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Department of Economic Security

Five - year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule's effectiveness, clarity, conciseness and understandability. The reports also describe the agency's proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor's Regulatory Review Council. A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on agency's website.

Arizona Department of Economic Security

Five-year Review Report

Title 6. Economic Security

Chapter 3. Unemployment Insurance

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I. INTRODUCTION

A. GENERAL

The Unemployment Insurance (UI) Program began with the Social Security Act of 1937. It operates as a federal-state partnership under the auspices of the U.S. Department of Labor (DOL). No Arizona general revenue funds are expended on the program. All administrative funding is allocated by DOL from the employer paid Federal Unemployment Tax. Benefits are paid from the UI Trust Fund, comprised of employers' state UI taxes.

The UI Program provides a measure of economic security through financial assistance to the individual worker when unemployment occurs by paying benefits to individuals who become unemployed through no fault of their own. When an individual files for UI, a Department representative reviews information provided by the individual to determine whether certain requirements are met, such as wages, availability, and the reason why the individual is no longer employed. Based upon information provided during the application process, further investigation may be required.

The weekly benefit amount is determined by wages earned during a base period. The maximum number of weeks an individual may receive is dependent upon the total wages earned during the base period. Payment of UI benefits are made by debit card or direct deposit into an individual's personal account.

Individuals who apply for UI are required to be registered with the Employment Service. Registration is completed automatically during the application process. Employment Service offices assist individuals with job referrals, resume writing, job searches, training, career counseling and supportive services. Employment Service Offices are located throughout the state. Services are also available at the state's One-Stop Centers, which include DES staff and local resources such as city or county services, and support offered through community-based organizations. Individuals who apply for UI are provided information for other programs that may provide assistance with rent, food, and shelter.

B. SUBJECT MATTER BY ARTICLE

Article 13. Definitions

The rules in Article 13 define terms used in Title 23, Chapter 4, Arizona Revised Statutes and Title 6, Chapter 3, Articles 14-18 and 50-56 of the Arizona Administrative Code.

Articles 14. Administration and Enforcement

The UI Program consists of three major functions: the collection of the unemployment tax, the payment of unemployment insurance benefits, and an administrative appeals process. The rules in Article 14 address administrative procedures that cross functional lines.

Article 15. Decisions, Hearings, and Orders

The rules in Article 15 address the administrative appeals process.

Article 16. Funds

Article 16 specifies the purposes whereby the Department may issue a warrant from the Unemployment Compensation Fund Clearing Account.

Article 17. Contributions

The rules in Article 17 address the tax collection process.

Article 18. Benefits

The rules in Article 18 address the process for the payment of benefits.

Article 50. Voluntary Leaving Benefit Policy

A.R.S. § 23-775(1) provides that an individual shall be disqualified from the receipt of unemployment insurance benefits, if the individual has left work voluntarily without good cause in connection with the employment. The rules in Article 50 serve as guidelines in determining whether or not a disqualification is to be imposed.

Article 51. Discharge Benefit Policy

A.R.S. § 23-775(2) provides that an individual shall be disqualified from the receipt of unemployment insurance benefits, if the individual has been discharged for willful or negligent misconduct connected with the employment. The rules in Article 51 serve as guidelines in determining whether or not a disqualification is to be imposed.

Article 52. Able and Available Benefit Policy

A.R.S. § 23-771(A)(3 and 4) provide that an individual shall be eligible for the receipt of unemployment insurance benefits if the Department finds the individual is able to work and available for work. The rules in Article 52 serve as guidelines for determining whether or not an individual is able to and available for work.

Article 53. Refusal of Work Benefit Policy

A.R.S. § 23-776(a) provides that an individual shall be disqualified from the receipt of unemployment insurance benefits if the individual has refused without cause an offer of or a referral to suitable work. The rules in Article 53 serve as guidelines in determining whether a disqualification is to be imposed.

Article 54. Benefit Claims, Computation, Extension, and Overpayment

The rules in Article 54 describe various procedures, requirements, and timeframes that are generally applicable to the UI Program.

Article 55. Total and Partial Unemployment Benefit Policy

The rules in Article 55 describe specific guidelines for various special circumstances that may impact an applicant's eligibility for benefits.

Article 56. Labor Dispute Benefit Policy

A.R.S. § 23-777 provides that an individual shall be disqualified from the receipt of unemployment insurance benefits if a labor dispute, strike, or lockout exists at the place where the individual was last employed. This provision does not apply if the individual is not participating in, financing, or directly interested in the labor dispute, strike, or lockout. The rules in Article 56 serve as guidelines in making determinations on this statute.

II. ANALYSIS OF RULES

A. STATUTORY AUTHORITY

General Authority

The Arizona Department of Economic Security's general authority to make rules derives from A.R.S. § 41-1954(A)(3).

Specific Authority

The specific statutory authority for the rules in Chapter 3 is found at A.R.S. §§ 23-771 through 23-777.

B. OBJECTIVES

ARTICLE 13. DEFINITIONS

R6-3-1301. Definitions - The objective of this rule is to promote uniform understanding of the terminology used by the Department. The purpose of this rule is to define the terms used in Title 23, Chapter 4, Arizona Revised Statutes and Title 6, Chapter 3, Articles 14-18 and 50-56 of the Arizona Administrative Code.

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

R6-3-1401. Policy of Nondiscrimination - The objective of this rule is to reiterate the Department's policy of nondiscrimination. The purpose of this rule is to clarify the Department's policy regarding nondiscrimination. It was added to the Unemployment Insurance rules in 1995 in accord with a consent decree entered in Rivas v. Blessing, et al, U.S. District Court No. CIV 92-056.

R6-3-1403. Disclosure of Information and Confidentiality - The objective of this rule is to ensure that confidential information is protected. The purpose of the rule is to establish the confidentiality of unemployment insurance information and to provide guidelines whereby such information may be released.

R6-3-1404. Date of Submission and Extension of Time for Payments, Appeals, Notices, Etc. -

The objective of this rule is to ensure that the Department follows a consistent and transparent process for determining timeliness with respect to submission of any payment, appeal, notice, etc. The purpose of the rule is to establish guidelines for determining whether the submission of a payment, appeal, notice, etc. is timely; provide guidelines for accepting an untimely submission; and provide guidelines whereby the Department may grant an extension.

R6-3-1405. Shared Work - The objective of this rule is to explain application procedures and requirements for the Unemployment Insurance Shared Work Program. The purpose of this rule is to provide guidelines for operating the Unemployment Insurance Shared Work Program, as established in A.R.S. §§ 23-761 through 23-766.

R6-3-1406. Employer Elections to Cover Multi-State Workers - The objective of this rule is to explain procedures and requirements for Employer Elections to cover Multi-State Workers. The purpose of the rule is to define how an employer, who has employees who work in more than one state, may elect to cover those workers in Arizona.

R6-3-1407. Interested Party - The objective of this rule is to explain procedures and requirements with regard to interested parties in connection with Unemployment Insurance Benefit determinations. The purpose of the rule is to define who is an interested party to the various unemployment insurance determinations and appeal decisions issued by the Department.

