

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 349

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; CHANGING COMPUTATION OF  
BENEFITS TO INCREASE THEM; ELIMINATING THE WAITING PERIOD;  
EXTENDING THE BENEFIT PERIOD; BROADENING THE SCOPE OF  
ELIGIBILITY; DECLARING AN EMERGENCY.

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

Section 1. Section 51-1-4 NMSA 1978 (being Laws 1969,  
Chapter 213, Section 1, as amended by Laws 2000, Chapter 3,  
Section 1 and also by Laws 2000, Chapter 7, Section 1) is  
amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT  
GENERALLY.--

A. All benefits provided herein are payable from  
the unemployment compensation administration fund. All  
benefits shall be paid in accordance with such regulations

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 rules as the secretary may prescribe through employment  
2 offices or other agencies as the secretary may by general rule  
3 approve.

4 B. Weekly benefits shall be as follows:

5 (1) an individual's "weekly benefit amount"  
6 is an amount equal to [~~one twenty-sixth~~] one twenty-third of  
7 the total wages for insured work paid to him in that quarter  
8 of his base period in which total wages were highest. No  
9 benefit as so computed may be less than [~~ten~~] fifteen percent  
10 or more than [~~fifty-two and one-half~~] sixty percent of the  
11 state's average weekly wage for all insured work. The state's  
12 average weekly wage shall be computed from all wages reported  
13 to the department from employing units in accordance with  
14 [~~regulations~~] rules of the secretary for the period ending  
15 June 30 of each calendar year divided by the total number of  
16 covered employees divided by fifty-two, effective for the  
17 benefit years commencing on or after the first Sunday of the  
18 following calendar year. Any such individual is not eligible  
19 to receive benefits unless he has wages in at least two  
20 quarters of his base period. For purposes of this subsection,  
21 "total wages" means all remuneration for insured work,  
22 including commissions and bonuses and the cash value of all  
23 remuneration in a medium other than cash;

24 (2) each eligible individual who is  
25 unemployed in any week during which he is in a continued

underscored material = new  
[bracketed material] = delete

1 claims status shall be paid, with respect to such week, a  
2 benefit in an amount equal to his weekly benefit amount, less  
3 that part of the wages, if any, or earnings from self-  
4 employment, payable to him with respect to such week which is  
5 in excess of one-fifth of his weekly benefit amount. For  
6 purposes of this subsection only, "wages" includes all  
7 remuneration for services actually performed in any week for  
8 which benefits are claimed, vacation pay for any period for  
9 which the individual has a definite return-to-work date, wages  
10 in lieu of notice and back pay for loss of employment, but  
11 does not include payments through a court for time spent in  
12 jury service;

13 (3) notwithstanding any other provision of  
14 this section, each eligible individual who, pursuant to a plan  
15 financed in whole or in part by a base-period employer of such  
16 individual, is receiving a governmental or other pension,  
17 retirement pay, annuity or any other similar periodic payment  
18 that is based on the previous work of such individual and who  
19 is unemployed with respect to any week ending subsequent to  
20 April 9, 1981 shall be paid with respect to such week, in  
21 accordance with [~~regulations~~] rules prescribed by the  
22 secretary, compensation equal to his weekly benefit amount  
23 reduced, but not below zero, by the prorated amount of such  
24 pension, retirement pay, annuity or other similar periodic  
25 payment that exceeds the percentage contributed to the plan by

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 the eligible individual. The maximum benefit amount payable  
2 to such eligible individual shall be an amount not more than  
3 twenty-six times his reduced weekly benefit amount. If  
4 payments referred to in this section are being received by any  
5 individual under the federal Social Security Act, the division  
6 shall take into account the individual's contribution and make  
7 no reduction in the weekly benefit amount;

8 (4) in the case of a lump-sum payment of a  
9 pension, retirement or retired pay, annuity or other similar  
10 payment by a base-period employer that is based on the  
11 previous work of such individual, such payment shall be  
12 allocated, in accordance with [~~regulations~~] rules prescribed  
13 by the secretary, and shall reduce the amount of unemployment  
14 compensation paid, but not below zero, in accordance with  
15 Paragraph (3) of this subsection; and

16 (5) the retroactive payment of a pension,  
17 retirement or retired pay, annuity or any other similar  
18 periodic payment as provided in Paragraphs (3) and (4) of this  
19 subsection attributable to weeks during which an individual  
20 has claimed or has been paid unemployment compensation shall  
21 be allocated to such weeks and shall reduce the amount of  
22 unemployment compensation for such weeks, but not below zero,  
23 by an amount equal to the prorated amount of such pension.  
24 Any overpayment of unemployment compensation benefits  
25 resulting from the application of the provisions of this

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 paragraph shall be recovered from the claimant in accordance  
2 with the provisions of Section 51-1-38 NMSA 1978.

