

2014 -- H 7929 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY--  
GENERAL PROVISIONS

Introduced By: Representatives Edwards, Williams, Winfield, Silva, and Serpa

Date Introduced: March 13, 2014

Referred To: House Labor

(Labor & Training)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-42-3 and 28-42-8 of the General Laws in Chapter 28-42  
2 entitled "Employment Security - General Provisions" are hereby amended to read as follows:

3 **28-42-3. Definitions.** -- The following words and phrases, as used in chapters 42 -- 44 of  
4 this title, have the following meanings unless the context clearly requires otherwise:

5 (1) "Administration account" means the employment security administration account  
6 established by this chapter;

7 (2) "Average weekly wage" means the amount determined by dividing the individual's  
8 total wages earned for service performed in employment within his or her base period by the  
9 number of that individual's credit weeks within his or her base period;

10 (3) "Base period", with respect to an individual's benefit year, means the first four (4) of  
11 the most recently completed five (5) calendar quarters immediately preceding the first day of an  
12 individual's benefit year. For any individual's benefit year, and for any individual deemed  
13 monetarily ineligible for benefits for the "base period" as defined in this subdivision, the  
14 department shall make a re-determination of entitlement based upon the alternate base period  
15 ~~which~~ that consists of the last four (4) completed calendar quarters immediately preceding the  
16 first day of the claimant's benefit year. Notwithstanding anything contained to the contrary in this  
17 subdivision, the base period shall not include any calendar quarter previously used to establish a  
18 valid claim for benefits; provided, that notwithstanding any provision of chapters 42 -- 44 of this

1 title to the contrary, for the benefit years beginning on or after October 4, 1992, whenever an  
2 individual who has received workers' compensation benefits is entitled to reinstatement under  
3 ~~section~~ §28-33-47, but the position to which reinstatement is sought does not exist or is not  
4 available, the individual's base period shall be determined as if the individual filed for benefits on  
5 the date of the injury;

6 (4) "Benefit" means the money payable to an individual as compensation for his or her  
7 wage losses due to unemployment as provided in these chapters;

8 (5) "Benefit credits" means the total amount of money payable to an individual as  
9 benefits, as determined by ~~section~~ §28-44-9;

10 (6) "Benefit rate" means the money payable to an individual as compensation, as  
11 provided in chapters 42 -- 44 of this title, for his or her wage losses with respect to any week of  
12 total unemployment;

13 (7) "Benefit year", with respect to any individual who does not already have a benefit  
14 year in effect, and who files a valid claim for benefits, means fifty-two (52) consecutive, calendar  
15 weeks, the first of which shall be the week containing the day as of which he or she first files a  
16 valid claim in accordance with regulations adopted as hereinafter prescribed; provided, that the  
17 benefit year shall be fifty-three (53) weeks if the filing of a new, valid claim would result in  
18 overlapping any quarter of the base period of a prior new claim previously filed by the individual.  
19 In no event shall a new benefit year begin prior to the Sunday next following the end of the old  
20 benefit year;

21 (8) "Calendar quarter" means the period of three (3) consecutive, calendar months  
22 ending March 31, June 30, September 30, and December 31; or the equivalent thereof, in  
23 accordance with regulations as subsequently prescribed;

24 (9) "Contributions" means the money payments to the state employment security fund  
25 required by those chapters;

26 (10) "Credit amount", effective July 6, 2014, means earnings by the individual in an  
27 amount equal to at least eight (8) times the individual's weekly benefit rate.

28 ~~(10)~~(11) "Credit week", prior to July 1, 2012, means any week within an individual's  
29 base period in which that individual earned wages amounting to at least twenty (20) times the  
30 minimum hourly wage as defined in chapter 12 of this title for performing services in  
31 employment for one or more employers subject to chapters 42 -- 44 of this title, and for the period  
32 July 1, 2012, through July 5, 2014, means any week within an individual's base period in which  
33 that individual earned wages amounting to at least his or her weekly benefit rate for performing  
34 services in employment for one or more employers subject to chapters 42 – 44 of this title;

1           ~~(11)~~(12) "Crew leader", for the purpose of subdivision ~~(18)~~ (19) of this section, means an  
2 individual who:

3           (i) Furnishes individuals to perform service in agricultural labor for any other person;

4           (ii) Pays (either on his or her own behalf or on behalf of that other person) the  
5 individuals so furnished by him or her for the service in agricultural labor performed by them;  
6 and

7           (iii) Has not entered into a written agreement with that other person (farm operator)  
8 under which that individual (crew leader) is designated as an employee of that other person (farm  
9 operator).

10          ~~(12)~~(13) "Director" means the head of the department of labor and training or his or her  
11 authorized representative;

12          ~~(13)~~(14) "Domestic service employment". "Employment" includes domestic service in a  
13 private home performed for a person who paid cash remuneration of one thousand dollars  
14 (\$1,000) or more in any calendar quarter in the current calendar year, or the preceding calendar  
15 year, to individuals employed in that domestic service;

16          ~~(14)~~(15) "Employee" means any person who is, or has been, employed by an employer  
17 subject to those chapters and in employment subject to those chapters;

18          ~~(15)~~(16) "Employer" means:

19           (i) Any employing unit that was an employer as of December 31, 1955;

20           (ii) Any employing unit ~~which~~ that for some portion of a day on and after January 1,  
21 1956, has, or had, in employment, within any calendar year, one or more individuals; except,  
22 however, for "domestic service employment", as defined in subdivision ~~(13)~~ (14) of this section;

23           (iii) For the effective period of its election pursuant to ~~section~~ §28-42-12, any other  
24 employing unit ~~which~~ that has elected to become subject to chapters 42 -- 44 of this title;

25           (iv) Any employing unit not an employer by reason of any other paragraph of this  
26 subdivision for which, within either the current or preceding calendar year, service is, or was,  
27 performed with respect to which that employing unit is liable for any federal tax against which  
28 credit may be taken for contributions required to be paid into this state's employment security  
29 fund; or which, as a condition for approval of chapters 42 -- 44 of this title for full tax credit  
30 against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. section 3301 et seq., is  
31 required, pursuant to that act, to be an "employer" under chapters 42 -- 44 of this title;

32          ~~(16)~~(17) "Employing unit" means any person, partnership, association, trust, estate, or  
33 corporation, whether domestic or foreign, or its legal representative, trustee in bankruptcy,  
34 receiver, or trustee, or the legal representative of a deceased person, ~~which~~ that has, or had, in his

1 or her employ<sub>2</sub>, one or more individuals. For the purposes of subdivision ~~(13)~~ (14) of this section,  
2 a private home shall be considered an employing unit only if the person for whom the domestic  
3 service was performed paid cash remuneration of one thousand dollars (\$1,000) or more in any  
4 calendar quarter in the current calendar year<sub>2</sub>, or the preceding calendar year<sub>2</sub>, to individuals  
5 employed in that domestic service in that private home;

6 ~~(17)~~(18)(i) "Employment", subject to ~~sections~~ §§28-42-4 -- 28-42-10, means service,  
7 including service in interstate commerce, performed for wages<sub>2</sub>, or under any contract of hire,  
8 written or oral, express or implied; provided, that service performed shall also be deemed to  
9 constitute employment for all the purposes of chapters 42 -- 44 of this title<sub>2</sub>, if performed by an  
10 individual in the employ of a nonprofit organization as described in subdivision (24) of this  
11 section<sub>2</sub>, except as provided in ~~section~~ §28-42-8(7).