R6-3-1408. Seasonal Employment Status: Qualified Transient Lodging Employment - The objective of this rule is to determine the eligibility requirements for the Department's approval of an employer's application for seasonal employment status. The purpose of the rule is to provide guidelines for administering the qualified transient lodging exception to the payment of unemployment insurance as contained in A.R.S. § 23-793.

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

R6-3-1502. Appeals Process, General - The objective of this rule is to indicate the opportunity for clients to obtain a hearing to challenge adverse actions. The purpose of the rule is to provide general guidelines for the operation of the unemployment insurance appeals process.

R6-3-1503. Proceeding Before an Appeal Tribunal - The objective of this rule is to ensure that the Department prepares and processes hearing requests. The purpose of the rule is to provide guidelines for appeals before the Appeal Tribunal, the lower level appeal process within the Unemployment Insurance Program.

R6-3-1504. Review of Appeal Tribunal Decisions - The objective of this rule is to notify the public of the process used for reviewing Appeal Tribunal decisions by the Appeals Board. The purpose of the rule is to provide guidelines for requests for review submitted to the Appeals Board, the higher level appeal process within the Unemployment Insurance Program.

R6-3-1505. Appeals Board Proceedings - The objective of this rule is to provide for the appointment of an acting board member when required and for waiver of the payment of a bond when an interested party to an unemployment insurance decision pursues an appeal to the Arizona Court of Appeals. The purpose of the rule is to clarify the responsibilities and processes of the appeals board with respect to any further appeals filed from a hearing officers decision.

R6-3-1506. Contribution Cases - The objective of this rule is to explain procedures and requirements for hearing or review of petitions to the Appeals Board. The purpose of the rule is to clarify how an interested party to a reconsidered determination issued under A.R.S. §§ 23-724, 23-732, 23-733, or 23-750 may petition the Appeals Board for review.

R6-3-1507. Appeals from Labor Dispute Determinations - The objective of this rule is to explain procedures and requirements pertaining to the filing of an appeal from a Labor Dispute determination. The purpose of the rule is to clarify how an interested party adversely affected by a Labor Dispute determination may file an appeal to the Appeals Board as provided in A.R.S. § 23-673.

ARTICLE 16. FUNDS

R6-3-1601. Transfers and warrants - The objective of this rule is to clarify procedures pertaining to the transfer of monies from the Unemployment Compensation Fund Clearing Account. The purpose of the rule is to specify the purposes for which the Department may issue a warrant from the Unemployment Compensation Fund Clearing Account.

ARTICLE 17. CONTRIBUTIONS

R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona - The objective of this rule is to outline requirements to be followed by employers to identify workers when providing reports to the Department. The purpose of the rule is to establish the method by which employers are to identify their workers when providing reports to the Department.

R6-3-1702. Maintenance and inspection of records - The objective of this rule is to outline requirements for maintenance and inspection of Department records. The purpose of the rule is to list which records and documents employers must maintain on their workers, to establish how long these records must be retained, and to stipulate that these records must be available for inspection by the Department.

R6-3-1703. Employer reports - The objective of this rule is to ensure uniform understanding of employer reports. The purpose of the rule is to specify what information must be included on an employer's quarterly contribution and wage reports, the process for employers to request suspension of quarterly filing, and the process for reporting changes to the Department.

R6-3-1704. Due date of quarterly reports, contributions, and payments in lieu of contributions - The objective of this rule is to explain procedures and requirements pertaining to reporting employer contributions and wages. The purpose of the rule is to establish the due date for various reports and payments employers must provide the Department and to establish the interest rate to be charged for delinquent reports and payments.

R6-3-1705. Wages - The objective of this rule is to ensure uniform understanding of the term wages as used in the administration of the Unemployment Insurance Program. The purpose of the rule is to amplify the definition of wages as contained in A.R.S. § 23-622.

R6-3-1706. Combining included and excluded services - The objective of this rule is to ensure uniform understanding of the meaning of employment in determining which services are considered included and excluded. The purpose of the rule is to explain when a worker who fluctuates between performing employment services and non-employment services for an employer is to be considered an employee for unemployment insurance purposes.

R6-3-1708. Employer Charges - The objective of this rule is ensure uniform understanding of employer charges. The purpose of the rule is to explain when charges to an experience rating account will be applied to and/or ended under various special circumstances.

R6-3-1709. Part-time Employment -- Employer Responsibilities - The objective of this rule is to ensure uniform understanding of part-time employment and the employer's responsibilities. The purpose of the rule is to explain the guidelines under which an employer will be relieved of charges to the employer's experience rating account when the employer continues to employ a claimant part time.

R6-3-1710. Notification and review of charges to experience rating accounts - The objective of this rule is to ensure uniformity with respect to notification and review of charges to an employer's experience rating account. The purpose of the rule is to stipulate that each employer will receive a quarterly statement showing charges against the employer's account and that the employer may request a redetermination of certain portions of the statement.

R6-3-1711. Computation of experience rates - The objective of this rule is to ensure uniform understanding regarding computation of experience rates. The purpose of the rule is to explain how the Department will compute each employer's annual experience rate as prescribed in A.R.S. §§ 23-723 through 730.

R6-3-1712. Joint, Multiple and Combined Employer Experience Rating Accounts - The objective of this rule is to clarify requirements for joint, multiple and combined employer experience rating accounts. The purpose of the rule is to provide guidelines for the establishment of joint, multiple, and combined experience-rating accounts.

R6-3-1713. Business transfers - The objective of this rule is to clarify requirements with respect to business transfers. The purpose of the rule is to provide guidelines for determining the nature of total and partial business transfers including successorships and severable portion transfers.

R6-3-1715. Computation of adjusted contribution rates - The objective of this rule is to ensure uniform understanding of the computation of adjusted contribution rates. The purpose of the rule is to explain how the Department computes the adjusted contribution rates for employers as prescribed in A.R.S. § 23-730.

R6-3-1716. Voluntary contributions - The objective of this rule is to ensure uniform understanding with respect to voluntary and required contributions. The purpose of the rule is to explain how the Department will provide for the submission of voluntary contributions by employers as provided for in A.R.S. § 23-726.

R6-3-1717. Special Provisions for Reimbursement Employers - The objective of this rule is to ensure uniform understanding of the special provisions for reimbursement employers. The purpose of the rule is to explain the Department's methodology for handling reimbursement employers, including the effective date of such designation.

R6-3-1718. Employer Refunds - The objective of this rule is to ensure uniform understanding with respect to employer refunds. The purpose of the rule is to explain how the Department will refund or credit an employer who has overpaid unemployment insurance taxes.

R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers - The objective of this rule is to clarify requirements for certain types of employers to be determined exempt from participation in the Unemployment Insurance Program. The purpose of the rule is to define "direct sellers" whose employment is exempt from taxes under A.R.S. § 23-617(22) and "income tax preparers" whose employment is exempt under A.R.S. § 23-617(23).