3 C. Any otherwise eligible individual is entitled  
4 during ~~[any]~~ a benefit year to a total amount of benefits  
5 equal to whichever is the lesser of twenty-six times his  
6 weekly benefit amount or sixty percent of his wages for  
7 insured work paid during his base period.

8 D. Any benefit as determined in Subsection B or C  
9 of this section, if not a multiple of one dollar (\$1.00),  
10 shall be rounded to the next lower multiple of one dollar  
11 (\$1.00).

12 E. The secretary ~~may~~ prescribe ~~[regulations]~~ rules  
13 to provide for the payment of benefits that are due and  
14 payable to the legal representative, dependents, relatives or  
15 next of kin of claimants since deceased. These ~~[regulations]~~  
16 rules need not conform with the laws governing successions,  
17 and the payment shall be deemed a valid payment to the same  
18 extent as if made under a formal administration of the  
19 succession of the claimant.

20 F. The division, on its own initiative, ~~may~~  
21 reconsider a monetary determination whenever it is determined  
22 that an error in computation or identity has occurred or that  
23 wages of the claimant pertinent to such determination but not  
24 considered have been newly discovered or that the benefits  
25 have been allowed or denied on the basis of misrepresentation

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 of fact, but no redetermination shall be made after one year  
2 from the date of the original monetary determination. Notice  
3 of a redetermination shall be given to all interested parties  
4 and shall be subject to an appeal in the same manner as the  
5 original determination. In the event that an appeal involving  
6 an original monetary determination is pending at the time a  
7 redetermination is issued, the appeal, unless withdrawn, shall  
8 be treated as an appeal from such redetermination. "

9 Section 2. Section 51-1-5 NMSA 1978 (being Laws 1969,  
10 Chapter 213, Section 2, as amended by Laws 2000, Chapter 3,  
11 Section 2 and also by Laws 2000, Chapter 7, Section 2) is  
12 amended to read:

13 "51-1-5. BENEFIT ELIGIBILITY CONDITIONS. --

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

16 (1) has made a claim for benefits with  
17 respect to such week in accordance with such [~~regulations~~]  
18 rules as the secretary may prescribe;

19 (2) has registered for work at, and  
20 thereafter continued to report at, an employment office in  
21 accordance with such [~~regulations~~] rules as the secretary may  
22 prescribe, except that the secretary may, by [~~regulation~~]  
23 rule, waive or alter either or both of the requirements of  
24 this paragraph as to individuals attached to regular jobs and  
25 as to such other types of cases or situations with respect to

underscored material = new  
[bracketed material] = delete

1 which he finds that compliance with such requirements would be  
2 oppressive or would be inconsistent with the purposes of the  
3 Unemployment Compensation Law. No such ~~[regulation]~~ rule  
4 shall conflict with Subsection A of Section 51-1-4 NMSA 1978;

5 (3) is able to work and is available for work  
6 and is actively seeking permanent and substantially full-time  
7 work in accordance with the terms, conditions and hours common  
8 in the occupation or business in which the individual is  
9 seeking work, except that the secretary may, by ~~[regulation]~~  
10 rule, waive this requirement for individuals who are on  
11 temporary layoff status from their regular employment with an  
12 assurance from their employers that the layoff shall not  
13 exceed four weeks or who have an express offer in writing of  
14 substantially full-time work that will begin within a period  
15 not exceeding four weeks;

16 ~~[(4) has been unemployed for a waiting period~~  
17 ~~of one week. No week shall be counted as a week of~~  
18 ~~unemployment for the purposes of this paragraph.~~

19 ~~(a) unless it occurs within the benefit~~  
20 ~~year that includes the week with respect to which he claims~~  
21 ~~payment of benefits;~~

22 ~~(b) if benefits have been paid with~~  
23 ~~respect thereto; and~~

24 ~~(c) unless the individual was eligible~~  
25 ~~for benefits with respect thereto as provided in this section~~

underscored material = new  
[bracketed material] = delete

1 ~~and Section 51-1-7 NMSA 1978, except for the requirements of~~  
2 ~~this subsection and of Subsection E of Section 51-1-7 NMSA~~  
3 ~~1978;~~

4           ~~(5)]~~ (4) has been paid wages in at least two  
5 quarters of his base period;

