 2002, law notification 49 DCR \_).

##### *Emergency Act Amendments*

For temporary amendment of section, see § 2 of the District of Columbia Unemployment Compensation Federal Conformity Emergency Amendment Act of 1997 (D.C. Act 12-192, November 12, 1997, 44 DCR 7102).

For temporary amendment of section, see § 10 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary amendment of section, see § 10 of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 10 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of

1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 10 of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 10 of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary amendment of section, see § 15 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 15 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 15 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), and § 15 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

For temporary (90-day) amendment of section, see § 110 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 110 of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 110 of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581).

For temporary (90 day) amendment of section, see § 110 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) addition of section, see § 111 of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

For temporary (90 day) amendment of section, see §§ 2202(b) 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*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978, and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 4-86, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 4-147, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 5-3, see Historical and Statutory Notes following § 51-102.01.

For legislative history of D.C. Law 7-91, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 51-101.

Law 12-132, the "District of Columbia Unemployment Compensation Federal Conformity Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-415, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 3, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 20, 1998, it was assigned Act No. 12-332 and transmitted to both Houses of Congress for its review. D.C. Law 12-132 became effective on July 24, 1998.

Law 12-241, the "Self-Sufficiency Promotion Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-558, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 23, 1998, it was assigned Act No. 12-573 and transmitted to both Houses of Congress for its review. D.C. Law 12-241 became effective on April 20, 1999.

For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 51-107.

Law 13-269, the "Child Support and Welfare Reform Compliance Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-254, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 8, 2001, it was assigned Act No. 13-559 and transmitted to both Houses of Congress for its review. D.C. Law 13-269 became effective on April 3, 2001.

Law 13-305, the "Tax Clarity Act of 2000," was introduced in Council and assigned Bill No. 13-586, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on



October 2, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2000, it was assigned Act No. 13-501 and transmitted to both Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

For Law 14-190, see notes following § 51-101.

*References in Text*

"Provisions of the Social Security Act that relate to unemployment compensation," referred to in subsection (e)(1) of this section, may be found in 42 U.S.C. § 501 et seq. and 42 U.S.C. § 1101 et seq.

"The Federal Unemployment Tax Act," referred to in subsection (e)(1), is a reference to 26 U.S.C. §§ 3301 to 3311.

"The Wagner-Peyser Act," referred to in subsection (e)(1), is a reference to 29 U.S.C. § 49 et seq.

"The Federal-State Extended Unemployment Compensation Act of 1970," referred to in subsections (e)(1) and (2), is set forth as a note to 26 U.S.C. § 3304.

Section 1606(c) of the federal Internal Revenue Code, referred to in subsection (f) of this section, is a reference to § 1606(c) of the Internal Revenue Code, 1939, and was repealed by § 1 of the Act of August 16, 1954, 68A Stat. 915, ch. 736, and is now covered by 26 U.S.C. § 3305(c).

Section 316(f) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in (f), is codified at 42 U.S.C. § 653. Section 313(b) of that act, also referred to in (f), is codified at 42 U.S.C. § 653a.

*Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (l)(3), (m), (o), (p), (q), (r), and (s) of D.C. Law 5-3, D.C. Law 5-3 shall expire on December 31, 1985.

Because of the amendment of the expiration provision in § 4 of D.C. Law 5-3 by § 4 of D.C. Law 5-124, the amendments made in this section by D.C. Law 5-3 are not subject to the December 31, 1985, expiration date.

District of Columbia Unemployment Compensation Act Rulemaking Approval Resolution of 1994: Pursuant to Proposed Resolution 11-179, deemed approved July 21, 1995, Council approved rules to carry out the purposes of the District of Columbia Unemployment Compensation Act.

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.

## **§ 51-114. PAYMENT OF ADMINISTRATIVE EXPENSES.**

(a) All moneys received by the Director from the United States under title III of the Social Security Act or from other sources for administering this subchapter shall, immediately upon such receipt, be deposited in the Treasury of the United States as a special deposit to be used solely to pay such administrative expenses (including expenditures for rent, for suitable office space in the District of Columbia, and for lawbooks, books of reference, and periodicals), traveling expenses when authorized by the Director, premiums on the bonds of the Director's employees, and allowances to investigators for furnishing privately-owned motor vehicles in the performance of official duties at rates not to exceed \$65 per month. All such payments of expenses shall be made by checks drawn by the Director and shall be subject to audit by the Mayor of the District of Columbia in the same manner as are payments of other expenses of the District. Notwithstanding the provisions of this section and the provisions of §§ 51-102 and 51-108, the Director is authorized to requisition and receive from the Director's account in the Unemployment Trust Fund in the Treasury of the United States of America, in the manner permitted by federal law, such moneys standing to the District's credit in such Fund, as are permitted by federal law to be used for expenses incurred by the Director for the administration of this subchapter and to expend such moneys for such purposes. Moneys so received shall, immediately upon such receipt, be deposited in the Treasury of the United States in the same special account as are all other moneys received for the administration of this subchapter. All moneys received by the Director pursuant to § 302 of the Social Security Act shall be expended solely for the purposes and in the amounts found necessary by the Department of Labor for the proper and efficient administration of this subchapter. In lieu of incorporation in this subchapter of the provision described in § 303(a)(9) of the Social Security Act, the Mayor shall include in the Mayor's annual report to Council of the District of Columbia, provided in § 51-113, a report of any moneys received after July 1, 1941, from the Department of Labor under title III of the Social Security Act, and any unencumbered balances in the Employment Compensation Administration Fund as of that date, which the Department of Labor finds have, because of any action or contingency, been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Department of Labor for the proper administration of this subchapter.

(b)(1) There is hereby created a special fund in the General Fund of the District of Columbia, separate and apart from the District Unemployment Fund, to be known as the Special Administrative Expense Fund.

Notwithstanding any contrary provisions of this subchapter:

(A) Interest and penalties collected from employers, and dishonored check penalties authorized by § 1-333.11 shall after January 31, 1972, be deposited into the Clearing Account in the District Unemployment Fund in the Treasury of the United States for clearance only and shall not, except as provided in paragraph (4) of this subsection, be deemed a part of the District Unemployment Fund;

(B) Thereafter, during each calendar quarter, there shall be transferred from the Clearing Account to such Special Administrative Expense Fund all moneys described in subparagraph (A) of this paragraph collected during the preceding quarter; and

(C) Refunds of such moneys paid into the Special Administrative Expense Fund shall be made from such Fund.

