

1       AN ACT relating to unemployment insurance.

2       *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3           ➔Section 1. KRS 341.370 is amended to read as follows:

4       (1) A worker shall be disqualified from receiving benefits for the duration of any  
5       period of unemployment with respect to which:

6           (a) He or she has failed without good cause either to apply for available, suitable  
7       work when so directed by the employment office or the secretary, to accept an  
8       interview from a prospective employer offering suitable work, or to accept  
9       suitable work when offered him or her, or to return to his or her customary  
10       self-employment when so directed by the secretary;

11           (b) He or she has been discharged for misconduct or dishonesty connected with  
12       his or her most recent work, or from any work which occurred after the first  
13       day of the worker's base period and which last preceded his or her most recent  
14       work, but legitimate activity in connection with labor organizations or failure  
15       to join a company union shall not be construed as misconduct;

16           (c) He or she has left his or her most recent suitable work or any other suitable  
17       work which occurred after the first day of the worker's base period and which  
18       last preceded his or her most recent work voluntarily without good cause  
19       attributable to the employment. No otherwise eligible worker shall be  
20       disqualified from receiving benefits for:

21           1. Leaving his or her next most recent suitable work which was concurrent  
22       with his or her most recent work;

23           2. Leaving work which is one hundred (100) road miles or more, as  
24       measured on a one (1) way basis, from his or her home to accept work  
25       which is less than one hundred (100) road miles from his or her home;

26           3. Accepting work which is a bona fide job offer with a reasonable  
27       expectation of continued employment; or

1                   4. Leaving work to accompany the worker's spouse to a different state,  
2                   military base of assignment, or duty station that is one hundred (100)  
3                   road miles or more, as measured on a one (1) way basis, from the  
4                   worker's home when the spouse is reassigned by the military; or  
5                   (d) He or she fails to act in good faith to secure suitable work.

6                   (2) A worker shall be disqualified from receiving benefits for any week with respect to  
7                   which he or she knowingly made a false statement to establish his or her right to or  
8                   the amount of his or her benefits, and, within the succeeding twenty-four (24)  
9                   months, for the additional weeks immediately following the date of discovery, not  
10                  to exceed a total of fifty-two (52), as may be determined by the secretary.

11                  (3) No worker shall be disqualified ~~under paragraph (b) or (e) of~~ subsection (1)**(b) or**  
12                  **(c)** of this section unless the employer, within a reasonable time as prescribed by  
13                  regulations promulgated by the secretary, notifies the cabinet and the worker in  
14                  writing of the alleged voluntary quitting or the discharge for misconduct. Nothing  
15                  in this subsection shall restrict the right of the secretary to disqualify a worker  
16                  whose employer has refused or failed to notify the Education and Labor Cabinet of  
17                  the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary  
18                  quitting or discharge for misconduct is known to the secretary prior to the time  
19                  benefits are paid to the worker. The exercise of the right by the secretary, in the  
20                  absence of timely notice from the employer, shall not relieve the employer's reserve  
21                  account or reimbursing employer's account of benefit charges under the provisions  
22                  of ~~subsection (3) of~~ KRS 341.530~~(3)~~.

23                  (4) As used in this section ~~and in subsection (3) of~~ KRS 341.530~~(3)~~, "most recent"  
24                  work shall be construed as that work which occurred after the first day of the  
25                  worker's base period and which last preceded the week of unemployment with  
26                  respect to which benefits are claimed; except that, if the work last preceding the  
27                  week of unemployment was seasonal, intermittent, or temporary in nature, most

1 recent work may be construed as that work last preceding the seasonal, intermittent,  
2 or temporary work.

3 (5) No worker shall be disqualified or held ineligible under the provisions of this  
4 section or KRS 341.350, who is separated from employment pursuant to a labor  
5 management contract or agreement, or pursuant to an established employer plan,  
6 program, or policy, which permits the employer to close the plant or facility for  
7 purposes of vacation or maintenance.