6           ~~[(6)]~~ (5) has reported to an office of the  
7 division in accordance with the ~~[regulations]~~ rules of the  
8 secretary for the purpose of an examination and review of the  
9 individual's availability for and search for work, for  
10 employment counseling, referral and placement and for  
11 participation in a job finding or employability training and  
12 development program. No individual shall be denied benefits  
13 under this section for any week that he is participating in a  
14 job finding or employability training and development program;  
15 and

16           ~~[(7)]~~ (6) participates in reemployment  
17 services, such as job search assistance services, if the  
18 division determines that the individual is likely to exhaust  
19 regular benefits and need reemployment services pursuant to a  
20 profiling system established by the division, unless the  
21 division determines that:

22                           (a) the individual has completed such  
23 services; or

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



underscored material = new  
[bracketed material] = delete

1           B. A benefit year as provided in Section 51-1-4  
2 NMSA 1978 and Subsection P of Section 51-1-42 NMSA 1978 may be  
3 established; provided no individual may receive benefits in a  
4 benefit year unless, subsequent to the beginning of the  
5 immediately preceding benefit year during which he received  
6 benefits, he performed service in "employment", as defined in  
7 Subsection F of Section 51-1-42 NMSA 1978, and earned  
8 remuneration for such service in an amount equal to at least  
9 five times his weekly benefit amount.

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

16                   (1) benefits based on services performed in  
17 an instructional, research or principal administrative  
18 capacity for an educational institution shall not be paid for  
19 any week of unemployment commencing during the period between  
20 two successive academic years or terms or, when an agreement  
21 provides for a similar period between two regular but not  
22 successive terms, during such period or during a period of  
23 paid sabbatical leave provided for in the individual's  
24 contract, to any individual if such individual performs such  
25 services in the first of such academic years or terms and if

underscored material = new  
[bracketed material] = delete

1 there is a contract or a reasonable assurance that such  
2 individual will perform services in any such capacity for any  
3 educational institution in the second of such academic years  
4 or terms;

5 (2) benefits based on services performed for  
6 an educational institution other than in an instructional,  
7 research or principal administrative capacity shall not be  
8 paid for any week of unemployment commencing during a period  
9 between two successive academic years or terms if such  
10 services are performed in the first of such academic years or  
11 terms and there is a reasonable assurance that such individual  
12 will perform services for any educational institution in the  
13 second of such academic years or terms. If compensation is  
14 denied to any individual under this paragraph and the  
15 individual was not offered an opportunity to perform such  
16 services for the educational institution for the second of  
17 such academic years or terms, the individual shall be entitled  
18 to a retroactive payment of benefits for each week for which  
19 the individual filed a claim and certified for benefits in  
20 accordance with the ~~[regulations]~~ rules of the division and  
21 for which benefits were denied solely by reason of this  
22 paragraph;

23 (3) benefits shall be denied to any  
24 individual for any week that commences during an established  
25 and customary vacation period or holiday recess if such

underscored material = new  
[bracketed material] = delete

1 individual performs any services described in Paragraphs (1)  
2 and (2) of this subsection in the period immediately before  
3 such period of vacation or holiday recess and there is a  
4 reasonable assurance that such individual will perform any  
5 such services in the period immediately following such  
6 vacation period or holiday recess;

7 (4) benefits shall not be payable on the  
8 basis of services specified in Paragraphs (1) and (2) of this  
9 subsection during the periods specified in Paragraphs (1), (2)  
10 and (3) of this subsection to any individual who performed  
11 such services in or to or on behalf of an educational  
12 institution while in the employ of a state or local  
13 governmental educational service agency or other governmental  
14 entity or nonprofit organization; and

15 (5) for the purpose of this subsection, to  
16 the extent permitted by federal law, "reasonable assurance"  
17 means a reasonable expectation of employment in a similar  
18 capacity in the second of such academic years or terms based  
19 upon a consideration of all relevant factors, including the  
20 historical pattern of reemployment in such capacity, a  
21 reasonable anticipation that such employment will be available  
22 and a reasonable notice or understanding that the individual  
23 will be eligible for and offered employment in a similar  
24 capacity.

25 D. Paragraphs (1), (2), (3), (4) and (5) of

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 Subsection C of this section shall apply to services performed  
2 for all educational institutions, public or private, for  
3 profit or nonprofit, which are operated in this state or  
4 subject to an agreement for coverage under the Unemployment  
5 Compensation Law [~~of this state~~], unless otherwise exempt by  
6 law.