R6-3-1721. Liability determinations; review; finality - The objective of this rule is to ensure a uniform understanding of liability determinations. The purpose of the rule is to explain the actions the Department will take when an employer alleges a reconsidered determination on employer liability is defective.

R6-3-1722. Casual labor - The objective of this rule is to clarify terminology pertaining to exempting casual labor from participation in the Unemployment Insurance Program. The purpose of the rule is to define terms used in the "casual labor" unemployment tax exemption provided for in A.R.S. § 23-617(18).

R6-3-1723. Employee defined - The objective of this rule is to clarify terminology and provide precise requirements for determining whether an individual is an employee with respect to the

Unemployment Insurance Program. The purpose of the rule is to further amplify and explain the definition of employee as contained in A.R.S. § 23-613.

R6-3-1725. Licensed real estate, insurance, security and cemetery salesmen - The objective of this rule is to clarify requirements of employment with respect to licensed real estate, insurance, security and cemetery salesmen. The purpose of the rule is to list special compensation plans or agreements which are not to be included in the “compensation solely by way of commission” employment exemption contained in A.R.S. § 23-617.

R6-3-1726. Tips as wages - The objective of this rule is to ensure uniform understanding relative to the treatment of “tips”. The purpose of the rule is to explain when “tips” will be considered as wages for unemployment insurance purposes.

R6-3-1727. Meals or lodging as wages - The objective of this rule is to ensure uniform understanding relative to the treatment of value of meals or lodging. The purpose of the rule is to explain when meals and lodging provided by an employer will be considered wages and also to specify the minimum value of such meals or lodging.

ARTICLE 18. BENEFITS

R6-3-1803. Benefit Notice and Determination - The objective of this rule is to ensure uniform understanding regarding benefit notice and determination. The purpose of the rule is to explain the notices and determinations which will be provided to the claimant and affected employers in connection with the filing of an unemployment insurance claim.

R6-3-1806. Interstate Claimants - The objective of this rule is to clarify Arizona’s position with regard to participation in the Interstate Benefit Payment Plan. The purpose of the rule is to establish that the Arizona Unemployment Insurance Program will participate in the Interstate Benefit Payment Plan.

R6-3-1808. Payment on Account of Retirement - The objective of this rule is to ensure uniform understanding with regard to payment on account of retirement. The purpose of the rule is to explain how the receipt of a pension will affect unemployment insurance benefits as prescribed by A.R.S. § 23-791.

R6-3-1809. Eligibility for Approved Training - The objective of this rule is to ensure uniform understanding of the eligibility requirements for approved training with respect to the Unemployment Insurance Program. The purpose of the rule is to explain who is eligible to receive unemployment insurance benefits while under the approved training program as prescribed by A.R.S. § 23-771.01.

R6-3-1810. Requalifications - The objective of this rule is to ensure uniform understanding in determining whether an individual has earned sufficient wages for requalification purposes with respect to the Unemployment Insurance Program. The purpose of the rule is to explain what type of remuneration qualifies as wages usable to meet the various requalification requirements contained in A.R.S. §§ 23-634.01, 23-771(7), 23-775(1), 23-775(2), and 23-776(A).

R6-3-1811. Redetermination of benefits - The objective of this rule is to ensure uniform understanding of how benefits are redetermined when required by statutory changes and provide the claimant with the opportunity to protest redeterminations. The purpose of the rule is to explain how Unemployment Insurance weekly benefit amounts and unpaid balances will be recalculated when required by a statutory amendment and establish claimant protest rights.

R6-3-1812. Interest on benefit overpayments - The objective of this rule is to ensure uniform understanding with respect to interest on Unemployment Insurance benefit overpayments. The purpose of the rule is to explain how interest will be accumulated on outstanding unemployment insurance benefit overpayments.

R6-3-1813. Overpayment Deduction Percentage - The objective of this rule is to clarify procedures for implementing the phrase “no reasonable attempt” as used in A.R.S. § 23-787(D). The purpose of the rule is to define “no reasonable attempt” as used in A.R.S. § 23-787(D) and to stipulate that when the offset recoupment rate is raised to 50 percent, as provided for in the same statute, it will remain at that rate until the overpayment is satisfied.

ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY

R6-3-5005. General Provisions - The objective of this rule is to ensure uniform understanding of essential terms used in the administration of voluntary leaving concepts in determining benefit eligibility. The purpose of the rule is to define terms used in A.R.S. §§ 23-775(1) and 23-727(D).

R6-3-5040. Attendance at School or Training Course - The objective of this rule is to ensure the Department procedures pertaining to voluntary leaving employment to attend school or training are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment to attend school or training.

R6-3-50135. Quit or Discharge - The objective of this rule is to ensure the Department procedures pertaining to quits or discharges from employment are uniformly enforced. The purpose of the rule is to provide guidelines for determining whether a separation from employment under various special circumstances is to be considered a quit or a discharge.

R6-3-50138. Disciplinary action (V L 138) - The objective of this rule is to ensure the Department procedures pertaining to leaving employment because of disciplinary action are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of a disciplinary action taken by the employer.

R6-3-50150. Distance to Work - The objective of this rule is to ensure the Department procedures pertaining to leaving employment due to distance to work are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of transportation or commuting distance problems.

R6-3-50155. Domestic Circumstances - The objective of this rule is to ensure the Department procedures pertaining to leaving employment due to domestic circumstances are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment due to various domestic circumstances.

R6-3-50190. Evidence (V L 190) - The objective of this rule is to ensure the Department procedures relative to evidence are uniformly enforced. The purpose of the rule is to establish where the burden of proof falls when an individual has voluntarily separated from employment.

R6-3-50210. Good cause (V L 210) - The objective of this rule is to further explain the term “good cause” as used in A.R.S. § 23-775(1). The purpose of the rule is to ensure an understating and correct application of the term “good cause”.

R6-3-50235. Health or physical condition (V L 235) - The objective of this rule is to ensure the Department procedures pertaining to leaving work due to health or physical conditions are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment due to an illness, injury, pregnancy, or risk of illness or injury.

R6-3-50315. New work (V L 315) - The objective of this rule is to ensure a uniform understanding in determining what is considered new work with respect to the Unemployment Insurance Program. The purpose of the rule is to provide guidelines for determining whether a person quit or was discharged when the individual refuses to accept a change in employment conditions.

R6-3-50345. Retirement - The objective of this rule is to ensure the Department procedures pertaining to employment separation in the case of retirement are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual voluntarily retires from employment.

R6-3-50360. Personal affairs (V L 360) - The objective of this rule is to ensure the Department procedures pertaining to employment separation to address personal affairs are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment to address personal affairs.

R6-3-50365. Prospect of other work (V L 365) - The objective of this rule is to ensure the Department procedures pertaining to employment separation due to the prospect of other work are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of a prospect of other work or a desire to enter self-employment.

R6-3-50450. Time (V L 450) - The objective of this rule is to ensure the Department procedures pertaining to employment separation due to days and hours of work are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of dissatisfaction with the days or hours of the work.