8 (6) (a) No worker shall be disqualified or held ineligible under the provisions of  
9 this section or KRS 341.350 who leaves work, is unable to work, or is  
10 separated from employment due to circumstances directly resulting from  
11 domestic violence and abuse as defined in KRS 403.720, or from dating  
12 violence and abuse, sexual assault, or stalking as those terms are defined in  
13 KRS 456.010, and with respect to which the worker:

14 1. Fears domestic violence and abuse, dating violence and abuse, sexual  
15 assault, or stalking at or en route to or from the worker's place of  
16 employment;

17 2. Wishes to relocate to another geographic area in order to avoid future  
18 domestic violence and abuse, dating violence and abuse, sexual  
19 assault, or stalking against the worker, the worker's family, or  
20 coworkers; or

21 3. Believes that leaving work is necessary for the future safety and health  
22 of the worker, the worker's family, or coworkers.

23 (b) To assist in the determination as to whether a worker has experienced  
24 domestic violence and abuse, dating violence and abuse, sexual assault, or  
25 stalking for the purpose of benefit eligibility, the worker shall provide  
26 documentation of domestic or dating violence and abuse, sexual assault, or  
27 stalking as prescribed in administrative regulations promulgated by the

1                   secretary, including but not limited to police or court records, a sworn  
2                   statement by the worker, or other documentation of domestic or dating  
3                   violence and abuse, sexual assault, or stalking from a shelter worker,  
4                   attorney, member of the clergy, or medical or other professional from whom  
5                   the worker has sought assistance.

6                   (c) All documentation of evidence provided pursuant to this subsection shall be  
7                   kept confidential unless the worker gives written consent for disclosure.

8                   (7) "Discharge for misconduct," as used in this section, shall include but not be limited  
9                   to[.] separation initiated by an employer for falsification of an employment  
10                  application to obtain employment through subterfuge; knowing violation of a  
11                  reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if  
12                  the worker cannot show good cause for absences or tardiness; damaging the  
13                  employer's property through gross negligence; refusing to obey reasonable  
14                  instructions; reporting to work under the influence of alcohol or drugs or consuming  
15                  alcohol or drugs on employer's premises during working hours; conduct  
16                  endangering safety of self or co-workers; and incarceration in jail following  
17                  conviction of a misdemeanor or felony by a court of competent jurisdiction, which  
18                  results in missing at least five (5) days work.

19                   (8){(7)} "Duration of any period of unemployment," as that term is used in this  
20                  section, means[ shall be] the period of time beginning with the worker's discharge,  
21                  voluntary quitting, or failure to apply for or accept suitable work and running until  
22                  the worker has worked in each of ten (10) weeks, whether or not consecutive, and  
23                  has earned ten (10) times his or her weekly benefit rate in employment covered  
24                  under the provisions of this chapter or a similar law of another state or of the United  
25                  States.

26                  ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO  
27                  READ AS FOLLOWS:

1    (1) The secretary shall promulgate administrative regulations in accordance with  
2    KRS Chapter 13A to implement subsection (6) of Section 1 of this Act that  
3    include but are not limited to the following:

4    (a) A special filing, verification, review, determination, and appeals process for  
5    an eligible worker applying for unemployment benefits;  
6    (b) A confidential verification process designed to detect fraudulent claims  
7    which also safeguards the privacy of the worker to the greatest extent  
8    possible; and  
9    (c) A process for creating and disseminating educational materials for both  
10    employers and workers explaining the process for claims filed pursuant to  
11    subsection (6) of Section 1 of this Act.

12    (2) For purposes of this section, the secretary shall not:

13    (a) Consider an employer a party to a claim for unemployment benefits filed  
14    pursuant to subsection (6) of Section 1 of this Act;  
15    (b) Permit an employer to challenge or appeal a determination of benefits paid  
16    to an eligible worker pursuant to subsection (6) of Section 1 of this Act; or  
17    (c) Require unemployment referees to compel employers to submit factual  
18    evidence regarding the worker's relationship or incident that caused  
19    separation from work without first receiving the express written consent of  
20    the worker.

21    ➔ Section 3. KRS 341.125 is amended to read as follows:

22    (1) It shall be the duty of the secretary of the Education and Labor Cabinet to  
23    administer this chapter; and he or she shall have power and authority to make such  
24    expenditures, require such reports, make such investigations, and take such other  
25    action not specifically assigned to the cabinet, as he or she deems necessary for the  
26    proper administration of this chapter.