12 (ii) Notwithstanding any other provisions of this section, "Employment" also means  
13 service with respect to which a tax is required to be paid under any federal law imposing a tax  
14 against which credit may be taken for contributions required to be paid into this state's  
15 employment security fund or which<sub>2</sub>, as a condition for full tax credit against the tax imposed by  
16 the Federal Unemployment Tax Act<sub>2</sub>, is required to be covered under chapters 42 -- 44 of this title;

17 (iii) Employment not to include owners. Employment does not include services  
18 performed by sole proprietors (owners), partners in a partnership, limited liability company --  
19 single member filing as a sole proprietor with the IRS, or members of a limited liability company  
20 filing as a partnership with the IRS.

21 ~~(18)~~(19) "Employment -- Crew leader". For the purposes of subdivision ~~(14)~~ (12) of this  
22 section:

23 (i) Any individual who is a member of a crew furnished by a crew leader to perform  
24 service in agricultural labor for any other person shall be treated as an employee of that crew  
25 leader if:

26 (A) That crew leader holds a valid certificate of registration under the Migrant and  
27 Seasonal Agricultural Worker Protection Act, 29 U.S.C. section 1801 et seq., or substantially all  
28 members of that crew operate or maintain tractors, mechanized harvesting, or crop-dusting  
29 equipment, or any other mechanized equipment<sub>2</sub>, ~~which~~ that is provided by that crew leader; and

30 (ii) That individual is not an employee of that other person within the meaning of  
31 subdivision ~~(14)~~ (15) of this section; and

32 (iii) In the case of any individual who is furnished by a crew leader to perform service in  
33 agricultural labor for any other person and who is not treated as an employee of that crew leader:

34 (A) That other person<sub>2</sub>, and not the crew leader<sub>2</sub>, shall be treated as the employer of that

1 individual; and

2 (B) That other person shall be treated as having paid cash remuneration to that individual  
3 in an amount equal to the amount of cash remuneration paid to that individual by the crew leader  
4 (either on his or her own behalf or on behalf of that other person) for the service in agricultural  
5 labor performed for that other person;

6 ~~(19)~~(20) "Employment office" means a free, public employment office, or its branch,  
7 operated by the director or by this state as part of a system of free, public employment offices, or  
8 any other agency that the director may designate with the approval of the Social Security  
9 Administration;

10 ~~(20)~~(21) "Fund" means the employment security fund established by this chapter;

11 ~~(21)~~(22) "Governmental entity" means state and local governments in this state and  
12 includes the following:

13 (i) The state of Rhode Island or any of its instrumentalities, or any political subdivision  
14 of the state, or any of its instrumentalities;

15 (ii) Any instrumentality of more than one of these entities; or

16 (iii) Any instrumentality of any of these entities and one or more other states or political  
17 subdivisions;

18 ~~(22)~~(23) "Hospital" means an institution that has been licensed, certified, or approved by  
19 the department of health as a hospital;

20 ~~(23)~~(24)(i) "Institution of higher education" means an educational institution in this state  
21 ~~which~~ that:

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

24 (B) Is legally authorized within this state to provide a program of education beyond high  
25 school;

26 (C) Provides:

27 (I) An educational program for which it awards a bachelor's or higher degree, or a  
28 program that is acceptable for full credit toward such a degree;

29 (II) A program of post-graduate or post-doctoral studies; or

30 (III) A program of training to prepare students for gainful employment in a recognized  
31 occupation; and

32 (D) Is a public or other non-profit institution.

33 (ii) Notwithstanding any of the preceding provisions of this subdivision, all colleges and  
34 universities in this state are institutions of higher education for purposes of this section;

1           ~~(24)~~(25) "Nonprofit organization" means an organization, or group of organizations, as  
2 defined in 26 U.S.C. section 501(c)(3), ~~which~~ that is exempt from income tax under 26 U.S.C.  
3 section 501(a);

4           ~~(25)~~(26)(i) "Partial unemployment". An employee shall be deemed partially unemployed  
5 in any week of less than full-time work if he or she fails to earn in wages for that week an amount  
6 equal to the weekly benefit rate for total unemployment to which he or she would be entitled if  
7 totally unemployed and eligible.

8           (ii) For the purposes of this subdivision and subdivision (27) of this section, "Wages"  
9 includes only that part of remuneration for any work, ~~which~~ that is in excess of one-fifth (1/5) of  
10 the weekly benefit rate for total unemployment, rounded to the next lower multiple of one dollar  
11 (\$1.00), to which the individual would be entitled if totally unemployed and eligible in any one  
12 week, and "services" includes only that part of any work for which remuneration in excess of  
13 one-fifth ( 1/5) of the weekly benefit rate for total unemployment, rounded to the next lower  
14 multiple of one dollar (\$1.00), to which the individual would be entitled if totally unemployed  
15 and eligible in any one week is payable; provided, that nothing contained in this paragraph shall  
16 permit any individual to whom remuneration is payable for any work performed in any week in  
17 an amount equal to or greater than his or her weekly benefit rate to receive benefits under this  
18 subdivision for that week.