(2)(A) Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, federal funds which would in the absence of said moneys, be available to finance expenditures for the administration of this subchapter. Nothing in this subsection shall prevent said moneys from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The moneys in this Fund shall be used by the Director for the payment of costs of administration which are found by the Director not to be proper and valid charges payable out of federal grants or other funds received for the administration of this subchapter. All such payments of expenses shall be made by checks drawn by the Director and shall be subject to audit by the District in the same manner as are payments of other expenses of the District.

(B) The monies in this Fund shall also be used for the payment of the monetary benefit described in § 51-119.01(b).

(3) No expenditure of this Fund shall be made unless and until the Director by written statement of authorization finds that no other funds are available or can properly be used to finance such expenditures. Vouchers drawn to pay expenditures of this Fund shall, among other things, include a copy of the written authorization of the Director hereinbefore referred to.

(4) The moneys in this Fund shall be continuously available to the Director for expenditures and refunds in accordance with the provisions of this subsection and shall not lapse at any time or be transferred to any other fund or account except as are herein provided. If, on October 31st of any calendar year, the balance in this Fund exceeds \$1,000,000 by \$1,000 or more, the Director shall transfer such excess to the Unemployment Trust Fund. The interest on the funds in the Fund shall be credited to the Fund.

(c)(1) There is created a special fund in the General Revenue Fund of the District of Columbia Treasury, which shall be separate from the District Unemployment Fund, to be known as the Interest Account.

Notwithstanding any contrary provisions of this subchapter:

(A) All interest surcharges collected from employers shall be deposited in the Interest Account; and

(B) All moneys in the Interest Account shall be used for the payment of interest assessed on interest-bearing advances received under title XII of the Social Security Act.

(2) Of the amount deposited in the Interest Account, \$4,500,000 shall be transferred to the Special Administrative Expense Fund established by subsection (b) of this section, upon certification of the Director to the Chief Financial Officer of the District of Columbia that such monies are no longer needed to pay such interest bearing advances and interest assessments. The funds transferred from the Interest Account to the Special Administrative Account shall not be subject to the limitations imposed by subsection (b)(4) of this section and shall be expended on:

(A) Installation of an Interactive Voice Response system, for processing initial, reopened, and transitional claims, for responding to inquiries on current benefit overpayment balances and status of most recent repayments, for providing general information on the process for filing an appeal and specific information on the status of a filed appeal, and for the processing of a household employer's annual contribution report;

(B) Implementation of Internet based electronic applications, which would allow an employer to register, to update its account for changes of address, phone, and business status, to submit its quarterly reports, and in the case of a household employer to submit annual reports and make payment electronically;

(C) Implementation of an integrated scanning, imaging, and retrieval system;

(D) Implementation of an Internet based fraud control program;

(E) Implementation of an Internet based system for scheduling benefit hearings and other procedures;

(F) Implementation of a system for direct deposit and electronic transfer of benefit payments; and

(G) Activities in support of the Unemployment Compensation Terrorist Response Temporary Amendment Act of 2002, effective July 23, 2002 (D.C. Law 14-171; 49 DCR 5072), and the

increased workload associated with the events of September 11, 2001.

(d)(1) There is created a special fund in the General Revenue Fund of the District of Columbia government that shall be separate and distinct from the District Unemployment Fund, to be known as the Unemployment and Workforce Development Administrative Fund.

(2) Notwithstanding any contrary provisions of this subchapter:

(A) All administrative assessment payments collected from employers shall be deposited into the Administrative Assessment Account. The interest on the funds in the Administrative Assessment Account shall be credited to the Administrative Assessment Account.

(B) All funds deposited into the Administrative Assessment Account shall be used exclusively for the improvement of benefit claim eligibility determinations, the provision of employment and reemployment services, fraud prevention, and the costs of collecting and administering the administrative funding assessment.

(C) The services and improvements shall include:

(i) Increasing the number of referrals to intensive reemployment services;

(ii) Providing job coaches, job clubs, and weekly reemployment workshops;

(iii) Increasing the number of eligibility review interviews;

(iv) Increasing the number of fraud investigations;

(v) Increasing the number of staff to perform these expanded services; and

(vi) Other activities that may increase the likelihood of employment or reemployment.

(Aug. 28, 1935, 49 Stat. 954, ch. 794, § 15; renumbered § 14, July 1, 1941, 55 Stat. 540, ch. 272, § 1; June 4, 1943, 57 Stat. 120, ch. 117, §1; 1946 Reorg. Plan No. 2, § 4, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, 63 Stat. 1065; Aug. 31, 1954, 68 Stat. 995, ch. 1139, § 1; Dec. 22, 1971, 85 Stat. 772, Pub. L. 92-211, § 2(42); Mar. 16, 1993, D.C. Law 9-200, § 2(b), 39 DCR 9217; Sept. 24, 1993, D.C. Law 10-15, §§ 109, 212, 40 DCR 5420; Apr. 4, 2001, D.C. Law 13-270, § 2(b), 48 DCR 1620; Oct. 1, 2002, D.C. Law 14-190, § 2352, 49 DCR 6968; Dec. 7, 2004, D.C. Law 15-205, § 1155(b)(3), 51 DCR 8441; Oct. 20, 2005, D.C. Law 16-33, § 2042(b), 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2042(b), 54 DCR 7052; Sept. 24, 2010, D.C. Law 18-223, § 2202(b), 57 DCR 6242.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-115.

1973 Ed., § 46-314.

##### *Effect of Amendments*

D.C. Law 13-270 rewrote subsec. (c), par. (2), which had read:

"(2) Any moneys deposited in the Interest Account that are unexpended after all interest-bearing advances and interest assessments are paid to a zero balance shall be transferred to the Unemployment Trust Fund upon certification by the Director that the unexpended funds will not be needed to pay interest charges in the next calendar year."

D.C. Law 14-190 rewrote subsec. (c)(2) which had read as follows:

"(c)(2) Twenty-five percent of total amount of funds deposited in the Interest Account that are unexpended after all interest-bearing advances and interest assessments are paid to a zero balance shall be transferred to the Special Administrative Expense Fund established by subsection (b) of this section; upon certification of the Director to the Chief Financial Officer of the District of Columbia that such moneys are no longer needed to pay such interest bearing advances and interest assessments. The funds transferred from the Interest Account to the Special Administrative Account shall not be subject to the limitations imposed by subsection (b)(4) of this section and shall be expended on:

"(A) Implementation of the program allowing District residents with household employees to report and pay unemployment compensation tax on annual basis; and

"(B) Upon completion of the program in subparagraph (A) of this subsection, funds may be expended on:

"(i) Installation of an interactive voice response system;

"(ii) Installation of an integrated scanning, imaging and retrieval system;

"(iii) Implementation of a Internet based electronic reporting system for employer quarterly reports; and

"(iv) Any other items for the improvement of the administration of the unemployment compensation."