27    (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45,

1 and 45A, to appoint, fix the compensation, and prescribe duties and powers of such  
2 officers and employees as may be necessary in the performance of his or her duties  
3 under this chapter. All positions shall be filled by persons selected and appointed on  
4 a nonpartisan merit basis. The secretary shall not employ or pay any person who is  
5 an officer or committee member of any political party organization. The secretary  
6 may delegate to any such person so appointed such power and authority as he or she  
7 deems reasonable and proper for the effective administration of this chapter.

8 (3) The salary and expenses of the secretary and his or her staff shall be considered a  
9 proper cost of the administration of this chapter, to be charged to the unemployment  
10 compensation administration fund in that proportion which the cost of such services  
11 rendered in the administration of this chapter bears to the overall cost of the  
12 services rendered in the administration of the cabinet.

13 (4) The secretary shall submit to the Governor an annual report covering the  
14 administration and operation of this chapter and make such recommendations for  
15 amendments to this chapter as he or she deems proper.

16 (5) In the administration of this chapter the secretary shall cooperate to the fullest  
17 extent possible with any agency of this state or any other state or of the United  
18 States and shall take such action, through the adoption of appropriate rules,  
19 regulations, administrative methods, and standards, as may be necessary to secure  
20 for this state and its citizens all the advantages available under the provisions of the  
21 Social Security Act, as amended, that relate to unemployment compensation, the  
22 Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended,  
23 and the Federal-State Extended Unemployment Compensation Act of 1970.

24 (6) *The secretary shall establish a program to train employees involved in the*  
25 *processing of unemployment insurance claims on issues related to domestic*  
26 *violence and abuse as defined in KRS 403.720 and dating violence and abuse,*  
27 *sexual assault, or stalking as those terms are defined in KRS 456.010. The*

1        secretary shall provide a report on or before September 30 of each year to the  
2        Legislative Research Commission for referral to the Interim Joint Committee on  
3        Economic Development and Workforce Investment, detailing the number of  
4        claims filed under subsection (6) of Section 1 of this Act.

5        ➔Section 4. KRS 341.360 is amended to read as follows:

6        (1) No worker may be paid benefits for any week of unemployment:

7            (a) With respect to which a strike or other bona fide labor dispute which caused  
8            him or her to leave or lose his or her employment is in active progress in the  
9            establishment in which he or she is or was employed, except that benefits may  
10           be paid unless the employer notifies the Office of Unemployment Insurance in  
11           writing within seven (7) days after the beginning of such alleged strike or  
12           labor dispute of the alleged existence of such strike or labor dispute. For the  
13           purpose of this subsection, a lockout shall not be deemed to be a strike or a  
14           bona fide labor dispute and no worker shall be denied benefits by reason of a  
15           lockout;

16           (b) For which he or she has received or is seeking unemployment compensation  
17           under an unemployment compensation law of another state or of the United  
18           States, except as otherwise provided by an arrangement between this state and  
19           such other state or the United States; but if the appropriate agency of such  
20           state or of the United States finally determines that he or she is not entitled to  
21           such unemployment compensation, this subsection shall not apply;

22           (c) 1. Which, when based on service in an instructional, research, or principal  
23           administrative capacity in an institution of higher education as defined  
24           in KRS 341.067(2) or in an educational institution as defined in KRS  
25           341.067(4), begins during the period between two (2) successive  
26           academic years, or during a similar period between two (2) regular  
27           terms, whether or not successive, or during a period of paid sabbatical

1                   leave provided for in the individual's contract, if the worker performs  
2                   such services in the first of such academic years or terms and if there is  
3                   a contract or a reasonable assurance that the worker will perform such  
4                   services in any such capacity for any institution or institutions of higher  
5                   education or an educational institution in the second of such academic  
6                   years or such terms;[or]

