

HOUSE BILL 249

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Joseph L. Sanchez and Cynthia Borrego

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION LAW; ALLOWING THE SECRETARY OF WORKFORCE SOLUTIONS TO WAIVE THE ONE-WEEK WAITING PERIOD REQUIREMENT FOR ELIGIBILITY FOR BENEFITS IN THE EVENT OF A FEDERAL OR STATE EMERGENCY OR DISASTER DECLARATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 51-1-5 NMSA 1978 (being Laws 2003, Chapter 47, Section 9, as amended) is amended to read:

"51-1-5. BENEFIT ELIGIBILITY CONDITIONS.--

A. An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) has made a claim for benefits with respect to such week in accordance with such rules as the secretary may prescribe;

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1 (2) has registered for work at, and thereafter
2 continued to report at, an employment office in accordance with
3 such rules as the secretary may prescribe, except that the
4 secretary may, by rule, waive or alter either or both of the
5 requirements of this paragraph as to individuals attached to
6 regular jobs and as to such other types of cases or situations
7 with respect to which the secretary finds that compliance with
8 such requirements would be oppressive or would be inconsistent
9 with the purposes of the Unemployment Compensation Law. No
10 such rule shall conflict with Subsection A of Section 51-1-4
11 NMSA 1978;

12 (3) is able to work and is available for work
13 and is actively seeking permanent full-time work or part-time
14 work in accordance with Subsection I of Section 51-1-42 NMSA
15 1978 and in accordance with the terms, conditions and hours
16 common in the occupation or business in which the individual is
17 seeking work, except that the secretary may, by rule, waive
18 this requirement for individuals who are on temporary layoff
19 status from their regular employment with an assurance from
20 their employers that the layoff shall not exceed four weeks or
21 who have an express offer in writing of substantially full-time
22 work that will begin within a period not exceeding four weeks;

23 (4) has been unemployed for a waiting period
24 of one week; provided that in the event of a federal or state
25 emergency or disaster declaration, the secretary may waive the

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1 one-week waiting period requirement. A week shall not be
2 counted as a week of unemployment for the purposes of this
3 paragraph:

4 (a) unless it occurs within the benefit
5 year that includes the week with respect to which the
6 individual claims payment of benefits;

7 (b) if benefits have been paid with
8 respect thereto; and

9 (c) unless the individual was eligible
10 for benefits with respect thereto as provided in this section
11 and Section 51-1-7 NMSA 1978, except for the requirements of
12 this subsection and of Subsection D of Section 51-1-7 NMSA
13 1978;

14 (5) has been paid wages in at least two
15 quarters of the individual's base period;

16 (6) has reported to an office of the division
17 in accordance with the rules of the secretary for the purpose
18 of an examination and review of the individual's availability
19 for and search for work, for employment counseling, referral
20 and placement and for participation in a job finding or
21 employability training and development program. An individual
22 shall not be denied benefits under this section for any week
23 that the individual is participating in a job finding or
24 employability training and development program; and

25 (7) participates in reemployment services,

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1 such as job search assistance services, if the division
2 determines that the individual is likely to exhaust regular
3 benefits and needs reemployment services pursuant to a
4 profiling system established by the division, unless the
5 division determines that:

6 (a) the individual has completed such
7 services; or

8 (b) there is justifiable cause for the
9 individual's failure to participate in the services.

10 B. A benefit year as provided in Section 51-1-4
11 NMSA 1978 and Subsection P of Section 51-1-42 NMSA 1978 may be
12 established; provided an individual may not receive benefits in
13 a benefit year unless, subsequent to the beginning of the
14 immediately preceding benefit year during which the individual
15 received benefits, the individual performed service in
16 "employment", as defined in Subsection F of Section 51-1-42
17 NMSA 1978, and earned remuneration for such service in an
18 amount equal to at least five times the individual's weekly
19 benefit amount.

20 C. Benefits based on service in employment defined
21 in Paragraph (8) of Subsection F of Section 51-1-42 and Section
22 51-1-43 NMSA 1978 are to be paid in the same amount, on the
23 same terms and subject to the same conditions as compensation
24 payable on the basis of other services subject to the
25 Unemployment Compensation Law; except that:

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1 (1) benefits based on services performed in an
2 instructional, research or principal administrative capacity
3 for an educational institution shall not be paid for any week
4 of unemployment commencing during the period between two
5 successive academic years or terms or, when an agreement
6 provides for a similar period between two regular but not
7 successive terms, during such period or during a period of paid
8 sabbatical leave provided for in the individual's contract, to
9 any individual if the individual performs such services in the
10 first of such academic years or terms and if there is a
11 contract or a reasonable assurance that the individual will
12 perform services in any such capacity for any educational
13 institution in the second of such academic years or terms;

14 (2) benefits based on services performed for
15 an educational institution other than in an instructional,
16 research or principal administrative capacity shall not be paid
17 for any week of unemployment commencing during a period between
18 two successive academic years or terms if the services are
19 performed in the first of such academic years or terms and
20 there is a reasonable assurance that the individual will
21 perform services for any educational institution in the second
22 of such academic years or terms. If compensation is denied to
23 an individual under this paragraph and the individual was not
24 offered an opportunity to perform such services for the
25 educational institution for the second of such academic years

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1 or terms, the individual shall be entitled to a retroactive
2 payment of benefits for each week for which the individual
3 filed a claim and certified for benefits in accordance with the
4 rules of the division and for which benefits were denied solely
5 by reason of this paragraph;