R6-3-50475. Union relations (V L 475) - The objective of this rule is to ensure the Department procedures pertaining to employment separation related to employee union relations are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of an alleged violation by the employer of a collective bargaining agreement.

R6-3-50500. Wages (V L 500) - The objective of this rule is to ensure the Department procedures pertaining to employment separation due to wages are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of dissatisfaction with the wages or method of payment.

R6-3-50515. Working conditions (V L 515) - The objective of this rule is to ensure the Department procedures pertaining to employment separation due to working conditions are uniformly enforced. The purpose of the rule is to explain how the voluntary leaving statute is to be applied when an individual leaves employment because of dissatisfaction with the working conditions associated with the employment.

ARTICLE 51. DISCHARGE BENEFIT POLICY

R6-3-5105. General (Misconduct) - The objective of this rule is to define the term “misconduct” as used in A.R.S. § 23-775(2) and to explain when a discharge might be considered a leaving for compelling personal reasons as prescribed in A.R.S. § 23-727(D). The purpose of the rule is to ensure an understating and interpretation of how the statutes are applied in regard to determining misconduct.

R6-3-5115. Absence (Misconduct 15) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to absence are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged due to absenteeism.

R6-3-5145. Attitude toward employer (Misconduct 45) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to an individual's attitude or actions toward an employer are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of the individual's attitude or actions toward the employer.

R6-3-5185. Connected with work (Misconduct 85) - The objective of this rule is to ensure the Department procedures pertaining to discharge and the establishment of a connection to work are uniformly enforced. The purpose of the rule is to establish that, in most instances, the act or acts that caused the discharge must be in connection with the work in order for misconduct to be shown.

R6-3-51140. Misappropriation of Funds; Falsification of Employment Records - The objective of this rule is to ensure the Department procedures pertaining to misappropriation of funds and falsification of records are uniformly enforced. The purpose of the rule is to specify the restricted instances when a discharge for misappropriation of company funds or falsification of records would be for other than misconduct.

R6-3-51190. Evidence (Misconduct 190) - The objective of this rule is to ensure the Department procedures pertaining to evidence relative to a discharge for misconduct are uniformly enforced. The purpose of the rule is to establish where the burden of proof lies when an individual has been discharged from employment.

R6-3-51235. Health or physical condition (Misconduct 235) - The objective of this rule is to ensure the Department procedures pertaining to pregnancy are uniformly enforced. The purpose of the rule is to establish that a discharge due to an individual's pregnancy is never disqualifying.

R6-3-51255. Insubordination (Misconduct 255) - The objective of this rule is to ensure the Department procedures pertaining to employment separation due to insubordination are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged for insubordination.

R6-3-51270. Intoxication and use of intoxicants (Misconduct 270) - The objective of this rule is to ensure the Department procedures pertaining to employee's intoxication and use of intoxicants are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual's discharge is connected to use of intoxicants, including illegal drugs.

R6-3-51300. Manner of performing work (Misconduct 300) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to an individual's manner of performing work are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged due to the employer's dissatisfaction with the individual's manner of performing work.

R6-3-51310. Neglect of duty (Misconduct 310) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to a neglect of duty are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged due to a neglect of duty.

R6-3-51345. Retirement - The objective of this rule is to ensure the Department procedures pertaining to retirement as required by a collective bargaining agreement or employer's rule are uniformly enforced. The purpose of the rule is to stipulate that a worker who has been forced to retire due to the employer's rule or a collective bargaining agreement has been discharged for nondisqualifying reasons.

R6-3-51385. Relation of offense to discharge (Misconduct 385) - The objective of this rule is to ensure the Department procedures pertaining to the relationship between an offense and discharge are uniformly enforced. The purpose of the rule is to establish that, in order for misconduct to be established, there must be a reasonable relationship between the date of the incident(s) and sequence of events causing the discharge and the date of the discharge.

R6-3-51390. Relations with fellow employees (Misconduct 390) - The objective of this rule is to ensure the Department procedures pertaining to relations with fellow employees are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of relations with fellow employees.

R6-3-51435. Tardiness (Misconduct 435) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to tardiness are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of tardiness.

R6-3-51475. Union relations (Misconduct 475) - The objective of this rule is to ensure the Department procedures pertaining to engagement with union activity are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of membership in or refusal to join a union.

R6-3-51485. Violation of company rule (Misconduct 485) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to violation of a company rule are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of a violation of an employer rule.

R6-3-51490. Violation of law (Misconduct 490) - The objective of this rule is to ensure the Department procedures pertaining to discharge due to violation of a public law or rule are uniformly enforced. The purpose of the rule is to explain how the statute is to be applied when an individual has been discharged because of a violation of a public law or rule.

ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY

R6-3-5205. General (Able and Available 5) - The objective of this rule is to ensure uniform understanding of a claimant's ability and availability for work with respect to the Unemployment Insurance Program. The purpose of the rule is to provide general guidelines for use in determining if an individual is able to and available for work.

R6-3-5240. Attendance at School or Training Course - The objective of this rule is to ensure the Department procedures pertaining to attendance at a school or training course are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual attending school or a training course is available for work.

R6-3-5245. Disloyalty (Able and Available 45) - The objective of this rule is to ensure the Department procedures pertaining to security clearance requirements are uniformly enforced. The

purpose of the rule is to provide guidelines for determining if an individual who has been denied access to classified security information is available for work.

R6-3-5270. Citizenship or residence requirements (Able and Available 70) - The objective of this rule is to ensure the Department procedures pertaining to citizenship and residence requirements are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is not a citizen of the United States is available for work.

R6-3-5290. Conscientious objection (Able and Available 90) - The objective of this rule is to ensure the Department procedures pertaining to limited work availability due to conscientious objection are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who restricts his hours or days of work because of religious reasons is available for work.

R6-3-52105. Contract obligation (Able and Available 105) - The objective of this rule is to ensure the Department procedures pertaining to work availability and contract obligations are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who has restrictions due to contract obligations is available for work.

R6-3-52150. Distance to work (Able and Available 150) - The objective of this rule is to ensure the Department procedures pertaining to distance to work are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who resides a substantial distance from the labor market, is in transient status, or has a transportation restriction is available for work.

R6-3-52155. Domestic circumstances (Able and Available 155) - The objective of this rule is to ensure the Department procedures pertaining to domestic circumstances are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual with restrictions caused by domestic obligations is available for work.

R6-3-52160. Effort to secure employment or willingness to work (Able and Available 160) - The objective of this rule is to ensure the Department procedures pertaining to effort to secure employment and willingness to work are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual is following a course of action reasonably designed to result in prompt reemployment.

R6-3-52165. Employer requirements (Able and Available 165) - The objective of this rule is to ensure the Department procedures pertaining to employer's rights to establish requirements are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who cannot meet the job requirements of certain employers is available for work.

R6-3-52180. Equipment (Able and Available 180) - The objective of this rule is to ensure the Department procedures pertaining to work-required equipment are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who works in an occupation that may require tools or other special equipment is available for work.