7 E. Notwithstanding any other provisions of this  
8 section or Section 51-1-7 NMSA 1978, no otherwise eligible  
9 individual is to be denied benefits for any week because he is  
10 in training with the approval of the division nor is such  
11 individual to be denied benefits by reason of application of  
12 provisions in Paragraph (3) of Subsection A of this section or  
13 Paragraph (3) of Subsection [€] A of Section 51-1-7 NMSA 1978  
14 with respect to any week in which he is in training with the  
15 approval of the division. The secretary shall provide, by  
16 [~~regulation~~] rule, standards for approved training and the  
17 conditions for approving such training for claimants,  
18 including any training approved or authorized for approval  
19 pursuant to Section 236(a)(1) and (2) of the federal Trade Act  
20 of 1974, as amended, or required to be approved as a condition  
21 for certification of the [~~state's~~] Unemployment Compensation  
22 Law by the United States secretary of labor.

23 F. Notwithstanding any other provisions of this  
24 section, benefits shall not be payable on the basis of  
25 services performed by an alien unless such alien is an

1 individual who was lawfully admitted for permanent residence  
2 at the time such services were performed, was lawfully present  
3 for the purposes of performing such services or was  
4 permanently residing in the United States under color of law  
5 at the time such services were performed, including an alien  
6 who was lawfully present in the United States as a result of  
7 the application of the provisions of Section 212(d)(5) of the  
8 federal Immigration and Nationality Act; provided that:

9 (1) any information required of individuals  
10 applying for benefits to determine their eligibility for  
11 benefits under this subsection shall be uniformly required  
12 from all applicants for benefits; and

13 (2) no individual shall be denied benefits  
14 because of his alien status except upon a preponderance of the  
15 evidence.

16 G. Notwithstanding any other provision of this  
17 section, benefits shall not be paid to any individual on the  
18 basis of any services substantially all of which consist of  
19 participating in sports or athletic events or training or  
20 preparing to so participate for any week that commences during  
21 the period between two successive sport seasons, or similar  
22 periods, if such individual performed such services in the  
23 first of such seasons, or similar periods, and there is a  
24 reasonable assurance that such individual will perform such  
25 services in the latter of such seasons or similar periods.

underscored material = new  
[bracketed material] = delete

1           H. Students who are enrolled in a full-time course  
2 schedule in an educational or training institution or program,  
3 other than those persons in an approved vocational training  
4 program in accordance with Subsection E of this section, shall  
5 not be eligible for unemployment benefits except as provided  
6 by ~~[regulations]~~ rules promulgated by the secretary.

7           I. As used in this subsection, "seasonal ski  
8 employee" means an employee who has not worked for a ski area  
9 operator for more than six consecutive months of the previous  
10 twelve months or nine of the previous twelve months. Any  
11 employee of a ski area operator who has worked for a ski area  
12 operator for six consecutive months of the previous twelve  
13 months or nine of the previous twelve months shall not be  
14 considered a seasonal ski employee. The following benefit  
15 eligibility conditions apply to a seasonal ski employee:

16                   (1) except as provided in Paragraphs (2) and  
17 (3) of this subsection, a seasonal ski employee employed by a  
18 ski area operator on a regular seasonal basis shall be  
19 ineligible for a week of unemployment benefits that commences  
20 during a period between two successive ski seasons unless such  
21 individual establishes to the satisfaction of the secretary  
22 that he is available for and is making an active search for  
23 permanent full-time work;

24                   (2) a seasonal ski employee who has been  
25 employed by a ski area operator during two successive ski

underscored material = new  
[bracketed material] = delete

1 seasons shall be presumed to be unavailable for permanent new  
2 work during a period after the second successive ski season  
3 that he was employed as a seasonal ski employee; and

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

10 J. Notwithstanding any other provision of this  
11 section, an otherwise eligible individual shall not be denied  
12 benefits for any week by reason of the application of  
13 Paragraph (3) of Subsection A of this section because he is  
14 before any court of the United States or any state pursuant to  
15 a lawfully issued summons to appear for jury duty. "

16 Section 3. Section 51-1-7 NMSA 1978 (being Laws 1936  
17 (S.S.), Chapter 1, Section 5, as amended) is amended to read:

18 "51-1-7. DISQUALIFICATION FOR BENEFITS. --

19 A. An individual shall be disqualified for, and  
20 shall not be eligible to receive, benefits:

21 [~~A.~~] (1) if it is determined by the division  
22 that he left his employment voluntarily without good cause in  
23 connection with his employment; provided, however, that no  
24 person shall be denied benefits under this [~~subsection~~]  
25 paragraph:

. 139609. 3

underscored material = new  
[bracketed material] = delete

1                   (a) solely on the basis of pregnancy or  
2 the termination of pregnancy; or

3                   (b) because of compelling domestic  
4 circumstances for leaving work;