D.C. Law 15-205, in par. (2) of subsec. (b), designated the existing text as subpar. (A), and added subpar. (B).

D.C. Law 16-33 added subsec. (d)

D.C. Law 17-20, in subsec. (b)(1), substituted "fund in the General Fund of the District of Columbia" for "deposit fund in the Treasury of the United States"; in subsec. (b)(4), substituted "The interest on the funds in the Fund shall be credited to the Fund." for "It shall be the duty of the Secretary of the Treasury to invest such portion of this Fund in excess of \$10,000 at the end of each month. Such investments shall be made in the same manner as provided in 904 of the Social Security Act. The interest on, and the proceeds from, the sale of redemptions or any obligations held in this Fund shall be credited to and form a part of this Fund."; and, in subsec. (d)(2)(A), inserted "'The interest on the funds in the Administrative Assessment Account shall be credited to the Administrative Assessment Account."

D.C. Law 18-223, in subsec. (d)(1), substituted "Unemployment and Workforce Development Administrative Fund" for "Administrative Assessment Account"; and, in subsec. (d)(2)(B), substituted "the provision of employment and reemployment services" for "the expansion of reemployment services to individuals determined to be likely to exhaust their benefit entitlements"; and, in subsec. (d)(2)(C)(iv), substituted "employment or reemployment" for "reemployment prior to the exhaustion of a benefit claim".

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2(b) of District of Columbia Unemployment Compensation Act Temporary Amendment Act of 1992 (D.C. Law 9-89, April 8, 1992, law notification 40 DCR ).

For temporary (225 day) amendment of section, see § 212 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2252 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

For temporary (90 day) amendment of section, see § 1155(b)(3) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1155(b)(3) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15- 594, October 26, 2004, 51 DCR 11725).

For temporary (90 day) amendment of section, see § 2042(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2042(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 2202(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

#### *Legislative History of Laws*

For legislative history of D.C. Law 9-200, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For D.C. Law 13-270, see notes following § 51-104.

For Law 14-190, see notes following § 51-101.

For Law 15-205, see notes following § 51-109.01.

For Law 16-33, see notes following § 51-103.

For Law 17-20, see notes following § 51-103.

For Law 18-223, see notes following § 51-103.

#### *References in Text*

Title III of the Social Security Act, referred to in (a), is codified as 42 U.S.C. § 501 et seq.

Sections 302 and 303(a)(9) of the Social Security Act, referred to in (a), are codified as 42 U.S.C. §§ 502 and 503(a)(9), respectively.

"Section 904 of the Social Security Act", referred to in (b)(4), is codified as 42 U.S.C. § 1104.

"Title XII of the Social Security Act," referred to in (c)(1)(B), is codified as 42 U.S.C. § 1201 et seq.

#### *Miscellaneous Notes*

Short title of subtitle B of title XXIII of Law 14-190: Section 2351 of D.C. Law 14-190 provided that subtitle B of title XXIII of the act may be cited as the Unemployment Compensation Modernization Amendment Act of 2002.

## **§ 51-115. DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION BOARD; POWERS AND DUTIES; TENURE OF OFFICE; COMPENSATION.**

(a) There is hereby established the District of Columbia Unemployment Compensation Board, to be composed of the Mayor or his designee as member ex officio, 2 representatives of employers and 2 representatives of employees to be appointed by the Mayor. Each such representative shall be a resident of the District of Columbia. Members of the District of Columbia Unemployment Compensation Board shall be representatives of the population of the District of Columbia. Each representative shall hold office for a term of 3 years; except, that in making initial appointments, the Mayor shall appoint 1 employee and 1 employer representative to serve 2-year terms. Any representative appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. The Mayor of the District of Columbia shall be the Chairman of the Board. The District of Columbia Unemployment Compensation Board shall meet at least once in each 3-month period. A majority of the representatives shall constitute a quorum; provided, that 1 employee representative and 1 employer representative are present.

(b) Repealed.

(c) The Mayor of the District shall serve on the Board without additional compensation, but the representatives of employees and employers, respectively, shall be paid \$50 for each day of active service. For the purposes of this subsection, a part of a day shall be construed as an entire day.

(d) Repealed.

(Aug. 28, 1935, 49 Stat. 954, ch. 794, § 16; renumbered § 15, June 4, 1943, 57 Stat. 121, ch. 117, § 1; Aug. 31, 1954, 68 Stat. 996, ch. 1139, § 1; Dec. 22, 1971, 85 Stat. 773, Pub. L. 92-211, § 2(43); Mar. 3, 1979, D.C. Law 2-129, § 2(ee), 25 DCR 2451; Sept. 24, 1993, D.C. Law 10-15, § 213, 40 DCR 5420.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 46-116.

1973 Ed., § 46-315.

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 213 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

#### *Legislative History of Laws*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-116. RECIPROCAL ARRANGEMENTS AUTHORIZED.**

(a) The Director is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than 1 state shall be deemed to be services performed entirely within any 1 of the states: (1) in which any part of such individual's service is performed; or (2) in which such individual has his residence; or (3) in which the employing unit maintains a place of business; provided there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state.

(b) The Director is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby potential rights to benefits accumulated under the unemployment compensation laws of 1 or more states or under 1 or more such laws of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the Fund.

(c) The Director shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this subchapter with his wages and employment covered under the unemployment compensation laws of other states which are approved by the Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

(1) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemployment compensation laws; and

(2) Avoiding the duplicate use of wages and employment by reason of such combining.

(d) The Director is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby contributions due under this subchapter with respect to wages for employment shall for the purposes of § 51-104 be deemed to have been paid to the Fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the Fund of such contributions and the actual earnings thereon as the Director finds will be fair and reasonable as to all affected interests.

(e) Reimbursements paid from the Fund pursuant to subsection (c) of this section shall be deemed to be benefits for the purpose of §§ 51-106, 51-107, and 51-108. The Director is authorized to make to other state or federal agencies and to receive from such other state or federal agencies reimbursements from or to the Fund, in accordance with arrangements entered into pursuant to this section.