R6-3-52190. Evidence (Able and Available 190) - The objective of this rule is to ensure the Department procedures pertaining to evidence are uniformly enforced. The purpose of the rule is to establish where the burden of proof lies in determining eligibility on certain able to work and available for work issues.

R6-3-52235. Health or physical condition (Able and Available 235) - The objective of this rule is to ensure the Department procedures pertaining to an individual's health and physical condition are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual with certain health related or physical condition restrictions is able to work.

R6-3-52250. Incarceration or other legal detention (Able and Available 250) - The objective of this rule is to ensure the Department procedures pertaining to incarceration or other legal detention are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is incarcerated or has other legal restrictions is available for work.

R6-3-52285. Leave of absence or vacation (Able and Available 285) - The objective of this rule is to ensure the Department procedures pertaining to leave of absence are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is on a leave of absence is available for work.

R6-3-52295. Length of unemployment (Able and Available 295) - The objective of this rule is to ensure the Department procedures pertaining to the length of unemployment are uniformly enforced.

The purpose of the rule is to provide guidelines for factoring the length of time an individual has been unemployed into determining whether the individual is available for work.

R6-3-52305. Military service (Able and Available 305) - The objective of this rule is to ensure the Department procedures pertaining to military service are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is waiting for induction into the military service or for a call up to active duty is available for work.

R6-3-52320. Notification of address (Able and Available 320) - The objective of this rule is to ensure the Department procedures pertaining to notification of address are uniformly enforced. The purpose of the rule is to specify that, in order to be considered available for work, an individual must keep the Department and any employer with whom the individual is subject to recall, informed of the individual's current mailing address.

R6-3-52370. Public service (Able and Available 370) - The objective of this rule is to ensure the Department procedures pertaining to public service are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who has public service or civic obligations is available for work.

R6-3-52375. Receipt of other payments (Able and Available 375) - The objective of this rule is to ensure the Department procedures pertaining to receipt of disability compensation, pension, or health insurance benefits are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual that is receiving disability or pension payments or group health benefits for a period of recuperation is available for and able to work.

R6-3-52415. Self-employment or other work (Able and Available 415) - The objective of this rule is to ensure the Department procedures pertaining to self-employment or other work are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is engaged in a self-employment venture is available for work.

R6-3-52450. Time (Able and Available 450) - The objective of this rule is to ensure the Department procedures pertaining to time requirements are uniformly enforced. The purpose of the rule is to

provide guidelines for determining if an individual who restricts the hours he or she is willing to work is available for work.

R6-3-52475. Union relations (Able and Available 475) - The objective of this rule is to ensure the Department procedures pertaining to union relation requirements are uniformly enforced. The purpose of the rule is to establish that both a person who obtains work through a union and an individual who does not belong to a union can be considered available for work.

R6-3-52500. Wages (Able and Available 500) - The objective of this rule is to ensure the Department procedures pertaining to wage requirements are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual's wage demands render the individual unavailable for work.

R6-3-52510. Work, nature of (Able and Available 510) - The objective of this rule is to ensure the Department procedures pertaining to the nature of an individual's work are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an individual who is unable to work in the individual's normal occupation is available for work.

ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY

R6-3-5305. General; Definitions - The objective of this rule is to ensure uniform understanding of essential terms used in the administration of the refusal to work benefit policy. The purpose of the rule is to provide definitions and general guidelines for the application of A.R.S. § 23-776(A).

R6-3-53150. Distance to work (Refusal of Work 150) - The objective of this rule is to ensure the Department procedures pertaining to the distance to work requirements are uniformly enforced. The purpose of the rule is to provide guidelines for determining whether the statutory disqualification is appropriate when an individual has refused a job because of the commuting distance.

R6-3-53170. Employment office or other agency referral (Refusal of Work 170) - The objective of this rule is to ensure the Department procedures pertaining to offers of and referrals to work are uniformly enforced. The purpose of the rule is to present factors to be considered in determining whether an individual actually refused to accept a referral to a job.

R6-3-53195. Experience or training (Refusal of Work 195) - The objective of this rule is to ensure the Department procedures pertaining to experience or training requirements are uniformly enforced. The purpose of the rule is to provide guidelines for considering an individual's training and experience when determining whether to apply the statutory disqualification for refusing a job or a referral to a job.

R6-3-53235. Health or physical condition (Refusal of Work 235) - The objective of this rule is to ensure the Department procedures pertaining to an individual's health or physical condition are uniformly enforced. The purpose of the rule is to provide guidelines for considering any potential health risk when determining if an offered job or referral was suitable.

R6-3-53265. Interview and acceptance (Refusal of Work 265) - The objective of this rule is to ensure the Department procedures pertaining to an individual's interview and acceptance of employment are uniformly enforced. The purpose of the rule is to specify that a disqualification may be applied if an individual by word or action indicates to an employer that the individual is not applying for a job in good faith.

R6-3-53295. Length of unemployment - The objective of this rule is to ensure the Department procedures pertaining to an individual's length of unemployment are uniformly enforced. The purpose of the rule is to establish that, when determining if offered work was suitable, the length of time an individual has been unemployed is a consideration.

R6-3-53330. Offer to work (Refusal of Work 330) - The objective of this rule is to ensure the Department procedures pertaining to an offer of work are uniformly enforced. The purpose of the rule is to establish that before a disqualification can be assessed it must be established that there was a bona fide offer of work and that the offer was made since the individual became unemployed.

R6-3-53335. Offered work previously left or refused (Refusal of Work 335) - The objective of this rule is to ensure the Department procedures pertaining to offered work previously left or refused are uniformly enforced. The purpose of the rule is to provide guidelines for determining if an offer of a position previously held by an individual is to be considered an offer of suitable work.

R6-3-53365. Prospect of other work (Refusal of Work 365) - The objective of this rule is to ensure the Department procedures pertaining to prospect of other work are uniformly enforced. The purpose of the rule is to explain that, when determining whether a job was suitable, the individual's prospects for other work shall be considered.

R6-3-53380. Polygraph examination requirement - The objective of this rule is to ensure the Department procedures pertaining to polygraph examination requirements are uniformly enforced. The purpose of the rule is to stipulate that an individual shall not be denied benefits for refusing a job because the submittal to a polygraph test was a condition of the job.

R6-3-53450. Time -- hours (Refusal of Work 450 - 450.15) - The objective of this rule is to ensure the Department procedures pertaining to time and hour requirements are uniformly enforced. The purpose of the rule is to provide guidelines for considering the hours of work when determining if an offered job or referral was suitable.

R6-3-53475. Union relations (Refusal of Work 475) - The objective of this rule is to ensure the Department procedures pertaining to union relations are uniformly enforced. The purpose of the rule is to specify that an individual shall not be denied benefits for refusing a job if the individual would have been required to either join a union or resign from a union.

R6-3-53480. Vacant due to labor dispute (Refusal of Work 480) - The objective of this rule is to define the term "labor dispute" as used in A.R.S. § 23-776(C)(1). The purpose of the rule is to ensure an understanding and interpretation of how this rule is applied in regard to determining if a labor dispute exists.