6 (3) benefits shall be denied to any individual
7 for any week that commences during an established and customary
8 vacation period or holiday recess if the individual performs
9 any services described in Paragraphs (1) and (2) of this
10 subsection in the period immediately before such period of
11 vacation or holiday recess and there is a reasonable assurance
12 that the individual will perform any such services in the
13 period immediately following such vacation period or holiday
14 recess;

15 (4) benefits shall not be payable on the basis
16 of services specified in Paragraphs (1) and (2) of this
17 subsection during the periods specified in Paragraphs (1), (2)
18 and (3) of this subsection to any individual who performed such
19 services in or to or on behalf of an educational institution
20 while in the employ of a state or local governmental
21 educational service agency or other governmental entity or
22 nonprofit organization; and

23 (5) for the purpose of this subsection, to the
24 extent permitted by federal law, "reasonable assurance" means a
25 reasonable expectation of employment in a similar capacity in

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1 the second of such academic years or terms based upon a
2 consideration of all relevant factors, including the historical
3 pattern of reemployment in such capacity, a reasonable
4 anticipation that such employment will be available and a
5 reasonable notice or understanding that the individual will be
6 eligible for and offered employment in a similar capacity.

7 D. Paragraphs (1), (2), (3), (4) and (5) of
8 Subsection C of this section shall apply to services performed
9 for all educational institutions, public or private, for profit
10 or nonprofit, which are operated in this state or subject to an
11 agreement for coverage under the Unemployment Compensation Law
12 of this state, unless otherwise exempt by law.

13 E. Notwithstanding any other provisions of this
14 section or Section 51-1-7 NMSA 1978, no otherwise eligible
15 individual is to be denied benefits for any week because the
16 individual is in training with the approval of the division nor
17 is the individual to be denied benefits by reason of
18 application of provisions in Paragraph (3) of Subsection A of
19 this section or Paragraph (3) of Subsection A of Section 51-1-7
20 NMSA 1978 with respect to any week in which the individual is
21 in training with the approval of the division. The secretary
22 shall provide, by rule, standards for approved training and the
23 conditions for approving training for claimants, including any
24 training approved or authorized for approval pursuant to
25 Section 236(a)(1) and (2) of the federal Trade Act of 1974, as

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1 amended, or required to be approved as a condition for
2 certification of the state's Unemployment Compensation Law by
3 the United States secretary of labor.

4 F. Notwithstanding any other provisions of this
5 section, benefits shall not be payable on the basis of services
6 performed by an alien unless such alien is an individual who
7 was lawfully admitted for permanent residence at the time the
8 services were performed, was lawfully present for the purposes
9 of performing the services or was permanently residing in the
10 United States under color of law at the time the services were
11 performed, including an alien who was lawfully present in the
12 United States as a result of the application of the provisions
13 of Section 212(d)(5) of the federal Immigration and Nationality
14 Act; provided that:

15 (1) any information required of individuals
16 applying for benefits to determine their eligibility for
17 benefits under this subsection shall be uniformly required from
18 all applicants for benefits; and

19 (2) an individual shall not be denied benefits
20 because of the individual's alien status except upon a
21 preponderance of the evidence.

22 G. Notwithstanding any other provision of this
23 section, benefits shall not be paid to any individual on the
24 basis of any services substantially all of which consist of
25 participating in sports or athletic events or training or

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1 preparing to so participate for any week that commences during
2 the period between two successive sport seasons, or similar
3 periods, if the individual performed the services in the first
4 of such seasons, or similar periods, and there is a reasonable
5 assurance that the individual will perform the services in the
6 latter of such seasons or similar periods.

7 H. Students who are enrolled in a full-time course
8 schedule in an educational or training institution or program,
9 other than those persons in an approved vocational training
10 program in accordance with Subsection E of this section, shall
11 not be eligible for unemployment benefits unless the individual
12 can demonstrate to the division's satisfaction that the
13 individual is able, available and actively seeking full- or
14 part-time work in accordance with rules prescribed by the
15 secretary.

16 I. As used in this subsection, "seasonal ski
17 employee" means an employee who has not worked for a ski area
18 operator for more than six consecutive months of the previous
19 twelve months or nine of the previous twelve months. An
20 employee of a ski area operator who has worked for a ski area
21 operator for six consecutive months of the previous twelve
22 months or nine of the previous twelve months shall not be
23 considered a seasonal ski employee. The following benefit
24 eligibility conditions apply to a seasonal ski employee:

25 (1) except as provided in Paragraphs (2) and

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1 (3) of this subsection, a seasonal ski employee employed by a
2 ski area operator on a regular seasonal basis shall be
3 ineligible for a week of unemployment benefits that commences
4 during a period between two successive ski seasons unless the
5 individual establishes to the satisfaction of the secretary
6 that the individual is available for and is making an active
7 search for permanent full-time work;

8 (2) a seasonal ski employee who has been
9 employed by a ski area operator during two successive ski
10 seasons shall be presumed to be unavailable for permanent new
11 work during a period after the second successive ski season
12 that the individual was employed as a seasonal ski employee;
13 and

14 (3) the presumption described in Paragraph (2)
15 of this subsection shall not arise as to any seasonal ski
16 employee who has been employed by the same ski area operator
17 during two successive ski seasons and has resided continuously
18 for at least twelve successive months and continues to reside
19 in the county in which the ski area facility is located.

20 J. Notwithstanding any other provision of this
21 section, an otherwise eligible individual shall not be denied
22 benefits for any week by reason of the application of Paragraph
23 (3) of Subsection A of this section because the individual is
24 before any court of the United States or any state pursuant to
25 a lawfully issued summons to appear for jury duty."

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