(f) The administration of this subchapter and of state and federal unemployment compensation and public employment service laws will be promoted by cooperation between the District and such states and the appropriate federal agencies in exchanging services and making available facilities and information. The Director is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided herein with respect to the administration of this subchapter as it deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law, and in like manner to accept and utilize information, services, and facilities made available to the District by the agency charged with the administration of any such other unemployment compensation or public employment service law.

(g) To the extent permissible under the laws and Constitution of the United States, the Director is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this subchapter and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment security law of the District or under a similar law of such government.

(h) To the extent permissible under the laws of the District of Columbia and the United States, the Director is hereby authorized to enter into reciprocal arrangements with the appropriate and duly authorized agencies of other states or the federal government, or both, providing for the recovery of benefits previously paid to individuals having no entitlement to them by offset of benefits due under the provisions of this subchapter, the unemployment compensation laws of other states, or the United States.

(Aug. 28, 1935, 49 Stat. 954, ch. 794, § 17; renumbered § 16, June 4, 1943, 57 Stat. 121, ch. 117, § 1; Dec. 22, 1971, 85 Stat. 773, Pub. L. 92-211, § 2(44); Sept. 24, 1993, D.C. Law 10-15, §§ 110, 214, 40 DCR 5420.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-117.

1973 Ed., § 46-316.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 110 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-117. RECORDS AND REPORTS; INSPECTION; PENALTIES FOR VIOLATION.**

(a) Every employing unit, whether or not liable to pay contributions under § 51-103, shall keep such true and accurate work records with respect to all individuals employed by it as the Director may prescribe. Such records shall be open to inspection by the Director and shall be subject to being copied by the Director or the Director's authorized representative at any reasonable time and as often as may be necessary.

(b) The Director may require from any employing unit any sworn or unsworn reports in connection with its business, covering employment, employees, wages, earnings, unemployment and related matters, as the Director deems necessary to the effective administration of this subchapter. Except as hereinbefore

provided in § 51-113(f), information thus obtained may not be divulged. Any person who violates any provision of this section or § 51-113(f) shall be fined not less than \$20 nor more than \$200 or imprisoned not longer than 90 days, or both.

(Aug. 28, 1935, 49 Stat. 955, ch. 794, § 18; renumbered § 17, June 4, 1943, 57 Stat. 122, ch. 117, § 1; Sept. 24, 1993, D.C. Law 10-15, § 215, 40 DCR 5420.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-118.

1973 Ed., § 46-317.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 215 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-118. PROTECTION OF RIGHTS AND BENEFITS; CHILD SUPPORT OBLIGATIONS.**

(a) No agreement by any individual to waive any of his rights under this subchapter or to pay any part of the contribution payable by his employer with respect to his or any other individual's employment, shall be valid; nor shall any employer make, require, or permit any deduction from the wages payable to his employees for the purpose of paying any part of the contributions required of the employer under this subchapter, or require or attempt to induce any individual to waive any right he may acquire under this subchapter. Any employer who violates any provision of this subsection shall, for each such offense, be fined not less than \$100 nor more than \$1,000 or be imprisoned not more than 6 months, or both.

(b)(1) Except as hereinafter provided no assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this subchapter shall be valid or enforceable; and the right to any such benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and the benefits received by any individual so long as they are not mingled with other funds of the recipient shall be exempt from any remedy whatsoever for the collection of all debts except debts accrued for necessities furnished to such individual, his spouse, or his dependents during the time when such individual was unemployed.

(2) An individual filing a new claim for unemployment compensation shall disclose, at the time of filing such a claim, whether the individual owes child support obligations as defined under paragraph (8) of this subsection. If any individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the Director shall notify the appropriate state or local child support enforcement agency that the individual has been determined to be eligible for unemployment compensation.

(3) The Director shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under paragraph (8) of this subsection the following:

(A) The amount specified by the individual to the Director to be deducted and withheld under this subsection if neither subparagraph (B) nor (C) of this paragraph is applicable;

(B) The amount (if any) determined pursuant to an agreement submitted to the Director under § 454(19)(B)(i) of the Social Security Act by the appropriate state or local child support enforcement agency, unless subparagraph (C) of this paragraph is applicable; or

(C) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process as that term is defined in § 462(e) of the Social Security Act.

(4) Any amount deducted and withheld under paragraph (2) of this subsection shall be paid by the Director to the appropriate state or local child support enforcement agency.

(5) Any amount deducted and withheld under paragraph (2) of this subsection shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by such an individual to the state or local child enforcement agency in satisfaction of the individual's child support obligations.

(6) For purposes of paragraphs (2) through (5) of this subsection, the term "unemployment

compensation" means any compensation payable under the state law (including amounts payable by the District pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment).

(7) Deductions shall be made pursuant to this subsection only if appropriate arrangements have been made for reimbursement by the state or local child enforcement agency for the administrative costs incurred by the Director under this subsection which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(8) The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in § 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of the Social Security Act.

(9) The term "state or local child enforcement agency" as used in these provisions means any agency of a state or political subdivision thereof operating pursuant to a plan described in paragraph (8) of this subsection.

(c) No individual seeking to establish a claim for benefits shall be charged any fee whatsoever by the Director or the Director's representatives, or by the court or any officer thereof. Any individual claiming benefits in any proceeding before the Director or the Director's representative or the court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the Director. Any person who violates any provision of this subsection shall, for each such offense, be fined not more than \$500 or imprisoned not more than 1 year, or both.

(d)(1) An individual filing a new claim for unemployment compensation benefits shall be advised at the time of filing the claim, that:

(A) Unemployment compensation is subject to federal, state, and local income taxes;

(B) Requirements exist pertaining to estimated tax payments;

(C) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation with respect to benefits paid on or after January 1, 1997, at the amount specified in the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*);

(D) The individual may elect to have District of Columbia income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of 5% with respect to weeks of benefits paid on or after January 1, 2002; and

(E) The individual shall be permitted to change a previously elected withholding status on 2 occasions during the individual's benefit year.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the unemployment fund until transferred to the federal or District taxing authority as a payment of income tax.

(3) The Director shall follow all procedures specified by the United States Department of Labor, the Internal Revenue Service, and the District of Columbia taxing authority pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld pursuant to this section only after amounts are deducted and withheld for any benefit overpayment or child support obligations required to be deducted and withheld under this subchapter.

(Aug. 28, 1935, 49 Stat. 955, ch. 794, § 19; renumbered § 18, June 4, 1943, 57 Stat. 123, ch. 117, § 1; Sept. 17, 1982, D.C. Law 4-147, § 2(k), 29 DCR 3347; Sept. 14, 1993, D.C. Law 10-15, § 216, 40 DCR 5420; Feb. 5, 1994, D.C. Law 10-68, § 40(c), 40 DCR 6311; Oct. 3, 2001, D.C. Law 14-28, § 4702, 48 DCR 6981.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-119.