R6-3-53500. Wages (Refusal of Work 500) - The objective of this rule is to ensure the Department procedures pertaining to wages are uniformly enforced. The purpose of the rule is to provide guidelines for considering the rate of pay when determining if an offered job or referral was suitable.

R6-3-53510. Work, nature of (Refusal of Work 510) - The objective of this rule is to ensure the Department procedures pertaining to customary nature of work are uniformly enforced. The purpose of the rule is to specify that an individual's customary occupation is to be taken into consideration when determining if an offered job or referral was suitable.

R6-3-53515. Working conditions (Refusal of Work 515) - The objective of this rule is to ensure the Department procedures pertaining to working conditions are uniformly enforced. The purpose of the rule is to provide guidelines for considering the working conditions when determining if an offered job or referral was suitable.

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

R6-3-5460. Benefit computation factors (Miscellaneous 60) - The objective of this rule is to ensure uniform understanding of the benefit disqualification period. The purpose of the rule is to explain when a disqualification issued under A.R.S. § 23-775(1) or § 23-775(2) is to begin.

R6-3-5475. Claims and Registration - The objective of this rule is to ensure the Department procedures pertaining to claims and registration requirements are uniformly enforced. The purpose of the rule is to present the requirements for filing a claim for benefits and participating in various types of eligibility interviews.

R6-3-5495. Disqualification; Definition of Last Employment - The objective of this rule is to ensure the Department procedures pertaining to determining what constitutes last employment for the purposes of disqualification from benefits are uniformly enforced. The purpose of the rule is to explain that a disqualification can only be assessed on a separation from an individual's last employer and to define last employment.

R6-3-54100. Extended benefits - The objective of this rule is to clarify terms and procedures used in the implementation of provisions of A.R.S. § 23-634.01. The purpose of the rule is to define terms contained in the eligibility requirements for the receipt of extended benefits as prescribed in A.R.S. § 23-634.01 and outline procedures for their implementation.

R6-3-54340. Overpayments (Miscellaneous 340) - The objective of this rule is to ensure the Department procedures pertaining to overpayments and administrative penalties associated with an individual making false statements or misrepresentations are uniformly enforced. The purpose of the rule is to explain how the penalty for making a fraudulent statement, as prescribed in A.R.S. § 23-778, is to be applied.

ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

R6-3-55415. Self-employment or other work (Total and Partial Unemployment 415) - The objective of this rule is to ensure the Department procedures pertaining to commission sales positions are uniformly enforced. The purpose of the rule is to provide guidelines for determining whether an individual engaged in commission sales is available for work and thus eligible for benefits.

R6-3-55460. Type of compensation (Total and Partial Unemployment 460) - The objective of this rule is to ensure the Department procedures pertaining to type of compensation are uniformly enforced. The purpose of the rule is to explain how the receipt of various types of separation pay, as well as the receipt of unused vacation, holiday or sick pay will affect the receipt of benefits.

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

R6-3-5601. Definitions and Explanation of Terms - The objective of this rule is to define terms used in A.R.S. § 23-777 and the rules in this article. The purpose of the rule is to ensure an understanding and interpretation of how this rule is applied in regard to determining if a labor dispute exists.

R6-3-5602. Labor Dispute Notice - The objective of this rule is to clarify requirements pertaining to the provision of information regarding a labor dispute to the Department when requested. The purpose of the rule is to list labor dispute information employers and labor organizations are required to provide to the Department, when requested.

R6-3-5603. Eligibility During a Labor Dispute - The objective of this rule is to ensure the Department procedures pertaining to eligibility during a labor dispute are uniformly enforced. The purpose of the rule is to provide guidelines for determining if a person is unemployed due to a labor dispute in four specific circumstances.

R6-3-5604. Termination of the Labor Dispute Disqualification - The objective of this rule is to ensure the Department procedures pertaining to termination of the labor dispute disqualification are uniformly enforced. The purpose of the rule is to provide guidelines for determining whether a

disqualification because of a labor dispute remains in effect if, during the dispute, the individual quits, is discharged, accepts new work, or experiences other circumstances.

C. EFFECTIVENESS

With the exception of the rules listed below, the Department believes that the rules in Title 6, Chapter 3, are effective in meeting their objectives.

R6-3-52160 is not effective as it has been superseded by state statute regarding work search requirements.

R6-3-52235(E) is not effective. It does not conform to current program policy because it includes provisions covering pregnant unemployment insurance claimants relating to their ability to work. The rule currently carries a presumptive period of inability to work for pregnant claimants. The period runs from 8 weeks prior to the calculated date of delivery to 6 weeks immediately following delivery. Since 2001 the Department has complied with the Americans with Disabilities Act (ADA) by adopting procedures in order to ensure uniform application of the rule and to provide due process for all affected claimants.

R6-3-55415 could be more effective as the subject matter more appropriately falls under Article 52, which deals with the availability of individuals filing for benefits.

R6-3-55460 is ineffective and requires revision. It is in conflict with A.R.S. § 23-621 and causes confusion for UI Program Adjudicators. The rule indicates the receipt of severance pay upon separation from employment will not delay the receipt of unemployment insurance benefits when, in fact, severance pay does delay benefits.

D. CONSISTENCY

With the exception of R6-3-5205, R6-3-52160, R6-3-52235(E) and R6-3-55460, the rules in Title 6, Chapter 3 are consistent with federal and state law, other administrative rules, and Department policy and procedures.

R6-3-5205 addresses general unemployment insurance requirements to be considered able and available to work. The current rule is not consistent with the ADA. The Department is in the process of revising language in the rule to reflect the policy in use by the Department to conform to the ADA.

R6-3-52160 has been superseded by state statute regarding work search requirements.

R6-3-52235(E) addresses general unemployment insurance requirements to be considered able and available to work relating to pregnancy. This rule is not consistent with the ADA and current program policy. The Department is revising the rule to reflect current policy that conforms to the ADA.

R6-3-55460 conflicts with A.R.S. § 23-621 and causes confusion for UI Program Adjudicators. The rule indicates the receipt of severance pay upon separation from employment will not delay the receipt of unemployment insurance benefits, when in fact, severance pay does delay benefits as provided in A.R.S. § 23-621.

E. ENFORCEMENT

The Department regularly enforces the rules in Chapter 3 with the following exceptions:

R6-3-5205, R6-3-52160, R6-3-52235(E), and R6-5-55460 are not enforced with respect to provisions that are inconsistent with statutes. The Department follows the provisions of statute rather than any outdated language in current rules.

F. CLEAR, CONCISE, AND UNDERSTANDABLE

ARTICLE 13. DEFINITIONS

Article 13 is clear, concise, and understandable.

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

With the exception of R6-3-1404, the rules in Article 14 are clear, concise, and understandable with regard to content and organization. R6-3-1404 needs revision as portions of the rule are not precise, the language is gender-specific, and the style and format are not current.

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

Article 15 is clear, concise, and understandable.

ARTICLE 16. FUNDS

Article 16 is clear, concise, and understandable.