19           (iii) Notwithstanding anything contained to the contrary in this subdivision, "Services",  
20 as used in this subdivision and in subdivision (27) of this section, does not include services  
21 rendered by an individual under the exclusive supervision of any agency of this state, or any of its  
22 political subdivisions, by which the services are required solely for the purpose of affording  
23 relief, support, or assistance to needy individuals performing those services, or services  
24 performed by members of the national guard and organized reserves in carrying out their duties in  
25 weekly drills as members of those organizations. "Wages", as used in this subdivision and in  
26 subdivision (27) of this section, does not include either remuneration received by needy  
27 individuals for rendering the aforementioned services when that remuneration is paid exclusively  
28 from funds made available for that purpose out of taxes collected by this state or any of its  
29 political subdivisions, or remuneration received from the federal government by members of the  
30 national guard and organized reserves, as drill pay, including longevity pay and allowances;

31           ~~(26)~~(27) "Payroll" means the total amount of all wages paid by the employer to his or her  
32 employees for employment;

33           ~~(27)~~(28) "Total unemployment." An individual shall be deemed totally unemployed in  
34 any week in which he or she performs no services (as used in subdivision (25) of this section) and

1 for which he or she earns no wages (as used in subdivision (25) of this section), and in which he  
2 or she cannot reasonably return to any self-employment in which he or she has customarily been  
3 engaged;

4 ~~(28)~~(29) "Wages" means all remuneration paid for personal services on or after January  
5 1, 1940, including commissions and bonuses and the cash value of all remuneration paid in any  
6 medium other than cash, and all other remuneration ~~which~~ that is subject to a tax under a federal  
7 law imposing a tax against which credit may be taken for contributions required to be paid into a  
8 state unemployment fund. Gratuities customarily received by an individual in the course of his or  
9 her employment from persons other than his or her employing unit shall be treated as wages paid  
10 by his or her employing unit. The reasonable cash value of remuneration paid in any medium  
11 other than cash, and the reasonable amount of gratuities, shall be estimated and determined in  
12 accordance with rules prescribed by the director; except that for the purpose of this subdivision  
13 and of ~~sections~~ §§28-43-1 -- 28-43-14, this term does not include:

14 (i) That part of remuneration ~~which~~ that is paid by an employer to an individual with  
15 respect to employment during any calendar year, after remuneration equal to the amount of the  
16 taxable wage base as determined in accordance with ~~section~~ §28-43-7 has been paid during that  
17 calendar year by the employer or his or her predecessor to that individual; provided, that if the  
18 definition of "Wages" as contained in the Federal Unemployment Tax Act is amended to include  
19 remuneration in excess of the taxable wage base for that employment, then, for the purposes of  
20 ~~sections~~ §§28-43-1 -- 28-43-14, "Wages" includes the remuneration as previously set forth, up to  
21 an amount equal to the dollar limitation specified in the federal act. For the purposes of this  
22 subdivision, "Employment" includes services constituting employment under any employment  
23 security law of another state or of the federal government;

24 (ii) The amount of any payment made to, or on behalf of, an employee under a plan or  
25 system established by an employer ~~which~~ that makes provision for his or her employees  
26 generally, or for a class or classes of his or her employees (including any amount paid by an  
27 employer or an employee for insurance or annuities, or into a fund, to provide for any such  
28 payment), on account of:

- 29 (A) Retirement;
- 30 (B) Sickness or accident disability;
- 31 (C) Medical and hospitalization expenses in connection with sickness or accident  
32 disability; or
- 33 (D) Death; provided, that the employee has not the:
- 34 (I) Option to receive, instead of provision for that death benefit, any part of that payment



1 or, if that death benefit is insured, any part of the premiums (or contributions to premiums) paid  
2 by his or her employer; and

3 (II) Right, under the provisions of the plan or system or policy of insurance providing for  
4 that death benefit, to assign that benefit, or to receive a cash consideration in lieu of that benefit  
5 either upon his or her withdrawal from the plan or system providing for that benefit or upon  
6 termination of the plan or system or policy of insurance, or of his or her employment with that  
7 employer.

8 (E) The payment by an employer (without deduction from the remuneration of the  
9 employee) of:

10 (I) The tax imposed upon an employee under 26 U.S.C. ~~section~~ §3101; or

11 (II) Any payment required from an employee under chapters 42 -- 44 of this title.

12 (iii) Any amount paid by an employee, or an amount paid by an employer, under a  
13 benefit plan organized under ~~Section 125 of the~~ Internal Revenue Code [26 U.S.C. section ~~125-~~  
14 [125](#)].

15 ~~(29)~~[\(30\)](#) "Week" means the seven-~~(7)~~ day [\(7\)](#) calendar week beginning on Sunday at  
16 12:01 A.M. and ending on Saturday at 12:00 A.M. midnight.

17 **28-42-8. Exemptions from "employment".** -- "Employment" does not include:

18 (1) Domestic service in a private home performed for a person who did not pay cash  
19 remuneration of one thousand dollars (\$1,000) or more in any calendar quarter after December  
20 31, 1977, in the current calendar year, or the preceding calendar year to individuals employed in  
21 that domestic service in a private home;

22 (2) Service performed by an individual in the employ of [a sole proprietorship or LLC](#)  
23 [single member filing as a sole proprietorship with the IRS for](#) his or her son, daughter, or spouse,  
24 and service performed by a child under the age of eighteen (18) in the employ of his or her father  
25 or mother [who is designated as a sole proprietorship or LLC single-member filing as a sole](#)  
26 [proprietorship with the IRS, and service is performed by an individual under the age of eighteen](#)  
27 [\(18\) in the employ of a partnership or LLC partnership consisting only of his or her parents or](#)  
28 [domestic partners](#);

29 (3) Service performed in the employ of any other state, or any of its political  
30 subdivisions, the United States government, an instrumentality of any other state or states or their  
31 political subdivisions, or of an instrumentality of the United States, except, that if the Congress of  
32 the United States permits states to require any instrumentalities of the United States to make  
33 payments into an unemployment fund under a state unemployment compensation act, then, to the  
34 extent permitted by Congress, and from and after the date as of which permission becomes



1 effective, all of the provisions of chapters 42 -- 44 of this title shall be applicable to those  
2 instrumentalities and to services performed for those instrumentalities, in the same manner, to the  
3 same extent, and on the same terms, as to all other employers, employing units, individuals, and  
4 services. If this state is not certified by the Secretary of Labor under 26 U.S.C. ~~section~~ §3304 for  
5 any year, then the payments required of those instrumentalities with respect to that year shall be  
6 deemed to have been erroneously collected within the meaning of ~~section~~ §28-43-12 and shall be  
7 refunded by the director from the fund in accordance with ~~section~~ §28-43-12;

8 (4) Service performed:

9 (i) In the employ of:

10 (A) A church or convention or association of churches, or

11 (B) An organization ~~which~~ that is operated primarily for religious purposes and ~~which~~  
12 that is operated, supervised, controlled, or principally supported by a church or convention or  
13 association of churches;

14 (ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of  
15 his or her ministry or by a member of a religious order in the exercise of duties required by that  
16 order;

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

22 (iv) As part of an unemployment work relief or worktraining program assisted or  
23 financed in whole, or in part, by any federal agency or an agency of a state or one of its political  
24 subdivisions, by an individual receiving that work relief or work training;

25 (v) In the employ of a hospital by a patient of the hospital; or

26 (vi) By an inmate of a custodial or penal institution;