5           ~~[For purposes of this subsection, "employment" means the~~  
6 ~~individual's last employer as defined by the regulations of~~  
7 ~~the secretary and the provisions of the Subsection C of~~  
8 ~~Section 51-1-8 NMSA 1978. The disqualification shall continue~~  
9 ~~for the duration of his unemployment and until he has earned~~  
10 ~~wages in such bona fide employment other than self-employment~~  
11 ~~as provided by regulation of the secretary in an amount~~  
12 ~~equivalent to five times his weekly benefit amount otherwise~~  
13 ~~payable;~~

14                   B.] (2) if it is determined by the division  
15 that he has been discharged for misconduct connected with his  
16 employment; ~~[For purposes of this subsection, "employment"~~  
17 ~~means the individual's last employer as defined by the~~  
18 ~~regulations of the secretary and the provisions of Subsection~~  
19 ~~C of Section 51-1-8 NMSA 1978. The disqualification shall~~  
20 ~~continue for the duration of his unemployment and until he has~~  
21 ~~earned wages in such bona fide employment other than self-~~  
22 ~~employment as provided by regulation of the secretary in an~~  
23 ~~amount equivalent to five times his weekly benefit amount~~  
24 ~~otherwise payable;~~

25                   C.] (3) if it is determined by the division



underscored material = new  
[bracketed material] = delete

1 that he has failed without good cause either to apply for  
2 available, suitable work when so directed or referred by the  
3 [~~employment security~~] division or to accept suitable work when  
4 offered him. [~~The disqualification shall include the week~~  
5 ~~such failure occurred and shall continue for the duration of~~  
6 ~~his unemployment and until he has earned wages in bona fide~~  
7 ~~employment other than self-employment as provided by~~  
8 ~~regulation of the secretary in an amount equivalent to five~~  
9 ~~times his weekly benefit amount otherwise payable; provided~~  
10 ~~that no more than one such disqualification shall be imposed~~  
11 ~~upon any individual for failure to apply for or accept the~~  
12 ~~same position, or a similar position, with the same employer,~~  
13 ~~except upon a determination by the division of~~  
14 ~~disqualification under Subsection D of this section.~~

15 (1)] B. In determining whether or not any work is  
16 suitable for an individual pursuant to Paragraph (3) of  
17 Subsection A of this section, the division shall consider the  
18 degree of risk involved to his health, safety and morals, his  
19 physical fitness and prior training, his experience and prior  
20 earnings, his length of unemployment and prospects for  
21 securing local work in his customary occupation and the  
22 distance of available work from his residence. [(2)]  
23 Notwithstanding any other provisions of the Unemployment  
24 Compensation Law, no work shall be deemed suitable and  
25 benefits shall not be denied under the Unemployment

underscored material = new  
[bracketed material] = delete

1 Compensation Law to any otherwise eligible individual for  
2 refusing to accept new work under any of the following  
3 conditions:

4 [~~(a)~~] (1) if the position offered is vacant  
5 due directly to a strike, lockout or other labor dispute;

6 [~~(b)~~] (2) if the wages, hours or other  
7 conditions of the work offered are substantially less  
8 favorable to the individual than those prevailing for similar  
9 work in the locality; or

10 [~~(c)~~] (3) if, as a condition of being  
11 employed, the individual would be required to join a company  
12 union or to resign from or refrain from joining any bona fide  
13 labor organizations.

14 [~~D-~~] C. An individual shall be disqualified for,  
15 and shall not be eligible to receive, benefits for any week  
16 with respect to which the division finds that his unemployment  
17 is due to a labor dispute at the factory, establishment or  
18 other premises at which he is or was last employed; provided  
19 that this subsection shall not apply if it is shown to the  
20 satisfaction of the division that:

21 (1) he is not participating in or directly  
22 interested in the labor dispute; and

23 (2) he does not belong to a grade or class of  
24 workers of which, immediately before the commencement of the  
25 labor dispute, there were members employed at the premises at

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 which the labor dispute occurs, any of whom are participating  
2 in or directly interested in the dispute; provided that if in  
3 any case separate branches of work which are commonly  
4 conducted in separate businesses in separate premises are  
5 conducted in separate departments of the same premises, each  
6 such department shall, for the purposes of this subsection, be  
7 deemed to be a separate factory, establishment or other  
8 premises. [~~and~~

9 E.] D. An individual shall be disqualified for,  
10 and shall not be eligible to receive, benefits for any week  
11 with respect to which, or a part of which, he has received or  
12 is seeking, through any agency other than the division,  
13 unemployment benefits under an unemployment compensation law  
14 of another state or of the United States; provided that if the  
15 appropriate agency of such other state or of the United States  
16 finally determines that he is not entitled to such  
17 unemployment benefits, this disqualification shall not apply.