ARTICLE 17. CONTRIBUTIONS

With the exception of the rules listed below, the rules in Article 17 are clear, concise, and understandable.

In R6-3-1720(A)(4) the term “boiler room, telephone-type operations” could be clarified.

R6-3-1722, while in current style and format, should cite the statute to which the rule is directed.

Portions of R6-3-1702, R6-3-1706, R6-3-1713, R6-3-1716, and R6-3-1721 are unclear. Further these rules contain gender specific language and are not written in current style and format.

R6-3-1727 assigns values to employer provided meals, lodging, etc. These values have not been updated since 1988.

ARTICLE 18. BENEFITS

With the exception of R6-3-1811, the rules in Article 18 are clear, concise, and understandable. R6-3-1811, while not in compliance with current requirements for style, language, and format, does not have any policy defects and has provided an effective interpretation of the statutes for a number of years.

ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY

R6-3-50150, R6-3-5005, R6-3-5040, R6-3-50135, R6-3-50155 and R6-3-50345 are clear, concise, and understandable.

The remaining 11 rules do not have any obvious policy defects and have provided an effective interpretation of the statutes for over twenty-five years. However, the rules are not in compliance with current requirements for style, format, and language. Further, there are portions of these rules that could be written more clearly.

ARTICLE 51. DISCHARGE BENEFIT POLICY

R6-3-5105 was amended in 2011. The rule conforms to the current rule format and is written in language that is clear, concise, and understandable.

R6-3-51140 is in the process of being amended as noted in “J. Course of Action Since Previous Five-year Review Report” below. The current content of R6-3-51140 lacks clarity, causing Department leadership, Administrative Law Judges and other parties to seek clarity outside of the rule.

R6-3-51345 was amended in 1997. The rule conforms to the current rule format and is written in language that is clear, concise, and understandable.

R6-3-51235, R6-3-51385, R6-3-51475, and R6-3-51490 have not been revised for many years. However, these rules remain clear, concise, efficient, and are consistent with current policy.

The remaining 11 rules do not have any obvious policy defects and have provided an effective interpretation of the statutes for over twenty-five years. However, the rules are not in compliance with current requirements for style, format, and language. Further, there are portions of these rules that could be written more clearly.

ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY

R6-3-5205 requires amendment to be consistent with the ADA, thus enhancing the clarity and understandability of the rule.

R6-3-5240 was amended in 1997. This rule conforms to the current rule format, and is written in language that is clear, concise, and understandable. However, the rule is in the process of being amended to address the current state of education including online schools and classes and how it corresponds with employee’s ability to attend school while still being available in today’s job market.

Seven other rules, R6-3-5245, R6-3-5290, R6-3-52155, R6-3-52250, R6-3-52305, R6-3-52475, and R6-3-52510 have not been revised for many years. However, these rules remain clear, concise, efficient, and are consistent with current policy.

R6-3-52160 is not clear, concise, or understandable, because it has been superseded by state statutes regarding work search requirements.

R6-3-52235 is not written in current language, style, and format. Further it contains language in Subsection E which is no longer used by the Department and needs to be revised to be consistent with the ADA.

R6-3-52165 and R6-3-52180, in addition to being out of conformity with current language, style, and format, contain redundancies.

The remaining 12 rules do not have any obvious policy defects and have provided an effective interpretation of the statutes for over twenty-five years. However, the rules are not in compliance with current requirements for style, format, and language. Further, there are portions of these rules that could be written more clearly.

ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY

R6-3-5305 was revised in 1997, conforms to the current rule format, and is written in language that is clear, concise, and understandable.

Ten other rules, R6-3-53170, R-3-53235, R6-3-53265, R6-3-53330, R6-3-53335, R6-3-53365, R6-3-53380, R6-3-53450, R6-3-53475, and 53510 have not been revised for many years. However, these rules remain clear, concise, efficient, and are consistent with current policy.

Portions of R6-3-53480 merely reiterates state statutes and are therefore unnecessary.

The remaining six rules do not have any obvious policy defects and have provided an effective interpretation of the statutes for over twenty-five years. However, the rules are not in compliance with current requirements for style, format, and language. Further, there are portions of these rules that could be written more clearly.

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

With the exception of R6-3-54340, the rules in Article 54 are clear, concise, and understandable. R6-3-54340 does not have any obvious policy defects, and has provided an effective interpretation of the statutes for over twenty-five years. However, the rule is not in compliance with current requirements for style, format, and language. Further, there are portions of this rule that could be written more clearly.

ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

R6-3-55415 is understandable, but is not consistent with current language, style, and format. Further, the text of this rule would be more appropriate in Article 52.

R6-3-55460 is not in compliance with current requirements for style, format, and language. The rule also needs to be revised to be consistent with statutory requirements addressing severance pay, thereby enhancing consistency as well as understandability.

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

Article 56 is clear, concise, and understandable.

G. WRITTEN CRITICISMS

The Department has not received any written criticisms of the rules in Chapter 3.

H. ECONOMIC IMPACT COMPARISON

Many of the rules in Chapter 3 were adopted without accompanying Economic Impact Statements. The Department has attached all available Economic Impact Statements to this report and has used them for this economic impact comparison. In addition, the Department prepared the following information to assist in an economic analysis of the current impact of these rules on Arizona.

The Unemployment Insurance Program has approximately 125,400 covered employers, with the number fluctuating regularly as businesses open and close. Below is a summary of claims load and benefit payment activity for the one year period beginning October 1, 2015 and ending September 30, 2016:

Number of individuals receiving at least one week of regular UI: 102,034

Amount of regular UI benefits paid: \$273,895,901.00

As identified in this report, certain rules in Chapter 3 contain language that is not clear, concise, or understandable. Other rules require substantive amendments, because they do not comply with the Department's current policy and procedures, which impacts stakeholders negatively by creating confusion about the operation of the program. Several rules conflict with federal or state statutory or regulatory provisions. The need for certain rules to be amended to increase clarity and consistency has a minor negative impact on UI claimants because the rules can be confusing in the absence of other information. However, the Department provides a significant amount of information about the UI Program on its website and through notices to claimants, which minimizes or eliminates any potential negative impact.

ARTICLE 13. DEFINITIONS

At the time this rule was amended in 1995, the Department projected there would be no significant impact on either employers or workers, as the rule merely defines terms used in related statutes and

rules. This assessment appears correct as the Department has received no complaints that compliance has been costly or burdensome.

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT

At the time the rules in Article 14 were adopted, the Department projected that the rules would not result in a significant tax increase for employers, nor would they reduce workers' opportunity to file for and receive unemployment insurance benefits. These projections have proven accurate. The Department has not received complaints that compliance has been costly or burdensome.

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

At the time the rules in Article 15 were amended, the Department projected that the rules would not result in a significant tax increase for employers, nor would they reduce worker's opportunity to file for and receive unemployment insurance benefits. These projections have proven correct, as the Department has not received complaints that compliance has been unduly costly or burdensome.