7                   2. Which, when based on service other than as defined in subparagraph 1.  
8                   of this paragraph, in an institution of higher education or an educational  
9                   institution, as defined in KRS 341.067(2) or (4), begins during the  
10                  period between two (2) successive academic years or terms, if the  
11                  worker performs such services in the first of such academic years or  
12                  terms and there is a reasonable assurance that the worker will perform  
13                  such services in the second of such academic years or terms; except that  
14                  if benefits are denied to any worker under this paragraph and such  
15                  worker was not offered an opportunity to perform such services for such  
16                  institution of higher education or such educational institution for the  
17                  second of such academic years or terms, such worker shall be entitled to  
18                  a retroactive payment of benefits for each week for which the worker  
19                  filed a timely claim for benefits and for which benefits were denied  
20                  solely by reason of this paragraph;[or]

21                  3. Which, when based on service in any capacity defined in subparagraphs  
22                  1. and 2. of this paragraph, begins during an established and customary  
23                  vacation period or holiday recess if the worker performs any such  
24                  services in the period immediately before such vacation period or  
25                  holiday recess, and there is a reasonable assurance that such worker will  
26                  perform any such services in the period immediately following such  
27                  vacation period or holiday recess; or

1           4. Based on service in any capacity defined in subparagraph 1. or 2. of this  
2           paragraph when such service is performed by the worker in an  
3           institution of higher education or an educational institution, as defined in  
4           KRS 341.067(2) or (4), while the worker is in the employ of an  
5           educational service agency, and such unemployment begins during the  
6           periods and pursuant to the conditions specified in subparagraphs 1., 2.,  
7           and 3. of this paragraph. For purposes of this paragraph, the term  
8           "educational service agency" means a governmental agency or  
9           governmental entity which is established and operated exclusively for  
10           the purpose of providing such services to one (1) or more institutions of  
11           higher education or educational institutions.[-]

12           Notwithstanding any other provision of this paragraph, any benefits paid to a  
13           worker based on service other than as defined in subparagraph 1. of this  
14           paragraph performed in an institution of higher education as defined in KRS  
15           341.067(2) shall be deemed to have been paid as a result of Office of  
16           Unemployment Insurance error and not recoverable by the cabinet or such  
17           institution if such payment is improper by virtue of the retroactive application  
18           to October 30, 1983, of subparagraph 2. of this paragraph; or

19           (d) With respect to which the worker is suspended from work for misconduct, as  
20           defined in KRS 341.370~~(7)~~~~(6)~~, connected with the work.

21           (2) Benefits shall not be paid to any individual on the basis of any services,  
22           substantially all of which consist of participating in sports or athletic events or  
23           training or preparing to so participate, for any week which commences during the  
24           period between two (2) successive sport seasons or similar periods and there is a  
25           reasonable assurance that such individual will perform such services in the later of  
26           such seasons or similar periods.

27           (3) (a) Benefits shall not be paid on the basis of services performed by an alien

1                   unless such alien is an individual who was lawfully admitted for permanent  
2                   residence at the time such services were performed, was lawfully present for  
3                   purposes of performing such services, or was residing in the United States  
4                   under color of law at the time such services were performed, including an  
5                   alien who was lawfully present in the United States as a result of the  
6                   application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the  
7                   Immigration and Nationality Act.

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

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

15                  ➔Section 5. KRS 341.530 is amended to read as follows:

16                  (1) The Office of Unemployment Insurance shall maintain a reserve account for each  
17                  subject employer making contributions to the fund and a reimbursing employer  
18                  account for each subject employer making payment in lieu of contributions, and  
19                  shall, except as provided in KRS 341.590, credit to such account the total amount of  
20                  all contributions or benefit reimbursement paid by the employer on his or her own  
21                  behalf. Nothing in this section or elsewhere in this chapter shall be construed to  
22                  grant any employer or individual who is or was in his or her employ prior claims or  
23                  rights to the amounts paid by him or her into the fund.

