

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

723Q0492

SENATE COMMERCE

ENGROSSED NO. **HB 1176** - 3/5/2009

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Gosch and Senator Haverly

1 FOR AN ACT ENTITLED, An Act to revise the earnings requirement for the purpose of
2 receiving unemployment insurance benefits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 61-1-1 be amended to read as follows:

5 61-1-1. Terms used in this title mean:

6 (1) "Annual payroll," the total amount of taxable wages paid by an employer during a
7 calendar year for employment;

8 (2) "Base period," the first four out of the last five completed calendar quarters
9 immediately preceding an individual's benefit year. For an individual who fails to
10 meet the qualifications of § 61-6-7 due to the receipt of temporary total disability
11 payments under worker's compensation, the base period is the first four of the last
12 five completed quarters preceding the disability if a claim for unemployment benefits
13 is filed within twenty-four months of the date on which the individual's disability was
14 incurred. For an individual who fails to meet the minimum requirements of § 61-6-7



- 1 due to insufficient wages, the base period is the four completed calendar quarters
2 immediately preceding the individual's benefit year. However, no calendar quarter
3 used in one base period of a valid claim may be used in a subsequent base period;
- 4 (3) "Benefit year," the one-year period beginning with the day on which a claimant files
5 a valid new claim for benefits, or the one-year period beginning with the day on
6 which a claimant files a valid new claim after the termination of his last preceding
7 benefit year;
- 8 (4) "Benefits," the money payments payable to an unemployed individual, as provided
9 in this title;
- 10 (5) "Calendar quarter," the period of three consecutive calendar months ending on March
11 thirty-first, June thirtieth, September thirtieth, or December thirty-first;
- 12 (6) "Contributions," the money payments to the state unemployment compensation fund
13 required by this title;
- 14 (7) "Department," the Department of Labor created by chapter 1-37;
- 15 (8) "Educational service agency," a governmental agency or governmental entity which
16 is established and operated exclusively for the purpose of providing services to one
17 or more educational institutions;
- 18 (9) "Employment office," a free public employment office, or branch thereof, operated
19 by this state or maintained as part of a state or federal controlled system of public
20 employment offices;
- 21 (10) "Employment security administration fund," the employment security administration
22 fund established by this title;
- 23 (11) "Extended benefits," the benefits that are provided in §§ 61-6-29 to 61-6-35,
24 inclusive;

- 1 (12) "Fund," the unemployment compensation fund established by this title;
- 2 (13) "Hospital," an institution which has been licensed, certified or approved by the State
3 Department of Health as a hospital;
- 4 (14) "Institution of higher education," an educational institution which:
- 5 (a) Admits as regular students only individuals having a certificate of graduation
6 from a high school, or the recognized equivalent of such a certificate; and
- 7 (b) Is legally authorized in this state to provide a program of education beyond
8 high school; and
- 9 (c) Provides an educational program for which it awards a bachelor's or higher
10 degree, or provides a program which is acceptable for full credit toward such
11 a degree, provides an educational program of postgraduate or postdoctoral
12 studies, or provides an educational program of training to prepare students for
13 gainful employment in a recognized occupation; and
- 14 (d) Is a public or other nonprofit institution.
- 15 Notwithstanding any of the foregoing provisions of this subdivision, all colleges and
16 universities in this state are "institutions of higher education";
- 17 (15) "Insured work," employment for employers as defined in §§ 61-1-4 to 61-1-31,
18 inclusive;
- 19 (16) "State," a state of the United States of America and the District of Columbia, the
20 Commonwealth of Puerto Rico and the Virgin Islands;
- 21 (17) "Wages," all remuneration paid for services, including commissions and bonuses.
22 The term does not include remuneration described by §§ 61-1-32 to 61-1-35,
23 inclusive. The term includes tips and other remuneration upon which a tax is imposed
24 by the Federal Unemployment Tax Act and the reasonable cash value of

1 remuneration paid in any medium other than cash determined in accordance with
2 rules promulgated pursuant to chapter 1-26 by the secretary of labor;

3 (18) "Week," the period or periods of seven consecutive calendar days ending at midnight.

4 The secretary of labor may promulgate rules pursuant to chapter 1-26 to prescribe
5 that a week is in, within or during that benefit year which includes the greater part.

6 For the purpose of § 61-1-4, if a week includes both December thirty-first and
7 January first, the days of that week up to January first shall be considered one
8 calendar week and the days beginning January first another week;

9 (19) "Weekly benefit amount," the amount of benefits an individual is entitled to receive
10 for one week of total unemployment. An individual's weekly benefit amount
11 determined for the first week of his benefit year shall constitute his weekly benefit
12 amount throughout the benefit year.