ARTICLE 16. FUNDS

This rule provides guidelines for issuing warrants from the unemployment insurance clearing house account. It has no impact on the taxing of employers or the paying of benefits to workers.

ARTICLE 17. CONTRIBUTIONS

The Department assessed economic impact when amending six of the rules in this article in 1995 and 1997. The Department concluded these rules would not result in any significant increase in taxes or administrative burden for employers. This projection appears to have been accurate as the Department has not received complaints that compliance has been costly or burdensome.

While the remaining rules were adopted some years ago with no specific economic impact assessment, the Department believes the six rules discussed above are representative of the entire article. The payment of unemployment insurance taxes is mandated by federal and state statutes. The rules in this Article merely implement this requirement. As noted in Section G, the Department has received no written criticisms of these rules.

ARTICLE 18. BENEFITS

For the five rules adopted in 1995 and 1997, the Department projected that the rules would not result in any substantial economic impact on workers or employers. This projection appears to have been accurate as the Department has not received complaints that compliance has been costly or burdensome.

R6-3-1810, R6-3-1811, and R6-3-1812 merely assist with the interpretation of federal and state statutes. As indicated in Section G, the Department has received no written criticism of these rules.

ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY

The Department assessed economic impact when amending five of these rules in this article in 1995 and 1997. The Department concluded these rules would not result in any significant increase in financial impact for employers or withholding of benefits for claimants. This projection appears to have been accurate as the Department has not received complaints that compliance has been costly or burdensome.

While the remaining rules were adopted some years ago with no specific economic impact assessment, the Department believes that the five rules discussed above are representative of the entire article. The assessment of a disqualification from the receipt of unemployment insurance benefits when an individual has voluntarily left employment without good cause is mandated by federal and state statutes. The rules in this article merely implement this requirement.

The assessment of the economic impact of amendments made in 2006 to R6-3-50155 has proven to be accurate.

ARTICLE 51. DISCHARGE BENEFIT POLICY

The Department completed an economic impact statement to accompany its 2001 amendment to R6-3-5105. The rule appears to have had minimal economic impact, as projected.

The Department assessed economic impact when amending three of these rules in this article in 1995 and 1997. The Department concluded these rules would not result in any significant increase in financial impact for employers or withholding of benefits for claimants. This projection appears to have been accurate as the Department has not received complaints that compliance has been costly or burdensome.

While the remaining rules were adopted some years ago with no specific economic impact assessment, it is felt that the three rules discussed above are representative of the entire article. The assessment of a disqualification from the receipt of unemployment insurance benefits when an individual has been discharged for willful or negligent misconduct is mandated by federal and state

statutes. The rules in this article merely implement this requirement. As noted in Section G, there have been no written criticisms of these rules.

The Department assessed the economic impact of amendments to R6-3-5105 in 2006. The assessment has proven to be accurate.

ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY

When the Department amended R6-3-5240 in 1997, it determined there would be no significant increase in the withholding of benefits to claimants. The absence of complaint would indicate this projection was accurate.

The remaining rules were all adopted in the late 1970's with no specific economic impact assessment. However, the mandate for the Department to assure unemployment insurance recipients are able to and available for work is contained in federal and state statute. The rules in this section merely implement this requirement.

ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY

With the exception of R6-3-5305, all the rules in this article were adopted some years ago with no specific economic impact statement. However, the Department feels that the rules do not adversely affect the receipt of unemployment insurance benefits by claimants. A disqualification from the receipt of benefits when an individual refuses an offer of suitable work without good cause is mandated by federal and state law. The rules in this section merely implement that mandate.

R6-3-5305 was adopted in 1997 and has had the economic impact anticipated at the time of its adoption.

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

When the Department amended R6-3-5475 and R6-3-5495, it projected there would be no significant economic impact on the receipt of benefits. The absence of complaint would indicate this projection was accurate.

The remaining three rules were adopted some years ago with no specific impact statement. However, eligibility for and receipt of unemployment insurance benefits is controlled by federal and state statutes. The rules in this article merely explain and implement these statutes and do not impact the receipt of unemployment insurance benefits.

ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

These two rules were adopted some years ago with no specific economic impact statement. However, the Department feels the rules merely provide an explanation of how the federal and state unemployment statutes will be applied and do not carry any significant economic impact.

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

The rules in this article were adopted in 1997. At that time the Department projected that the rules would have no significant economic impact on workers or employers as the rules are merely extensions of federal and state statutes governing the receipt of benefits during a labor dispute. The absence of written criticism indicates this projection is correct.

I. BUSINESS COMPETITIVENESS ANALYSIS

The Department has not received any analysis by another person comparing the impact of the rules reviewed in this report on this state's business competitiveness to the impact on business in other states.

J. COURSE OF ACTION FROM PREVIOUS FIVE-YEAR REVIEW REPORT

Since the previous 5-year review report, the Department published a Notice of Final Rulemaking to make the amendments to R-6-3-1503 described in the report. The amended rule became effective September 7, 2013.

K. DETERMINATION OF BURDEN AND COSTS

With the amendments proposed in this report, the Department believes that the rules would impose the least burden and costs to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objectives.

L. CORRESPONDING FEDERAL LAW

The following rules conflict with federal law as described below:

R6-3-5205 is out of compliance with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et, seq.]. The current rule provides that an individual must be available for full time work. However, this requirement, when applied to a disabled individual is not consistent with the ADA. In order to be eligible for benefits, an individual who indicates that they are unable to work full time must 1) provide medical evidence establishing that the restriction is due to a disability or handicap, yet the individual is able to work part time; and 2) follow a course of action which is reasonably designed to result in reemployment for which the individual is qualified and capable of performing.

R6-3-52235 also conflicts with the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et, seq.]. The current rule carries a presumptive period of inability to work for pregnant claimants. The period runs from 8 weeks prior to the calculated date of delivery to 6 weeks immediately following delivery. Since 2001 the Department has complied with the ADA by adopting procedures in order to ensure uniform application of the rule and to provide due process for all affected claimants.

M. COMPLIANCE WITH A.R.S. § 41-1037

The Department has determined that A.R.S. § 41-1037 does not apply to these rules, because the Department is not proposing a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization.

N. PROPOSED ACTION

The Department received an exception to the regulatory moratorium imposed by Executive Order 2016-03 to make amendments to R6-3-51140, R6-3-5205, R6-3-5240, R6-3-52235 and R6-55460 on March 7, 2016. The Department has nearly completed the drafting and legal review process for these amendments and intends to complete the rulemaking process in mid-2017.

The Department requested an exception to the regulatory moratorium in October 2016 to modify rules throughout Chapter 3. The modifications anticipated shall address each of the items identified in this report, such that the rules are updated, as needed, to reflect current statutes and practice while being made clear, concise and understandable. As part of the rules development, the Department shall analyze

the Department's sixteen Substantive Policy Statements pertaining to the Unemployment Insurance Program. The Department shall incorporate appropriate eliminations of and updates to the statements and the rules as a result of the analysis. The Department anticipates filing a Notice of Final Rulemaking with the Council in February, 2019, contingent upon receiving a moratorium exception.