1973 Ed., § 46-318.

##### *Effect of Amendments*

D.C. Law 14-28 added subsec. (d).

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 216 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).



For temporary (225 day) amendment of section, see § 2 of Unemployment Compensation Federal Conformity Temporary Amendment Act of 1997 (D.C. Law 11- 266, May 21, 1997, law notification 44 DCR 2985).

*Emergency Act Amendments*

For temporary amendment of section, see § 2 of the Unemployment Compensation Federal Conformity Emergency Amendment Act of 1996 (D.C. Act 11-478, January 9, 1997, 44 DCR 624).

For temporary amendment of section, see § 2 of the Unemployment Compensation Federal Conformity Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-64, April 3, 1997, 44 DCR 2434).

For temporary (90 day) amendment of section, see § 4202 of Fiscal Year 2002 Budget Support Emergency Act of 2001 (D.C. Act 14-124, August 3, 2001, 48 DCR 7861).

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

*Legislative History of Laws*

For legislative history of D.C. Law 4-147, see Historical and Statutory Notes following § 51-103.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 51-101.

Law 14-28, the "Fiscal Year 2002 Budget Support Act of 2001", was introduced in Council and assigned Bill No. 14-144, which was referred to the Committee Of the Whole. The Bill was adopted on first and second readings on May 1, 2001, and June 5, 2001, respectively. Signed by the Mayor on June 29, 2001, it was assigned Act No. 14-85 and transmitted to both Houses of Congress for its review. D.C. Law 14-28 became effective on October 3, 2001.

*References in Text*

The Social Security Act, which is referred to in subsections (b)(3)(B), (b)(3)(C) and (b)(8), is codified generally as Title 42 of the U.S. Code. Sections 454 (19)(B)(i), 462(e) and 454 of that act are codified as 42 U.S.C. §§ 654(19)(B)(i), 662(e) and 654, respectively. Part D of title IV of the Social Security Act is codified as 42 U.S.C. § 651 et seq.

*Editor's Notes*

Paragraphs (4) and (5) of subsection (b) are set forth above as enacted by D.C. Law 4-147. The references to "paragraph (2)" in those paragraphs should probably read "paragraph (3)".

## **§ 51-119. PENALTIES FOR FALSE STATEMENTS OR REPRESENTATIONS.**

(a) Whoever makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment provided for in this subchapter or under an employment security law of any other state, of the federal government, or a foreign government for himself or any other individual, shall, for each such offense, be fined not more than \$100 or imprisoned not more than 60 days, or both.

(b) Any employing unit, and any officer or agent of any employing unit or any other person, who furnishes a false record or makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact to avoid the payment of any or all of the contributions required of such employing unit under this subchapter, or to prevent or reduce the payment of benefits to any individual entitled thereto, or who fails or refuses to pay the contributions or other payment or to furnish any reports required of him under this subchapter, shall for each such offense be fined not more than \$1,000 or imprisoned not more than 6 months, or both. For purposes of this subsection an officer of a corporation charged with any duty required by this subchapter shall be personally liable to prosecution under this section.

(c) Any person who shall wilfully violate any provision of this subchapter or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this subchapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not more than \$200 or by imprisonment for not longer than 60 days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d)(1) Any person who has received any sum as benefits under this subchapter to which he is not entitled shall, in the discretion of the Director, be liable to repay such sum to the Director, to be redeposited in the Fund; be liable to have such sum deducted from any future benefits payable to him under this subchapter; or may have such sum waived in the discretion of the Director; provided, however, that no such recoupment from future benefits shall be had if such sum is received by such person without fault on his part and such recoupment would defeat the purpose of this subchapter or would be against equity and good conscience; or in the discretion of the Director such recoupment has been waived. In any case in which, under this subsection, a claimant is liable to repay to the Director any sum, such sum may be collected without interest, by civil action in the name of the Director or by the collection remedy set forth in § 47-1812.11(a). The disbursing officer and certifying officer of the Director shall not be held liable for any

amounts certified or paid by them, in good faith, prior to July 25, 1958, or subsequent thereto, to any person where the refund, recoupment, adjustment, or recovery of such amount is waived under this subsection or where such refund, recoupment, adjustment, or recovery under this subsection is not completed prior to the death of the person against whom such refund, recoupment, adjustment, or recovery has been authorized.

(2) The determination of whether a person has received any sum as benefits to which he is not entitled and the review to such a determination shall be made in accordance with §§ 51-111, 51-112, and this section.

(e)(1) Any person who the Director finds has made a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact to obtain or increase any benefit under this subchapter may be disqualified for benefits for all or part of the remainder of such benefit year and for a period of not more than 1 year commencing with the end of such benefit year. Such disqualification shall not affect benefits otherwise properly paid after the date of such fraud and prior to the date of the ruling of disqualification.

(2) All findings under this subsection shall be made by a claims deputy of the Director and such findings shall be subject to review in the same manner as all other disqualifications made by a claims deputy of the Director.

(f) In all cases where an employer subject to this subchapter makes an award of back pay to a claimant who has received benefits during the same period covered by the back pay award, the employer shall withhold an amount equal to the benefits paid from the back pay award and shall repay the amount to the Director, who shall deposit it in the Fund and credit the accounts of charged base period employers. If the employer does not comply with this subsection, the Director may treat the unrefunded amount as an unpaid contribution and collect it in the manner provided for collection of delinquent contributions.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 20; renumbered § 19, June 4, 1943, 57 Stat. 123, ch. 117, § 1; Aug. 31, 1954, 68 Stat. 996, ch. 1139, § 1; July 25, 1958, 72 Stat. 417, Pub. L. 85-557, § 1; Mar. 3, 1979, D.C. Law 2-129, § 2(ff), 25 DCR 2451; Sept. 24, 1993, D.C. Law 10-15, §§ 111, 217, 302, 40 DCR 5420; May 16, 1995, D.C. Law 10-255, § 39(c), 41 DCR 5193.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-120.

1973 Ed., § 46-319.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 217 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 2-129, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 51-101.

## **§ 51-120. DISPOSITION OF FINES.**

The amount of all fines collected pursuant to the provisions of this subchapter shall be turned over to the Director and by the Director paid into the District Unemployment Fund.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 19; renumbered § 20, June 4, 1943, 57 Stat. 124, ch. 117, § 1; Sept. 24, 1993, D.C. Law 10-15, § 218, 40 DCR 5420.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-121.