18 E. A disqualification pursuant to Paragraph (1) or  
19 (2) of Subsection A of this section shall continue for the  
20 duration of the individual's unemployment and until he has  
21 earned wages in bona fide employment other than self-  
22 employment, as provided by rule of the secretary, in an amount  
23 equivalent to five times his weekly benefit otherwise payable.  
24 A disqualification pursuant to Paragraph (3) of Subsection A  
25 of this section shall include the week the failure occurred

underscored material = new  
[bracketed material] = delete

1 and shall continue for the duration of the individual's  
2 unemployment and until he has earned wages in bona fide  
3 employment other than self-employment, as provided by rule of  
4 the secretary, in an amount equivalent to five times his  
5 weekly benefit amount otherwise payable; provided that no more  
6 than one such disqualification shall be imposed upon an  
7 individual for failure to apply for or accept the same  
8 position, or a similar position, with the same employer,  
9 except upon a determination by the division of  
10 disqualification pursuant to Subsection C of this section.

11 F. As used in this section:

12 (1) "child care conflicts" means:

13 (a) the loss of an existing child care  
14 arrangement that forces an individual to quit his job because  
15 he is unable to find comparable and affordable care; or

16 (b) an employer-instigated schedule  
17 change or work-location change that forces the individual to  
18 quit because he cannot find affordable child care that  
19 accommodates the new schedule or location;

20 (2) "compelling domestic circumstances"  
21 means:

22 (a) child care conflicts;

23 (b) domestic abuse, and the individual:

24 1) reasonably fears future domestic abuse at or en route to or  
25 from the individual's place of employment; 2) wishes to

1 relocate to another geographic area in order to avoid future  
2 abuse against the individual or the individual's family or co-  
3 workers; 3) reasonably believes that termination of employment  
4 is necessary for the future safety of the individual, the  
5 individual's family or co-workers; or 4) is required to leave  
6 employment as a condition of receiving services or shelter  
7 from an agency that provides support services or shelter to  
8 victims of domestic abuse; or

9 (c) sick dependents;

10 (3) "domestic abuse" means that term as  
11 defined in Section 40-13-2 NMSA 1978; and

12 (4) "employment" means employment by the  
13 individual's last employer as defined by rules of the  
14 secretary. "

15 Section 4. Section 51-1-48 NMSA 1978 (being Laws 1971,  
16 Chapter 209, Section 7, as amended) is amended to read:

17 "51-1-48. DEFINITIONS--EXTENDED BENEFITS.--As used in  
18 this section, unless the context clearly requires otherwise:

19 A. "extended benefit period" means a period  
20 ~~[which]~~ that:

21 (1) begins with the third week after a week  
22 for which there is a state "on" indicator;

23 (2) ends with either of the following weeks,  
24 whichever occurs later:

25 (a) the third week after the first week

underscored material = new  
[bracketed material] = delete

1 for which there is a state "off" indicator; or

2 (b) the thirteenth consecutive week of  
3 such period; and

4 (3) [~~provided that no extended benefit period~~  
5 ~~may~~] does not begin by reason of a state "on" indicator before  
6 the fourteenth week following the end of a prior extended  
7 benefit period which was in effect with respect to this state.

8 [~~B. There is a "state 'on' indicator" for this~~  
9 ~~state for a week if the secretary determines, in accordance~~  
10 ~~with the regulations of the United States secretary of labor,~~  
11 ~~that for the period consisting of such week and the~~  
12 ~~immediately preceding twelve weeks, the rate of insured~~  
13 ~~unemployment (not seasonally adjusted) under this section:~~

14 (1) ~~equaled or exceeded five percent or~~  
15 ~~equaled or exceeded one hundred twenty percent of the average~~  
16 ~~of such rates for the corresponding thirteen-week period~~  
17 ~~ending in each of the preceding two calendar years and equalled~~  
18 ~~or exceeded four percent; provided that for weeks of~~  
19 ~~unemployment beginning after September 25, 1982, the~~  
20 ~~provisions of subparagraph (2) of this subsection shall apply~~  
21 ~~in determining a state "on" indicator; and~~