27 (5) Service with respect to which unemployment compensation is payable under an  
28 unemployment compensation system established by an act of Congress. The director is authorized  
29 and directed to enter into agreements with the proper agencies under that act of Congress, which  
30 agreements shall become effective ten (10) days after their publication as in the manner provided  
31 in ~~section~~ §28-42-34 to provide reciprocal treatment to individuals who have, after acquiring  
32 potential rights to benefits under chapters 42 -- 44 of this title, acquired rights to unemployment  
33 compensation under that act of Congress, or who have, after acquiring potential rights to  
34 unemployment compensation under that act of Congress, acquired rights to benefits under those

1 chapters;

2 (6) Service covered by an election duly approved by the agency charged with the  
3 administration of any other state or federal employment security law in accordance with an  
4 arrangement pursuant to ~~section~~ §28-42-58 during the effective period of that election, except as  
5 provided in ~~section~~ §28-42-3(15)(i);

6 (7) Services performed by an individual, in any calendar quarter on or after January 1,  
7 1972, in the employ of any organization exempt from income tax under 26 U.S.C. ~~section~~  
8 §501(a)(other than services performed for an organization defined in ~~section~~ §28-42-3(24) or for  
9 any organization described in 26 U.S.C. section 401(a) or under 26 U.S.C. section 521) if the  
10 remuneration for that service is less than fifty dollars (\$50.00);

11 (8) Service ~~which~~ that is occasional, incidental, and occurs irregularly, and is not in the  
12 course of the employing unit's trade or business. Service for a corporation shall not be excluded;

13 (9) Service as a golf caddy, except as to service performed solely for a club with respect  
14 to which the club alone bears the expense. A golf caddy, except as in this specifically provided  
15 subdivision, shall not be construed to be an "employee" as defined in ~~section~~ §28-42-3(14);

16 (10) Notwithstanding any provisions of titles 5 and 27, service performed by an  
17 individual as a real estate salesperson if all the service performed by that individual is performed  
18 for remuneration solely by way of commission;

19 (11) Notwithstanding any provisions of titles 5 and 27, service performed by an  
20 individual as an insurance broker, agent, or subagent if all the service performed by that  
21 individual is performed for remuneration solely by way of commission. This exemption shall not  
22 apply to service performed as industrial and debit insurance agents;

23 (12) Service performed by an individual who is enrolled at a nonprofit or public  
24 educational institution ~~which~~ that normally maintains a regular faculty and curriculum and  
25 normally has a regular organized body of students in attendance at the place where its educational  
26 activities are carried on, as a student in a full-time program, taken for credit at that institution  
27 ~~which~~ that combines academic instruction with work experience, if that service is an integral part  
28 of that program, and that institution has so certified to the employer, except that this subdivision  
29 shall not apply to service performed in a program established for, or on behalf of, an employer or  
30 group of employers;

31 (13) Service performed by an individual on a boat engaged in catching fish or other  
32 forms of aquatic animal life under an arrangement with the owner or operator of that boat  
33 pursuant to which:

34 (i) That individual does not receive any cash remuneration other than a share of the

1 boat's catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale  
2 of that catch; and

3 (ii) The operating crew of that boat is normally made up of fewer than ten (10)  
4 individuals; and

5 (14) Services performed by a member of an ~~Americorp~~ [Americorps](#) program.

6 SECTION 2. Sections 28-43-31 and 28-43-35 of the General Laws in Chapter 28-43  
7 entitled "Employment Security - Contributions" are hereby amended to read as follows:

8 **28-43-31. Allocation of benefit costs -- Reimbursable employers.** – (a) Each employer  
9 that is liable for payments in lieu of contributions in accordance with ~~section~~ [§28-43-29](#) shall pay  
10 to the director for the fund the full amount of regular benefits paid plus the full amount of  
11 extended benefits paid, less any federal payments to the state under section 204 of the Federal-  
12 State Extended Unemployment Compensation Act of 1970, that are attributable to service in the  
13 employ of that employer; provided, that for weeks of unemployment beginning on or after  
14 January 1, 1979, governmental entities ~~which~~ [that](#) are liable for reimbursement shall be  
15 responsible for reimbursing the fund for the full amount of extended benefits so paid.

16 [\(b\) Each employer that is liable for payments in lieu of contributions in accordance with](#)  
17 [§ 28-43-29 shall make payments to the director that shall include, but not be limited to, benefits](#)  
18 [paid but denied on appeal or benefits paid in error that cannot be properly charged against another](#)  
19 [employer either reimbursable or contributory; provided, that if the benefits that were paid in error](#)  
20 [are subsequently repaid, those amounts shall be credited to the employer's account after](#)  
21 [repayment is actually received by the director.](#)

22 **28-43-35. Special rules regarding transfers of experience and assignment of rates.** --  
23 Notwithstanding any other provisions of chapters 42 -- 44 of this title, the following shall apply  
24 regarding assignment of rates and transfers of experience:

25 (a) If an employer transfers its trade or business, or a portion thereof, to another  
26 employer and, at the time of the transfer, there is any common ownership, management, or  
27 control of the two (2) employers, then the unemployment experience attributable to the  
28 transferred trade or business shall be transferred to the employer to whom such business is so  
29 transferred. [Furthermore, partial transfers may be made in the absence of common ownership at](#)  
30 [the discretion of the director.](#) The rates of both employers shall be recalculated in the following  
31 manner:

32 (1) The total payroll of the employees on the predecessor's payroll during the last,  
33 completed calendar quarter prior to the date of the transfer, who are also on the payroll of the  
34 successor when the transfer takes effect shall be divided by the predecessor's total payroll during

1 the last, completed calendar quarter prior to the date of the transfer, and that percentage shall be  
2 applied to the experience rating balances and payroll of the predecessor as of the end of the  
3 experience year used to determine the contribution rate for the tax year in effect at the date of  
4 transfer. The resulting amounts shall be subtracted from the experience-rating balances and  
5 payroll of the predecessor. The predecessor's remaining experience-rating balances and payroll  
6 shall be used to determine its contribution rate for the new tax year or for the remainder of the  
7 current tax year, whichever is applicable, effective on the first day of the calendar quarter  
8 following the date of the transfer; provided, that if the date of the transfer is the first day of the  
9 calendar quarter, then the new contribution rate shall take effect on the date of the transfer.