1973 Ed., § 46-320.

##### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 218 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

##### *Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-121. REPRESENTATION OF BOARD IN COURT.**

(a) On the request of the Director the United States Attorney for the District of Columbia shall represent the Director in any action in court arising under this subchapter, or in connection with the administration and enforcement of its provisions, or the rules and regulations authorized thereunder, including actions for the collection of contributions due hereunder; but in any civil action the Director may be represented by the Director's own counsel.

(b) Violations of any provision of this subchapter shall be prosecuted by the United States Attorney for the District of Columbia.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 22; renumbered § 21, June 4, 1943, 57 Stat. 124, ch. 117; Sept. 24, 1993, D.C. Law 10-15, § 219, 40 DCR 5420.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 46-122.

1973 Ed., § 46-321.

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 219 of District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992 (D.C. Law 9-260, March 27, 1993, law notification 40 DCR 2330).

#### *Legislative History of Laws*

For legislative history of D.C. Law 10-15, see Historical and Statutory Notes following § 51-101.

## **§ 51-122. ALL AUDITS BY OFFICE OF THE INSPECTOR GENERAL.**

All audits herein prescribed shall be made by the Office of the Inspector General in the same manner as are all other audits of the District.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 22, as added June 4, 1943, 57 Stat. 125, ch. 117, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 46-123.

1973 Ed., § 46-322.

#### *Miscellaneous Notes*

Office of Auditor abolished: The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, established under the direction and control of the Board of Commissioners, a Department of General Administration headed by a Director. The Order transferred to the Director all of the functions and positions of the Office of the Auditor. Reorganization Order No. 19 established in the Department of General Administration an Internal Audit Office headed by an Internal Audit Officer. The function of post auditing benefit payments made by the District Unemployment Compensation Board referred to in § 46-109 was transferred from the Auditor to the Internal Audit Officer. The functions of auditing all moneys paid to and collected by the District Unemployment Board as provided in subsection (a) of § 46-105, were transferred from the Auditor to the Internal Audit Officer, Department of General Administration by Reorganization Order No. 19. The function of the Auditor of the District concerning the prior audit of refunds under subsection (i) of § 51-104 was transferred from the Auditor to the Accounting Officer, Finance Office, Department of General Administration by Reorganization Order No. 20, dated November 10, 1952. Reorganization Order No. 20 was superseded by Organization Order No. 121, dated December 12, 1957. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 19 and Organization Order No. 121 were revoked and replaced by Organization Order No. 3, dated December 13, 1967. Parts IVB and IV C of the latter Order established within the newly created Department of General Administration, an Internal Audit Office and a Finance Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by paragraph 4 of Commissioner's Order No. 69-96, dated March 7, 1969. Functions pertaining to centralized accounting as set forth in Commissioner's Order

No. 69-96 were transferred to the Director of the Office of Budget and Financial Management by Organization Order No. 30, dated April 5, 1972. Part IVB of Organization Order No. 3 and that portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue, were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. The Office of Municipal Audit and Inspection was replaced by Mayor's Order No. 79-7, dated January 2, 1979, which Order established the Office of the Inspector General of the District of Columbia.

### **§ 51-123. RIGHT TO AMEND OR REPEAL RESERVED.**

All rights, privileges, or immunities conferred by this subchapter or by acts done pursuant thereto shall exist subject to the power of Congress to amend or repeal this subchapter at any time.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 23; June 4, 1943, 57 Stat. 125, ch. 117, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-124.

1973 Ed., § 46-323.

### **§ 51-124. SEVERABILITY.**

If any provisions of this subchapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the subchapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 24; June 4, 1943, 57 Stat. 125, ch. 117, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 46-125.

1973 Ed., § 46-324.

### **§ 51-125. EFFECTIVE DATE.**

This subchapter shall take effect as of 12:01 antemeridian on the first day of the next succeeding calendar quarter following August 28, 1935.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 25, as added June 4, 1943, 57 Stat. 125, ch. 117, § 1.)

### **§ 51-126. SHORT TITLE.**

This subchapter may be cited as the "District of Columbia Unemployment Compensation Act."

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 25; renumbered § 26, June 4, 1943, 57 Stat. 125, ch. 117, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

2001 Ed., § 51-125.

1981 Ed., § 46-126.

1973 Ed., § 46-325.

### **§ 51-127. DUTIES OF THE MAYOR.**

(a) Wherever this subchapter prescribes the performance of a duty by any official or agency of the District of Columbia, such duty shall be performed by the Mayor of the District of Columbia or such officer, employee, or agency as the Mayor may delegate to perform the duty for him.

(b) Where any provision of this subchapter, or any amendment made by this subchapter, refers to an office or agency abolished by or under the authority of Reorganization Plan No. 5 of 1952, such reference shall be deemed to be to the office, agency, or officer exercising the functions of the office or agency so

abolished.

(Aug. 28, 1935, 49 Stat. 956, ch. 794, § 27, as added Aug. 31, 1954, 68 Stat. 996, ch. 1139, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

2001 Ed., § 51-126.

1981 Ed., § 46-127.

1973 Ed., § 46-326.

*References in Text*

Reorganization Plan No. 5 of 1952, referred to in subsection (b) of this section, is set out in its entirety in Volume 1.

*Change in Government*

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **PART B. DOMESTIC VIOLENCE.**

### **§ 51-131. SEPARATION FROM EMPLOYMENT DUE TO DOMESTIC VIOLENCE.**

(a) Notwithstanding any other provision of this subchapter, no otherwise eligible individual shall be denied benefits for any week because the individual was separated from employment by discharge or voluntary or involuntary resignation due to domestic violence against the individual or any member of the individual's immediate family, unless the individual was the perpetrator of the domestic violence.

(b) For the purposes of this part, the term "domestic violence" shall have the same meaning as "intrafamily offense", as defined in § 16-1001(8).

(Aug. 28, 1935, ch. 794, § 31, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701; Mar. 25, 2009, D.C. Law 17-368, § 4(i), 56 DCR 1338; July 23, 2010, D.C. Law 18-192, § 2(d), 57 DCR 4500.)

*HISTORICAL AND STATUTORY NOTES*

*Effect of Amendments*

D.C. Law 17-368 substituted "§ 16-1001(8)" for "§ 16-1001(5)".