22 (2) ~~for weeks beginning after September 25,~~  
23 ~~1982, equalled or exceeded six percent or equalled or exceeded~~  
24 ~~one hundred twenty percent of the average of such rates for~~  
25 ~~the corresponding thirteen-week period ending in each of the~~

underscored material = new  
[bracketed material] = delete

1 ~~preceding two calendar years and equaled or exceeded five~~  
2 ~~percent.~~

3 ~~C. There is a "state 'off' indicator" for this~~  
4 ~~state for a week if the secretary determines, in accordance~~  
5 ~~with the regulations of the United States secretary of labor,~~  
6 ~~that for the period consisting of such week and the~~  
7 ~~immediately preceding twelve weeks, the rate of insured~~  
8 ~~unemployment (not seasonally adjusted) under this section:~~

9 ~~(1) was less than one hundred twenty percent~~  
10 ~~of the average of such rates for the corresponding thirteen-~~  
11 ~~week period ending in each of the preceding two calendar~~  
12 ~~years; or~~

13 ~~(2) was less than four percent or, for weeks~~  
14 ~~beginning after September 25, 1982, was less than five~~  
15 ~~percent.]~~

16 B. There is a "state 'on' indicator" for this  
17 state for a week if the rate of insured unemployment not  
18 seasonally adjusted under this section for the period  
19 consisting of that week and the immediately preceding twelve  
20 weeks:

21 (1) equaled or exceeded one hundred twenty  
22 percent of the average of the rates for the corresponding  
23 thirteen-week period ending in each of the preceding two  
24 calendar years; and

25 (2) equaled or exceeded five percent; or

underscored material = new  
[bracketed material] = delete

1                   (3) equaled or exceeded six percent,  
2 regardless of the rate of insured unemployment in the two  
3 previous years; or

4                   (4) with respect to benefits for weeks of  
5 unemployment beginning after January 1, 2002:

6                   (a) the average rate of total  
7 unemployment, seasonally adjusted, as determined by the United  
8 States secretary of labor, for the period consisting of the  
9 most recent three months for which data for all states are  
10 published before the close of such week equals or exceeds six  
11 and one-half percent; and

12                   (b) the average rate of total  
13 unemployment in this state, seasonally adjusted, as determined  
14 by the United States secretary of labor, for the three-month  
15 period referred to in Subparagraph (a) of this paragraph,  
16 equals or exceeds one hundred ten percent of such average for  
17 either or both of the corresponding three-month periods ending  
18 in the two preceding calendar years.

19                   C. There is a "state 'off' indicator" for this  
20 state for a week only if, for the period consisting of that  
21 week and the immediately preceding twelve weeks, none of the  
22 options specified in Subsection B of this section result in a  
23 "state 'on' indicator".

24                   D. Except as provided in Subsection E of this  
25 section, the total extended benefit amount payable to an



underscored material = new  
[bracketed material] = delete

1 eligible individual with respect to the applicable benefit  
2 year shall be the least of the following amounts:

3 (1) fifty percent of the total amount of  
4 regular benefits that were payable to the individual pursuant  
5 to this section in the individual's applicable benefit year;

6 (2) thirteen times the individual's average  
7 weekly benefit amount that was payable to an individual  
8 pursuant to this section for a week of total unemployment in  
9 the applicable benefit year; or

10 (3) thirty-nine times the individual's  
11 average weekly benefit amount that was payable to the  
12 individual pursuant to this section for a week of total  
13 unemployment in the applicable benefit year, reduced by the  
14 total amount of regular benefits that were paid, or deemed  
15 paid, to the individual pursuant to this section with respect  
16 to the benefit year; provided that the amount determined  
17 pursuant to this paragraph shall be reduced by the total  
18 amount of additional benefits paid, or deemed paid, to the  
19 individual under the provisions of this section for weeks of  
20 unemployment in the individual's benefit year that began prior  
21 to the effective date of the extended benefit period that is  
22 current in the week for which the individual first claims  
23 extended benefits; and provided further, if the benefit year  
24 of an individual ends within an extended benefit period, the  
25 remaining balance of the extended benefits that the individual

underscored material = new  
[bracketed material] = delete

1 would, but for this paragraph, be entitled to receive in that  
2 extended benefit period, with respect to weeks of unemployment  
3 beginning after the end of the benefit year, shall be reduced,  
4 but not below zero, by the product of the number of weeks for  
5 which the individual received any amounts as readjustment  
6 allowances within that benefit year, multiplied by the  
7 individual weekly benefit amount for extended benefits.