10 (2) The balances subtracted from the predecessor's account in subdivision (a)(1) of this  
11 section, shall be combined with the experience rating balances and payroll of the successors as of  
12 the end of the experience year used to determine the contribution rate for the tax year in effect at  
13 the date of transfer. Those combined balances shall be used to determine the contribution rate for  
14 the successor for the new tax year, or for the remainder of the current tax year, whichever is  
15 applicable, effective on the first day of the calendar quarter following the date of the transfer;  
16 provided, that if the date of the transfer is the first day of the calendar quarter, then the new  
17 contribution rate shall take effect on the date of the transfer. For successors in business for less  
18 than one experience year, their contribution rate for the new tax year, or for the remainder of the  
19 current tax year, whichever is applicable, shall be computed based on the transferred experience  
20 rating balances and payroll of the predecessor and shall take effect on the first day of the calendar  
21 quarter following the date of the transfer; provided, that if the date of the transfer is the first day  
22 of the calendar quarter, then the new contribution rate shall take effect on the date of the transfer.

23 (3) A successor shall be deemed to be an eligible employer if its experience combined  
24 with that of its predecessors meets the requirements of ~~subdivision~~ [§28-43-1\(3\)](#). As used in this  
25 section, "successor" means the employing unit to whom a transfer as provided in this section is  
26 made, and "predecessor" means the employer making the transfer and may, if the context so  
27 requires, be construed as referring only to the separate establishment transferred in case of the  
28 transfer of a separate establishment.

29 (b) If, following a transfer of experience under subsection (a) of this section, the director  
30 determines that a substantial purpose of the transfer of the trade or business was to obtain a  
31 reduced liability for contributions, then the experience rating accounts of the employers involved  
32 shall be combined and the combined rate assigned to each employer account.

33 (c) Whenever a person who is not an employer under this chapter at the time that person  
34 acquires the trade or business of an employer, the unemployment experience of the acquired

1 business shall not be transferred to such person if the director finds that such person acquired the  
2 business solely, or primarily, for the purposes of obtaining a lower rate of contributions. Instead,  
3 such person shall be assigned the new employer rate under ~~section~~ §28-43-8.3. In determining  
4 whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of  
5 contributions, the director shall use objective factors ~~which~~ that may include the cost of acquiring  
6 the business, whether the person continued the business enterprise of the acquired business, how  
7 long such business enterprise was continued, or whether a substantial number of new employees  
8 were hired for performance of duties unrelated to the business activity conducted prior to the  
9 acquisition.

10 (d) (1) If a person knowingly violates or attempts to violate subsections (a), (b) or (c), or  
11 any other provision of this chapter related to determining the assignment of a contribution rate, or  
12 if a person knowingly advises another person in a way that results in a violation of such  
13 provision, the person shall be subject to the following penalties:

14 (i) If the person is an employer, then such employer shall be assigned the highest rate  
15 assignable under this chapter for the rate year during which such violation or attempted violation  
16 occurred and the three (3) rate years immediately following this rate year. However, if the  
17 person's business is already at such highest rate for any year, or if the amount of increase in the  
18 person's rate would be less than two percent (2%) for such year, then a penalty rate of  
19 contributions of two percent (2%) of taxable wages shall be imposed for such year.

20 (ii) If the person is not an employer, such person shall be guilty of a misdemeanor and  
21 subject to a civil money penalty of not more than five thousand dollars (\$5,000). Any such fine  
22 shall be deposited in the Rhode Island ~~G~~general ~~F~~fund.

23 (2) For purposes of this section, the term "knowingly" means having actual knowledge  
24 of, or acting with deliberate ignorance, or reckless disregard for, the prohibition involved.

25 (3) For purposes of this section, the term "violates or attempts to violate" includes, but is  
26 not limited to, intent to evade, misrepresentation, or willful nondisclosure.

27 (4) In addition to the penalty imposed by subparagraph (1), any violation of this section  
28 may also be prosecuted as a misdemeanor, and for each offense, the person may be subject to  
29 imprisonment for a period not exceeding one year.

30 (e) The director shall establish procedures to identify the transfer or acquisition of a  
31 business for purposes of this section.

32 (f) For purposes of this chapter:

33 (1) "Person" shall include an individual, a trust, estate, partnership, association, company  
34 or corporation; and

1 (2) "Trade or business" shall include the employer's workforce.

2 (g) This section shall be interpreted and applied in such a manner as to meet the  
3 minimum requirements contained in any guidance or regulations issued by the United States  
4 Department of Labor.

5 (h) Any determination of the director under this section shall be final unless an appeal  
6 from it is filed by the aggrieved party within fifteen (15) days from the date that notice is mailed  
7 to the last known address of that party. All appeals shall follow the provisions of ~~section~~ §28-43-  
8 13.

9 SECTION 3. Sections 28-44-17, 28-44-18, 28-44-20 and 28-44-69 of the General Laws  
10 in Chapter 28-44 entitled "Employment Security - Benefits" are hereby amended to read as  
11 follows:

12 **28-44-17. Voluntary leaving without good cause.** -- (a) For benefit years beginning  
13 prior to July 1, 2012, an individual who leaves work voluntarily without good cause shall be  
14 ineligible for waiting-period credit, or benefits for the week in which the voluntary quit occurred,  
15 and until he or she establishes to the satisfaction of the director that he or she has subsequent to  
16 that leaving had at least eight (8) weeks of work, and in each of those eight (8) weeks has had  
17 earnings of at least twenty (20) times the minimum hourly wage as defined in chapter 12 of this  
18 title for performing services in employment for one or more employers subject to chapters 42 --  
19 44 of this title. For benefit years beginning on or after July 1, 2012, and prior to July 6, 2014, an  
20 individual who leaves work voluntarily without good cause shall be ineligible for waiting period  
21 credit or benefits for the week in which the voluntary quit occurred and until he or she establishes  
22 to the satisfaction of the director that he or she has subsequent to that leaving had at least eight (8)  
23 weeks of work, and in each of those eight (8) weeks has had earnings greater than, or equal to, his  
24 or her weekly benefit rate for performing services in employment for one or more employers  
25 subject to chapters 42 -- 44 of this title. For benefit years beginning on or after July 6, 2014, an  
26 individual who leaves work voluntarily without good cause shall be ineligible for waiting period  
27 credit or benefits for the week in which the voluntary quit occurred and until he or she establishes  
28 to the satisfaction of the director that he or she has, subsequent to that leaving, had earnings  
29 greater than, or equal to, eight (8) times his or her weekly benefit rate for performing services in  
30 employment for one or more employers subject to chapters 42 – 44 of this title. For the purposes  
31 of this section, "voluntarily leaving work with good cause" shall include:

32 (1) ~~s~~Sexual harassment against members of either sex;

33 (2) ~~v~~Voluntarily leaving work with an employer to accompany, join, or follow his or her  
34 spouse to a place, due to a change in location of the spouse's employment, from which it is

1 impractical for such individual to commute; and

2 (3) ~~T~~The need to take care for a member of the individual's immediate family due to  
3 illness or disability as defined by the Secretary of Labor; provided that the individual shall not be  
4 eligible for waiting period credit or benefits until he or she is able to work and is available for  
5 work. For the purposes of this provision, the following terms apply:

6 (i) ~~I~~Immediate family member" means a spouse, parents, mother-in-law, father-in-law  
7 and children under the age of eighteen (18);

8 (ii) ~~I~~Illness" means a verified illness ~~which~~ ~~that~~ necessitates the care of the ill person for  
9 a period of time longer than the employer is willing to grant leave, paid or otherwise; and

10 (iii) ~~D~~Disability" means all types of verified disabilities, including mental and physical  
11 disabilities, permanent and temporary disabilities, and partial and total disabilities.