D.C. Law 18-192 rewrote the section, which had read as follows:

"Notwithstanding any other provision of this subchapter, no otherwise eligible individual shall be denied benefits for any week because the individual was separated from employment by discharge or voluntary or involuntary resignation due to domestic violence. For the purposes of this part, the term 'domestic violence' means an intrafamily offense as defined in § 16-1001(8)."

*Legislative History of Laws*

Law 15-171, the "Unemployment Compensation and Domestic Violence Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-436, which was referred to Committee of Public Service. The Bill was adopted on first and second readings on March 2, 2004, and April 6, 2004, respectively. Signed by the Mayor on April 21, 2004, it was assigned Act No. 15-418 and transmitted to both Houses of Congress for its review. D.C. Law 15-171 became effective on June 19, 2004.

Law 17-368, the "Intrafamily Offenses Act of 2008", was introduced in Council and assigned Bill No. 17-55 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 22, 2009, it was assigned Act No. 17-703 and transmitted to both Houses of Congress for its review. D.C. Law 17-368 became effective on March 25, 2009.

For Law 18-192, see notes following § 51-107.

## **§ 51-132. SUPPORTING EVIDENCE REQUIRED TO SUPPORT PAYMENT OF BENEFITS DUE TO DOMESTIC VIOLENCE.**

A claimant may be eligible to receive benefits for separation from employment due to domestic violence provided that one of the following is submitted to support the claim of domestic violence:

- (1) A police report or record;
- (2) A governmental agency or court record, such as a court order, a Petition for a Civil Protection Order, or a record or report from Child Services; or
- (3) A written statement, which affirms that the claimant has sought assistance for domestic violence from the signatory, from a:
  - (i) Shelter official;
  - (ii) Social worker;
  - (iii) Counselor;
  - (iv) Therapist;
  - (v) Attorney;
  - (vi) Medical doctor; or
  - (vii) Cleric.

(Aug. 28, 1935, ch. 794, § 32, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 15-171, see notes following § 51-131.

## **§ 51-133. EMPLOYER LIABILITY.**

Benefits paid pursuant to this part shall not be charged to the experience rating accounts of employers, except that this section shall not apply to employers who have elected to make payments in lieu of contributions under § 51-103(f) and (h).

(Aug. 28, 1935, ch. 794, § 33, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 15-171, see notes following § 51-131.

## **§ 51-134. EMPLOYEE AWARENESS TRAINING.**

(a) Within 180 days of June 19, 2004, and pursuant to § 51-113, the Director shall institute a program for the training and development of employees who have been designated by the Director to make the initial determination whether benefits may be payable to a claimant. The training shall focus on the nature of domestic violence, with the goal of increasing employee awareness of its ramifications on unemployment, and on the procedure for handling claims based on domestic violence. The training shall seek to ensure that employees who interact with claimants have the knowledge necessary to handle domestic violence claims and the skills to provide equitable treatment to all claimants.

(b) The training shall be offered annually. Persons newly hired or assigned to make the initial determination whether benefits may be payable shall attend the next available training subsequent to their hire or assignment.

(Aug. 28, 1935, ch. 794, § 34, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 15-171, see notes following § 51-131.

## **§ 51-135. REPORTING REQUIREMENT.**

The Director shall each year submit to the Mayor, for inclusion in the Mayor's report to the Council, as required by § 51-113(c), the number of individuals who received benefits for separation from employment due to domestic violence.

(Aug. 28, 1935, ch. 794, § 35, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 15-171, see notes following § 51-131.

### **§ 51-136. DISCLOSURE OF INFORMATION PERTAINING TO DOMESTIC VIOLENCE CLAIMANT.**

The release of information pertaining to a domestic violence claimant, in addition to the requirements of § 51-113, shall require that:

- (1) The Director notify the claimant prior to the release of any information;
- (2) The Director shall take reasonable actions to prevent the unnecessary disclosure of personal identifiers, such as the claimant's address, from information otherwise required to be disclosed by law; and
- (3) Further dissemination of the information released shall be prohibited.

(Aug. 28, 1935, ch. 794, § 36, as added June 19, 2004, D.C. Law 15-171, § 2(b), 51 DCR 4701.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 15-171, see notes following § 51-131.

## **SUBCHAPTER II. MISCELLANEOUS.**

### **§ 51-151. EMPLOYER CONTRIBUTIONS BY THE DISTRICT OF COLUMBIA.**

Appropriations for the District of Columbia shall be available for payment by the District of Columbia of its contributions as an employer, in accordance with the provisions of subchapter I of this chapter.

(June 28, 1944, 58 Stat. 530, ch. 300, § 2.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 46-104.

1973 Ed., § 46-303a.

### **§ 51-152. UNEMPLOYMENT COMPENSATION STUDY COMMISSION ON THE SOLVENCY OF THE DISTRICT UNEMPLOYMENT FUND. [EXPIRED]**

(May 7, 1983, D.C. Law 5-3, § 3, 30 DCR 1371.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

2001 Ed., § 51-102.01

*Legislative History of Laws*

Law 5-3, the "District of Columbia Unemployment Compensation Act of 1983," was introduced in Council and assigned Bill No. 5-57, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on March 1, 1983. Signed by the Mayor on March 15, 1983, it was assigned Act No. 5-13 and transmitted to both Houses of Congress for its review.

*Miscellaneous Notes*

Expiration of Law 5-3: Section 4 of D.C. Law 5-3, as amended by § 4 of D.C. Law 5-124, provided that except for provisions of § 2(a), (b), (d), (f)(2), (g), (h), (j), (1)(3), (m), (n), (o), (p), (q), (r), and (s) of D.C. Law 5-3, D.C. Law 5-3 shall expire on December 31, 1985.