8 E. Effective with respect to weeks beginning in a  
9 high-unemployment period, the total extended benefit amount  
10 payable to an eligible individual with respect to the  
11 applicable benefit year shall be the least of the following  
12 amounts:

13 (1) eighty percent of the total amount of  
14 regular benefits that were payable to the individual pursuant  
15 to this section in the individual's applicable benefit year;

16 (2) twenty times the individual's average  
17 weekly benefit amount that was payable to an individual  
18 pursuant to this section for a week of total unemployment in  
19 the applicable benefit year; or

20 (3) forty-six times the individual's average  
21 weekly benefit amount that was payable to the individual  
22 pursuant to this section for a week of total unemployment in  
23 the applicable benefit year, reduced by the total amount of  
24 regular benefits that were paid, or deemed paid, to the  
25 individual pursuant to this section with respect to the

. 139609. 3

underscored material = new  
[bracketed material] = delete

1 benefit year; provided that the amount determined pursuant to  
2 this paragraph shall be reduced by the total amount of  
3 additional benefits paid, or deemed paid, to the individual  
4 under the provisions of this section for weeks of unemployment  
5 in the individual's benefit year that began prior to the  
6 effective date of the extended benefit period that is current  
7 in the week for which the individual first claims extended  
8 benefits; and provided further, if the benefit year of an  
9 individual ends within an extended benefit period, the  
10 remaining balance of the extended benefits that the individual  
11 would, but for this paragraph, be entitled to receive in that  
12 extended benefit period, with respect to weeks of unemployment  
13 beginning after the end of the benefit year, shall be reduced,  
14 but not below zero, by the product of the number of weeks for  
15 which the individual received any amounts as readjustment  
16 allowances within that benefit year, multiplied by the  
17 individual weekly benefit amount for extended benefits.

18 F. For purposes of Subsection E of this section,  
19 "high-unemployment period" means a period during which an  
20 extended benefit period would be in effect if Paragraph (4) of  
21 Subsection B of this section were applied by substituting  
22 "eight percent" for "six and one-half percent".

23 G. A benefit paid to an individual pursuant to  
24 this section shall not be charged to the employer's account  
25 but shall be charged to the solvency account.

underscored material = new  
[bracketed material] = delete

1                    ~~[D.]~~ H. As used in this section:

2                    (1) "rate of insured unemployment" [~~for~~  
3 ~~purposes of Subsections B and C of this section~~] means the  
4 percentage derived by dividing:

5                    ~~[(1)]~~ (a) the average weekly number of  
6 individuals filing claims for regular benefits in this state  
7 for weeks [~~for~~] of unemployment with respect to the most  
8 recent thirteen-consecutive-week period, as determined by the  
9 secretary on the basis of his reports to the United States  
10 secretary of labor, by

11                    ~~[(2)]~~ (b) the average monthly  
12 employment covered under the Unemployment Compensation Law for  
13 the first four of the most recent six completed calendar  
14 quarters ending before the end of such thirteen-week period;

15                    ~~[E.]~~ (2) "regular benefits" means benefits  
16 payable to an individual under the Unemployment Compensation  
17 Law or under any other state law, including benefits payable  
18 to federal civilian employees and to ex-servicemen pursuant to  
19 5 U. S. C., Chapter 85, other than extended benefits;

20                    ~~[F.]~~ (3) "extended benefits" means benefits,  
21 including benefits payable to federal civilian employees and  
22 to ex-servicemen pursuant to 5 U. S. C., Chapter 85, payable to  
23 an individual under the provisions of this section for weeks  
24 of unemployment in his eligibility period;

25                    ~~[G.]~~ (4) "eligibility period" of an

underscored material = new  
[bracketed material] = delete

1 individual means the period consisting of the weeks in his  
2 benefit year [~~which~~] that begin in an extended benefit period  
3 and, if his benefit year ends within such extended benefit  
4 period, any weeks thereafter [~~which~~] that begin in such  
5 period;

6 [~~H-~~] (5) "exhaustee" means an individual who,  
7 with respect to any week of unemployment in his eligibility  
8 period:

9 [~~(1)~~] (a) has received, prior to such  
10 week, all of the regular benefits that were available to him  
11 under the Unemployment Compensation Law or any other state  
12 law, including dependent's allowance and benefits payable to  
13 federal civilian employees and ex-servicemen under 5 U. S. C. ,  
14 Chapter 85, in his current benefit year that includes such  
15 week; provided that, for the purposes of this subparagraph, an  
16 individual shall be deemed to have received all of the regular  
17 benefits that were available to him, although, as a result of  
18 a pending appeal with respect to wages that were not  
19 considered in the original monetary determination in his  
20 benefit year, he may subsequently be determined to be entitled  
21 to added regular benefits; or

22 [~~(2)~~] (b) his benefit year, having  
23 expired prior to such week, has no, or insufficient, wages on  
24 the basis of which he could establish a new benefit year that  
25 would include such week; and