24                  (2) (a) Except as provided in subsection (3) of this section, all regular benefits paid to  
25                  an eligible worker in accordance with KRS 341.380 plus the extended benefits  
26                  paid in accordance with KRS 341.700 to 341.740, subject to the provisions of  
27                  paragraphs ~~{(a) and }{(b) and (c)}~~ of this subsection, shall be charged against

1 the reserve account or reimbursing employer account of his or her most recent  
2 employer. No employer shall be deemed to be the most recent employer  
3 unless the eligible worker to whom benefits are payable shall have worked for  
4 such employer in each of ten (10) weeks whether or not consecutive back to  
5 the beginning of the worker's base period. Shared work benefits paid to an  
6 eligible worker in accordance with KRS 341.4161 to 341.4173 shall be  
7 charged against the reserve account or reimbursing employer account of the  
8 shared work employer.

17 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an  
18 eligible worker and chargeable to a contributing employer's reserve account under  
19 such subsection shall be charged against the pooled account if such worker was  
20 discharged by such employer for misconduct connected with his or her most recent  
21 work for such employer, voluntarily left his or her most recent work with such  
22 employer without good cause attributable to the employment, or the employer has  
23 continued to provide part-time employment and wages, without interruption, to the  
24 same extent that was provided from the date of hire, and the employer within a  
25 reasonable time, as prescribed by administrative regulation of the secretary, notifies  
26 the office, in writing, of the alleged voluntary quitting, discharge for misconduct, or  
27 continuing part-time employment.[: provided.] However,[: that] no employer

1       making payments to the fund in lieu of contributions shall be relieved of charges by  
2       reason of this subsection.

3       (4) Notwithstanding the provisions of subsection (3) of this section, no contributing  
4       employer's reserve account shall be relieved of any charges for benefits relating to  
5       an improper benefit payment to a worker established after October 21, 2013, if:

6       (a) The improper benefit payment was made because the employer, or an agent of  
7       the employer, was at fault for failing to respond timely or adequately to the  
8       request of the secretary for information relating to a claim for benefits; and

9       (b) The employer, or an agent of the employer, has a pattern of failing to respond  
10       timely or adequately to requests under paragraph (a) of this subsection. For  
11       purposes of this paragraph, a "pattern of failing" means at least six (6) failures  
12       occur in a calendar year or the failure to respond to two percent (2%) of such  
13       requests in a calendar year, whichever is greater.

14       (5) Any determination under subsection (4) of this section shall be transmitted to the  
15       last known physical or electronic address provided by the employer and may be  
16       appealed in accordance with the provisions of KRS 341.420(2).

17       (6) Each subject employer's reserve account or reimbursing account shall, unless  
18       terminated as of the computation date ~~{as defined in subsection (5) of }~~KRS  
19       341.270~~(5)~~~~{}~~, be charged with all benefits paid to eligible workers which are  
20       chargeable to such reserve account or reimbursing account under subsection (2) of  
21       this section. A subject employer's reserve account or reimbursing account shall be  
22       deemed to be terminated if he or she has ceased to be subject to this chapter~~,~~ and  
23       his or her account has been closed and any balance remaining therein has been  
24       transferred to the fund's pooled account or to a successor's account as provided in  
25       KRS 341.540 or has been refunded if the employer is a reimbursing employer.

26       (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit Internal  
27       Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to

1 establish a group reserve account or reimbursing account for such nonprofit  
2 organizations. Two (2) or more governmental entities may jointly request the  
3 secretary to establish a group reserve account or reimbursing account, and once  
4 established, such account shall remain in effect at least two (2) calendar years and  
5 thereafter until either dissolved at the discretion of the secretary or upon filing  
6 application for dissolution by the group members. Each member of a group shall be  
7 jointly and severally liable for all payments due under this chapter from each or all  
8 of such group members. The secretary shall prescribe such procedures as he or she  
9 deems necessary for the establishment, maintenance, and dissolution of a group  
10 reserve account or reimbursing account.

11 (8) Any subject contributing employer may at any time on or before December 31,  
12 2011, make voluntary payments to the fund, additional to the contributions required  
13 under KRS 341.260 and 341.270. Effective January 1, 2012, any subject  
14 contributing employer with a negative reserve account balance may make voluntary  
15 payments to the fund every other calendar year, in addition to the contributions  
16 required under KRS 341.260 and 341.270. Notwithstanding any other provision of  
17 this chapter, contributions paid on or before the computation date and voluntary  
18 payments made within twenty (20) days following the mailing of notices of new  
19 rates shall be credited to an employer's reserve account as of the computation date,  
20 provided no voluntary payments shall be used in computing an employer's rate  
21 unless the payment is made prior to the expiration of one hundred~~and~~ twenty  
22 (120) days after the beginning of the year for which the rate is effective. Voluntary  
23 payments by any employer shall not exceed any negative balance they may have in  
24 their reserve account as of the computation date. Any employer who is delinquent  
25 in the payment of contributions, penalties, or interest as of the computation date  
26 shall be entitled to make voluntary payments only after the amount of the  
27 delinquency is paid in full.