## **SUBCHAPTER III. SHARED WORK PROGRAM.**

### **§ 51-171. DEFINITIONS.**

For the purposes of this subchapter, the term:

- (1) "Affected unit" means an employer or its specified department, shift, or other unit of 2 or more employees that is designated by the employer to participate in a shared work plan.
- (2) "Director" means the Director of the Department of Employment Services, established by Reorganization Plan No. 1 of 1980, effective April 17, 1980 (part A, subchapter IV, Chapter 15 of the D.C. Official Code).
- (3) "Employment security law" means subchapter I of this chapter, and the federal unemployment compensation laws, including the Social Security Act, approved August 14, 1935 (49 Stat. 620; 42 U.S.C. § 301 *et seq.*), the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. § 1101 *et seq.*), and the Federal Unemployment Tax Act, approved August 16, 1954 (68A Stat. 439; 26 U.S.C. § 3301 *et seq.*).
- (4) "Fringe benefits" means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.
- (5) "Normal weekly hours of work" means the lesser of:
  - (A) Forty hours; or
  - (B) The average obtained by dividing the total number of hours worked per week during the preceding 12-week period by 12.
- (6) "Participating employer" means an employer who has a shared work plan in effect.
- (7) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.
- (8) "Shared work plan" means a strategy for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work.
- (9) "Shared work unemployment compensation program" means a voluntary program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

(Oct. 15, 2010, D.C. Law 18-238, § 2, 57 DCR 7181.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

Law 18-238, the "Keep D.C. Working Act of 2010", was introduced in Council and assigned Bill No. 18-545 which was referred to the Committee on Housing and Workforce Development. The Bill was adopted on first and second readings on June 15, 2010, and June 29, 2010, respectively. Signed by the Mayor on July 20, 2010, it was assigned Act No. 18-490 and transmitted to both Houses of Congress for its review. D.C. Law 18-238 became effective on October 15, 2010.

### **§ 51-172. SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM.**

The Director shall establish a shared work unemployment compensation program as provided by this subchapter. The Director may adopt rules and establish procedures necessary to administer the shared work unemployment compensation program.

(Oct. 15, 2010, D.C. Law 18-238, § 3, 57 DCR 7181.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 18-238, see notes following § 51-171.



## **§ 51-173. EMPLOYER PARTICIPATION IN THE SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAM.**

An employer who wishes to participate in the shared work unemployment compensation program shall submit a written shared work plan to the Director for the Director's approval. As a condition for approval, a participating employer shall agree to furnish the Director with reports relating to the operation of the shared work plan as requested by the Director. The employer shall monitor and evaluate the operation of the shared work plan as requested by the Director and shall report the findings to the Director.

(Oct. 15, 2010, D.C. Law 18-238, § 4, 57 DCR 7181.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 18-238, see notes following § 51-171.

## **§ 51-174. APPROVAL OF SHARED WORK PLAN.**

(a) The Director may approve a shared work plan if:

- (1) The shared work plan applies to and identifies a specific affected unit;
- (2) The employer has at least 2 employees;
- (3) The employees in the affected unit are identified by name and social security number;
- (4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 20% and not more than 40%;
- (5) The shared work plan applies to at least 10% of the employees in the affected unit;
- (6) The shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit;
- (7) The employer certifies that the shared work plan will not be used to reduce the fringe benefits offered to employees;
- (8) The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours; and
- (9) The employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or, if the employer is a reimbursing employer, the employer has made all payments in lieu of contributions due for all past and current periods.

(b)(1) If any of the employees who participate in a shared work plan under this subchapter are covered by a collective bargaining agreement, the shared work plan shall be approved in writing by the collective bargaining agent.

(2) An employee who is not subject to a collective bargaining agreement shall be given the option to participate in the shared work plan. If the employee chooses not to participate in the shared work plan, and if the employee is terminated, the employee shall be terminated without loss of benefits.

(c) A shared work plan shall not be implemented to subsidize seasonal employers during the off-season or to subsidize employers who have traditionally used part-time employees.

(d) The Director shall approve or deny a shared work plan, in writing, no later than the 30th day after the day the shared work plan is received by the Director. If the Director denies a shared work plan, the Director shall notify the employer of the reasons for the denial.

(Oct. 15, 2010, D.C. Law 18-238, § 5, 57 DCR 7181.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 18-238, see notes following § 51-171.

## **§ 51-175. EFFECTIVE DATE AND EXPIRATION OF SHARED WORK PLAN.**

(a) A shared work plan shall be effective on the date that it is approved by the Director, except that, for good cause shown, a shared work plan may be made effective retroactive to any time within a period of 14 days prior to the date the plan is approved by the Director. The shared work plan shall expire on the last day of the 12th full calendar month after the effective date of the shared work plan.

(b) The Director may terminate a shared work plan for good cause if the Director determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program.

(Oct. 15, 2010, D.C. Law 18-238, § 6, 57 DCR 7181.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 18-238, see notes following § 51-171.

## **§ 51-176. MODIFICATION OF SHARED WORK PLAN.**

An employer may modify a shared work plan created pursuant to this subchapter to meet changed conditions if the modification does not substantially modify the basic provisions of the shared work plan as approved by the Director. The employer shall report the changes made to the shared work plan in writing to the Director before implementing the changes. If the original shared work plan is substantially modified, the Director shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under § 51-174. The approval of a modified shared work plan shall not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the Director shall deny approval to the modifications as provided by § 51-174(d).

(Oct. 15, 2010, D.C. Law 18-238, § 7, 57 DCR 7181.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 18-238, see notes following § 51-171.

## **§ 51-177. EMPLOYEE ELIGIBILITY FOR SHARED WORK BENEFITS.**

(a) For the purposes of this subchapter, and notwithstanding any other provisions of the employment security law, an individual shall be deemed to be unemployed and eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The Director shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer.

(b) An individual shall be eligible to receive shared work benefits with respect to any week in which the Director finds that:

- (1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;
- (2) The individual is able to work and is available for additional hours of work or full-time work with the participating employer;
- (3) The individual's normal weekly hours of work have been reduced by at least 20% but not more than 40%, with a corresponding reduction in wages; and
- (4) The individual's normal weekly hours of work and wages have been reduced as described in paragraph (3) of this subsection for a waiting period of one week which occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

(c) For the purposes of this subchapter, an individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under § 51-107(g)(1)(H), and shall be entitled to receive extended benefits under the employment security law if the individual is otherwise eligible under the employment security law.

(d) Notwithstanding any other provisions of this subchapter, an individual shall not be eligible to receive shared work benefits for more than 50 calendar weeks during the 12-month period of the shared work plan; provided, that 2 weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this subchapter unless the week occurs within the 12-month period of the shared work plan.

(Oct. 15, 2010, D.C. Law 18-238, § 8, 57 DCR 7181.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 18-238, see notes following § 51-171.

**§ 51-178. PAYMENT OF SHARED WORK BENEFITS.**

(a) The Director shall pay an individual who is eligible for shared work benefits under this subchapter a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of \$1, the Director shall reduce the amount to the next lowest multiple of \$1. All shared work benefits made available pursuant to this subchapter shall be payable from the District Unemployment Fund, established by § 51-102.

(b) The Director shall not pay an individual shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

(Oct. 15, 2010, D.C. Law 18-238, § 9, 57 DCR 7181.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 18-238, see notes following § 51-171.