12 (b) For the purposes of this section, "voluntarily leaving work without good cause" shall  
13 include voluntarily leaving work with an employer to accompany, join, or follow his or her  
14 spouse in a new locality in connection with the retirement of his or her spouse, or failure by a  
15 temporary employee to contact the temporary help agency upon completion of the most recent  
16 work assignment to seek additional work unless good cause is shown for that failure; provided,  
17 that the temporary help agency gave written notice to the individual that the individual is required  
18 to contact the temporary help agency at the completion of the most recent work assignment to  
19 seek additional work.

20 **28-44-18. Discharge for misconduct.** -- For benefit years beginning prior to July 1,  
21 2012, an individual who has been discharged for proved misconduct connected with his or her  
22 work shall become ineligible for waiting period credit or benefits for the week in which that  
23 discharge occurred and until he or she establishes to the satisfaction of the director that he or she  
24 has, subsequent to that discharge, had at least eight (8) weeks of work, and in each of that eight  
25 (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage as defined in  
26 chapter 12 of this title for performing services in employment for one or more employers subject  
27 to chapters 42 -- 44 of this title. For benefit years beginning on or after July 1, 2012, and prior to  
28 July 6, 2014, an individual who has been discharged for proved misconduct connected with his or  
29 her work shall become ineligible for waiting period credit or benefits for the week in which that  
30 discharge occurred and until he or she establishes to the satisfaction of the director that he or she  
31 has, subsequent to that discharge, had at least eight (8) weeks of work, and in each of that eight  
32 (8) weeks has had earnings greater than, or equal to, his or her weekly benefit rate for performing  
33 services in employment for one or more employers subject to chapters 42 -- 44 of this title. For  
34 benefit years beginning on or after July 6, 2014, an individual who has been discharged for



1 [proved misconduct connected with his or her work shall become ineligible for waiting-period](#)  
2 [credit or benefits for the week in which that discharge occurred and until he or she establishes to](#)  
3 [the satisfaction of the director that he or she has, subsequent to that discharge, had earnings](#)  
4 [greater than, or equal to eight \(8\) times, his or her weekly benefit rate for performing services in](#)  
5 [employment for one or more employers subject to chapters 42 – 44 of this title.](#) Any individual  
6 who is required to leave his or her work pursuant to a plan, system, or program, public or private,  
7 providing for retirement, and who is otherwise eligible, shall under no circumstances be deemed  
8 to have been discharged for misconduct. If an individual is discharged and a complaint is issued  
9 by the regional office of the National Labor Relations board or the state labor relations board that  
10 an unfair labor practice has occurred in relation to the discharge, the individual shall be entitled to  
11 benefits if otherwise eligible. For the purposes of this section, "misconduct" is defined as  
12 deliberate conduct in willful disregard of the employer's interest, or a knowing violation of a  
13 reasonable and uniformly enforced rule or policy of the employer, provided that such violation is  
14 not shown to be as a result of the employee's incompetence. Notwithstanding any other provisions  
15 of chapters 42 -- 44 of this title, this section shall be construed in a manner that is fair and  
16 reasonable to both the employer and the employed worker.

17 **28-44-20. Refusal of suitable work.** -- (a) For benefit years beginning prior to July 1,  
18 2012, if an otherwise eligible individual fails, without good cause, either to apply for suitable  
19 work when notified by the employment office, or to accept suitable work when offered to him or  
20 her, he or she shall become ineligible for waiting-period credit or benefits for the week in which  
21 that failure occurred and until he or she establishes to the satisfaction of the director that he or she  
22 has, subsequent to that failure, had at least eight (8) weeks of work and in each of those eight (8)  
23 weeks has had earnings of at least twenty (20) times the minimum hourly wage, as defined in  
24 chapter 12, for performing services in employment for one or more employers subject to chapters  
25 42 -- 44 of this title. For benefit years beginning on or after July 1, 2012, [and prior to July 6,](#)  
26 [2014,](#) if an otherwise eligible individual fails, without good cause, either to apply for suitable  
27 work when notified by the employment office, or to accept suitable work when offered to him or  
28 her, he or she shall become ineligible for waiting-period credit or benefits for the week in which  
29 that failure occurred and until he or she establishes to the satisfaction of the director that he or she  
30 has, subsequent to that failure, had at least eight (8) weeks of work and in each of those eight (8)  
31 weeks has had earnings greater than or equal to his or her weekly benefit rate for performing  
32 services in employment for one or more employers subject to chapters 42 -- 44 of this title.

33 [For benefit years beginning on or after July 6, 2014, if an otherwise eligible individual](#)  
34 [fails, without good cause, either to apply for suitable work when notified by the employment](#)

1 office, or to accept suitable work when offered to him or her, he or she shall become ineligible for  
2 waiting-period credit or benefits for the week in which that failure occurred and until he or she  
3 establishes to the satisfaction of the director that he or she has, subsequent to that failure, had  
4 earnings greater than, or equal to, eight (8) times his or her weekly benefit rate for performing  
5 services in employment for one or more employers subject to chapters 42 – 44 of this title.

6 (b) "Suitable work" means any work for which the individual in question is reasonably  
7 fitted, ~~which~~ that is located within a reasonable distance of his or her residence or last place of  
8 work, and ~~which~~ is not detrimental to his or her health, safety, or morals. No work shall be  
9 deemed suitable, and benefits shall not be denied under chapters 42 -- 44 of this title, to any  
10 otherwise eligible individual for refusing to accept new work, under any of the following  
11 conditions:

12 (1) If the position offered is vacant due directly to a strike, lockout, or other labor  
13 dispute;

14 (2) If the wages, hours, or other conditions of the work are substantially less favorable to  
15 the employee than those prevailing for similar work in the locality;

16 (3) If, as a condition of being employed, the individual would be required to join a  
17 company union or to resign from, or refrain from, joining any bona fide labor organization.

18 **28-44-69. Work-sharing benefits.** -- (a) Definitions. - As used in this section, unless the  
19 context clearly requires otherwise:

20 (1) "Affected unit" means a specified plant, department, shift, or other definable unit  
21 consisting of two (2) or more employees to which an approved work-sharing plan applies.