1       (9) Notwithstanding any other provisions of this chapter, any benefits paid to an  
2       eligible worker for reasons related to a state or federal state of emergency or  
3       disaster declaration or pursuant to subsection (6) of Section 1 of this Act shall be  
4       paid from the pooled account provided in KRS 341.550 and not from the reserve  
5       account of the employer of that individual. The reserve account shall not be charged  
6       for benefits related to a state of emergency or disaster declaration or to benefits  
7       payable under subsection (6) of Section 1 of this Act. Payments related to a state  
8       or federal state of emergency or disaster declaration shall be accounted for  
9       separately to allow the secretary to seek reimbursement from the federal  
10      government.

11      ➔ Section 6. KRS 341.550 is amended to read as follows:

12      (1) The cabinet shall maintain a pooled account for contributing employers to which  
13      shall be credited:  
14       (a) Payments received from the federal government under the provisions of  
15           Section 204(a)(1) of the "Federal-State Extended Unemployment  
16           Compensation Act of 1970," and amendments thereto;  
17       (b) All realized earnings and gains on investments of the fund;  
18       (c) Except as provided in KRS 341.540, any balance remaining in the reserve  
19           account of any previously subject contributing employer after such employer  
20           has ceased to be subject to this chapter;  
21       (d) Any payments into or amounts in the fund not allocable to any employer's  
22           reserve account; and  
23       (e) Any payments collected under subsection (2) of this section.  
24      (2) (a) Except as provided in KRS 341.530(4), any benefits paid through error which  
25           would otherwise have been chargeable to the reserve account of a  
26           contributory employer shall be charged against the pooled account. However,  
27           no employer making payments to the fund in lieu of contributions shall be

1 relieved of charges by reason of this subsection.

2 (b) The repayment of benefits paid erroneously as provided in subsection (1) of  
3 ¶KRS 341.415(1) shall be credited to the pooled account. The pooled account  
4 shall be credited with any sums deducted from future benefits as provided in  
5 KRS 341.415 and shall be credited to the pooled account, provided the  
6 benefits were charged to the pooled account by reason of KRS 341.530(3), or  
7 paragraph (a) of this subsection. Except as provided in KRS 341.415(1), if the  
8 benefits were charged to and paid by any employer making payments to the  
9 fund in lieu of contributions, the amount of the repayment or the sum  
10 deducted from future benefits shall be credited to the reimbursing account of  
11 that employer, and may upon written request from the employer be refunded  
12 without interest.

13 (3) One-half (1/2) of the benefits paid to an eligible worker in accordance with KRS  
14 341.700 to 341.740 shall be charged against the pooled account, except that during  
15 a period in which federal payments to states under Section 204 of the Federal-State  
16 Extended Unemployment Compensation Act of 1970 are reduced under an order  
17 issued under Section 252 of the Balanced Budget and Emergency Deficit Control  
18 Act of 1985, Pub. L. No. 99-177 [(Public Law 99-177)], one-half (1/2) of the  
19 benefits paid to an eligible worker in accordance with KRS 341.700 to 341.740,  
20 reduced by an amount equal to the difference of one-half (1/2) of the benefits paid  
21 to an eligible worker in accordance with KRS 341.700 to 341.740 and the amount  
22 of the federal payment, shall be charged against the pooled account.

23 (4) Notwithstanding any other provisions of this chapter, any benefits paid into the  
24 pooled account by an employer or benefits paid to an eligible worker pursuant to  
25 subsection (6) of Section 1 of this Act shall not impact an employer's experience  
26 rating for purposes of calculating the employer's unemployment insurance tax  
27 rate.