22 (2) "Eligible employee" means an individual who usually works for the employer  
23 submitting a work-sharing plan.

24 (3) "Eligible employer" means any employer who has had contributions credited to his or  
25 her account and benefits have been chargeable to this account, or who has elected to reimburse  
26 the fund in lieu of paying contributions, and who is not delinquent in the payment of  
27 contributions or reimbursements, as required by chapters 42 -- 44 of this title.

28 (4) "Fringe benefits" include, but are not limited to, health insurance, retirement benefits,  
29 paid vacation and holidays, sick leave, and similar advantages that are incidents of employment.

30 (5) "Intermittent employment" means employment ~~which~~ that is not continuous but may  
31 consist of periodic intervals of weekly work and intervals of no weekly work.

32 (6) "Seasonal employment" means employment with an employer who displays a twenty  
33 percent (20%) difference between its highest level of employment and its lowest level of  
34 employment each year for the three (3) previous calendar years as reported to the department of

1 labor and training, or as shown in the information ~~which~~ that is available and satisfactory to the  
2 director.

3 (7) "Temporary employment" means employment where an employee is expected to  
4 remain in a position for only a limited period of time and/or is hired by a temporary agency to fill  
5 a gap in an employer's workforce.

6 (8) "Usual weekly hours of work" means the normal hours of work each week for an  
7 employee in an affected unit when that unit is operating on a full-time basis, not to exceed forty  
8 (40) hours and not including overtime.

9 (9) "Work-sharing benefits" means benefits payable to employees in an affected unit  
10 under an approved work-sharing plan.

11 (10) "Work-sharing employer" means an employer with an approved work-sharing plan  
12 in effect.

13 (11) "Work-sharing plan" means a plan submitted by an employer under which there is a  
14 reduction in the number of hours worked by the employees in the affected unit in lieu of layoffs  
15 of some of the employees.

16 (b) (1) Criteria for approval of a work-sharing plan. - An employer wishing to participate  
17 in the work-sharing program shall submit a signed, written work-sharing plan to the director for  
18 approval. The director shall approve a work-sharing plan only if the following requirements are  
19 met:

20 (i) The plan identifies the affected unit, or units, and specifies the effective date of the  
21 plan;

22 (ii) The employees in the affected unit, or units, are identified by name, social security  
23 number, the usual weekly hours of work, proposed wage and hour reduction, and any other  
24 information that the director shall require;

25 (iii) The plan certifies that the reduction in the usual weekly hours of work is in lieu of  
26 layoffs ~~which~~ that would have affected at least 10 percent (10%) of the employees in the affected  
27 unit, or units, to which the plan applies and ~~which~~ that would have resulted in an equivalent  
28 reduction in work hours;

29 (iv) The usual weekly hours of work for employees in the affected unit, or units, are  
30 reduced by not less than 10 percent (10%) and not more than 50 percent (50%), and the reduction  
31 in hours in each affected unit ~~are~~ is spread equally among employees in the affected unit;

32 (v) If the employer provides health benefits and/or retirement benefits under a defined-  
33 benefit plan (as defined in section 414(j) of the ~~internal-revenue-code~~ Internal Revenue Code) or  
34 contributions under a defined-contribution plan (as defined in section 414(i) of the ~~internal~~

1 ~~revenue code~~ [Internal Revenue Code](#)) to any employee whose workweek is reduced under the  
2 program, the employer certifies that such benefits will continue to be provided to employees  
3 participating in the work-sharing program under the same terms and conditions as though the  
4 workweek of such employee had not been reduced or to the same extent as other employees not  
5 participating in the work-sharing program;

6 (vi) In the case of employees represented by a collective bargaining agent or union, the  
7 plan is approved in writing by the collective bargaining agents or unions that cover the affected  
8 employees. In the absence of any collective bargaining agent or union, the plan must contain a  
9 certification by the employer that the proposed plan, or a summary of the plan, has been made  
10 available to each employee in the affected unit;

11 (vii) The plan will not serve as a subsidy of seasonal employment during the off season,  
12 nor as a subsidy for temporary or intermittent employment;

13 (viii) The employer agrees to furnish reports relating to the proper conduct of the plan  
14 and agrees to allow the director, or his or her authorized representatives, access to all records  
15 necessary to verify the plan prior to approval and, after approval, to monitor and evaluate  
16 application of the plan;

17 (ix) The employer describes the manner in which the requirements of this section will be  
18 implemented (including a plan for giving notice, where feasible, to an employee whose  
19 workweek is to be reduced) together with an estimate of the number of layoffs that would have  
20 occurred absent the ability to participate in the work-sharing program and such other information  
21 as the secretary of labor determines is appropriate; and

22 (x) The employer attests that the terms of the employer's written plan and  
23 implementation are consistent with the employer's obligations under applicable federal and state  
24 laws.

25 (2) In addition to the matters previously specified in this section, the director shall take  
26 into account any other factors that may be pertinent to proper implementation of the plan.

27 (c) Approval or rejection of the plan. The director shall approve or reject a plan in  
28 writing. The reasons for rejection shall be final and not subject to appeal. The employer shall be  
29 allowed to submit another plan for consideration and that determination will be made based upon  
30 the new data submitted by the interested employer.

31 (d) Effective date and duration of the plan. A plan shall be effective on the date specified  
32 in the plan, or on the first Sunday following the date on which the plan is approved by the  
33 director, whichever is later. It shall expire at the end of the twelfth (12th) full-calendar month  
34 after its effective date, or on the date specified in the plan if that date is earlier; provided, that the

1 plan is not previously revoked by the director. If a plan is revoked by the director, it shall  
2 terminate on the date specified in the director's written order of revocation.

3 (e) (1) Revocation of approval. The director may revoke approval of a work-sharing plan  
4 for good cause. The revocation order shall be in writing and shall specify the date the revocation  
5 is effective and the reasons for it. The revocation order shall be final and not subject to appeal.

6 (2) Good cause shall include, but not be limited to, failure to comply with assurances  
7 given in the plan; unreasonable revision of productivity standards for the affected unit, conduct or  
8 occurrences tending to defeat the intent and effective operation of the plan, and violation of any  
9 criteria on which approval of the plan was based.

10 (3) The action may be taken at any time by the director on his or her own motion; on the  
11 motion of any of the affected unit's employees; or on the motion of the collective bargaining  
12 agent or agents. The director shall review the operation of each qualified employer plan at least  
13 once during the period the plan is in effect to assure its compliance with the work-sharing  
14 requirements.

15 (f) Modification of the plan. An operational approved work-sharing plan may be  
16 modified by the employer with the consent of the collective bargaining agent or agents, if any, if  
17 the modification is not substantial and is in conformity with the plan approved by the director,  
18 provided the modifications are reported promptly to the director by the employer. If the hours of  
19 work are increased or decreased substantially beyond the level in the original plan, or any other  
20 conditions are changed substantially, the director shall approve or disapprove the modifications  
21 without changing the expiration date of the original plan. If the substantial modifications do not  
22 meet the requirements for approval, the director shall disallow that portion of the plan in writing.  
23 The decision of the director shall be final and not subject to appeal.

24 (g) (1) Eligibility for work-sharing benefits. An individual is eligible to receive work-  
25 sharing benefits, subsequent to serving a waiting period as prescribed by the director, with respect  
26 to any week only if, in addition to meeting other conditions of eligibility for regular benefits  
27 under this title that are not inconsistent with this section, the director finds that:

28 (i) During the week, the individual is employed as a member of an affected unit under an  
29 approved work-sharing plan that was approved prior to that week, and the plan is in effect with  
30 respect to the week for which work-sharing benefits are claimed;

31 (ii) The individual is able to work and is available for the normal work week with the  
32 work-sharing employer.

33 (2) Notwithstanding any other provisions of this chapter to the contrary, an individual is  
34 deemed unemployed in any week for which remuneration is payable to him or her as an employee

1 in an affected unit for less than his or her normal weekly hours of work as specified under the  
2 approved work-sharing plan in effect for the week.

3 (3) Notwithstanding any other provisions of this title to the contrary, an individual shall  
4 not be denied work-sharing benefits for any week by reason of the application of provisions  
5 relating to the availability for work and active search for work with an employer other than the  
6 work-sharing employer.

7 (4) Notwithstanding any other provisions of this title to the contrary, eligible employees  
8 may participate, as appropriate, in training (including employer-sponsored training or worker  
9 training funded under the Workforce Investment Act of 1998) to enhance job skills if such  
10 program has been approved by the state agency.

11 (h) (1) Work-sharing benefits. - The work-sharing weekly benefit amount shall be the  
12 product of the regular weekly benefit rate, including any dependents' allowances, multiplied by  
13 the percentage reduction in the individual's usual weekly hours of work as specified in the  
14 approved plan. If the work-sharing weekly benefit amount is not an exact multiple of one dollar  
15 (\$1.00), then the weekly benefit amount shall be rounded down to the next lower multiple of one  
16 dollar (\$1.00).

17 (2) An individual may be eligible for work-sharing benefits or regular unemployment  
18 compensation, as appropriate, except that no individual shall be eligible for combined benefits in  
19 any benefit year in an amount more than the maximum entitlement established for unemployment  
20 compensation, nor shall an individual be paid work-sharing benefits for more than fifty-two (52)  
21 weeks, whether or not consecutive, in any benefit year pursuant to an approved work-sharing  
22 plan.

23 (3) The work-sharing benefits paid shall be deducted from the maximum entitlement  
24 amount established for that individual's benefit year.

25 (4) If an employer approves time off and the worker has performed some work during  
26 the week, the individual is eligible for work-sharing benefits based on the combined work and  
27 paid leave hours for that week. If the employer does not grant time off, the question of  
28 availability must be investigated.

29 (5) If an employee was sick and consequently did not work all the hours offered by the  
30 work-sharing employer in a given week, the employee will be denied work-sharing benefits for  
31 that week.

32 (6) Claims for work-sharing benefits shall be filed in the same manner as claims for  
33 unemployment compensation or as prescribed in regulations by the director.

34 (7) Provisions applicable to unemployment compensation claimants shall apply to work-

1 sharing claimants to the extent that they are not inconsistent with the established work-sharing  
2 provisions. An individual who files an initial claim for work-sharing benefits shall be provided, if  
3 eligible for benefits, a monetary determination of entitlement to work-sharing benefits and shall  
4 serve a waiting week.

5 (8) If an individual works in the same week for an employer other than the work-sharing  
6 employer, the individual's work-sharing benefits shall be computed in the same manner as if the  
7 individual worked solely with the work-sharing employer. If the individual is not able to work, or  
8 is not available for the normal work week with the work-sharing employer, then no work-sharing  
9 benefits shall be payable to that individual for that week.

10 (9) An individual who performs no services during a week for the work-sharing  
11 employer and is otherwise eligible shall be paid the full, weekly unemployment compensation  
12 amount. That week shall not be counted as a week with respect to which work-sharing benefits  
13 were received.

14 (10) An individual who does not work for the work-sharing employer during a week, but  
15 works for another employer and is otherwise eligible, shall be paid benefits for that week under  
16 the partial unemployment compensation provisions of this chapter. That week shall not be  
17 counted as a week with respect to which work-sharing benefits were received.

18 (11) Nothing in the section shall preclude an otherwise eligible individual from receiving  
19 total or partial unemployment benefits when the individual's work-sharing benefits have been  
20 exhausted.

21 (i) Benefit charges. - Work-sharing benefits shall be charged to employer accounts in the  
22 same manner as regular benefits in accordance with the provisions of §§ 28-43-3 and 28-43-29.  
23 ~~the account of the work-sharing employer. Employers liable for payments in lieu of contributions~~  
24 ~~shall be responsible for reimbursing the employment security fund for the full amount of work-~~  
25 ~~sharing benefits paid to their employees under an approved work-sharing plan.~~ Notwithstanding  
26 the above, any work-sharing benefits paid on or after July 1, 2013, ~~which~~ that are eligible for  
27 federal reimbursement, shall not be chargeable to employer accounts and employers liable for  
28 payments in lieu of contributions shall not be responsible for reimbursing the employment  
29 security fund for any benefits paid to their employees on or after July 1, 2013, that are reimbursed  
30 by the federal government.

31 (j) Extended benefits. An individual who has received all of the unemployment  
32 compensation or combined unemployment compensation and work-sharing benefits available in a  
33 benefit year shall be considered an exhaustee for purposes of extended benefits, as provided  
34 under the provisions of ~~section~~ § 28-44-62, and, if otherwise eligible under those provisions, shall



1 be eligible to receive extended benefits.

2 (k) Severability. - If any provision of this section, or its application to any person or  
3 circumstance, is held invalid under federal law, the remainder of the section and the application  
4 of that provision to other persons or circumstances shall not be affected by that invalidity.

5 SECTION 4. This act shall take effect upon passage.

=====  
LC004414  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY--  
GENERAL PROVISIONS

\*\*\*

1           This act would amend the definitions of "credit amount" and "credit week" for purposes  
2 of calculating an individual's earned wages and would indicate that certain services performed by  
3 family members not be considered employment and would further require certain individuals to  
4 satisfy conditions prior to obtaining waiting period credits under this chapter.

5           This act would take effect upon passage.

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LC004414  
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