

8013

2009-2010 Regular Sessions

I N A S S E M B L Y

May 1, 2009

Introduced by M. of A. JOHN -- Multi-Sponsored by -- M. of A. JAFFEE --
read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to rights to benefits and wages; to amend chapter 413 of the laws of 2003, amending the labor law relating to the self-employment assistance program and other matters, in relation to the effectiveness thereof; to amend chapter 831 of the laws of 1981, amending the labor law relating to fees and expenses in unemployment insurance proceedings, in relation to the effectiveness thereof; to amend the labor law, in relation to agricultural labor crew leaders, in relation to extended benefits, and in relation to the domestic violence training program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 590 of the labor law, as amended
2 by chapter 413 of the laws of 2003, is amended to read as follows:
3 5. Benefit rate. A claimant's weekly benefit amount shall be one twen-
4 ty-sixth of the remuneration paid during the highest calendar quarter of
5 the base period by employers, liable for contributions or payments in
6 lieu of contributions under this article. However, for claimants whose
7 high calendar quarter remuneration during the base period is [three
8 thousand five hundred seventy-five] EIGHT THOUSAND dollars or less, the
9 benefit amount shall be [one twenty-fifth] ONE TWENTY-SECOND of the
10 remuneration paid during the highest calendar quarter of the base period
11 by employers liable for contributions or payments in lieu of contrib-
12 utions under this article. Any claimant whose high calendar quarter
13 remuneration during the base period is more than [three] EIGHT thousand
14 [five hundred seventy-five] dollars shall not have a weekly benefit
15 amount less than [one hundred forty-three] THREE HUNDRED SIXTY dollars.
16 The weekly benefit amount, so computed, that is not a multiple of one
17 dollar shall be [lowered to] the next multiple of one dollar. On the
18 first Monday of September, nineteen hundred ninety-eight the weekly

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 benefit amount shall not exceed three hundred sixty-five dollars nor be
2 less than forty dollars, until the first Monday of September, two thou-
3 sand, at which time the maximum benefit payable pursuant to this subdi-
4 vision shall equal one-half of the state average weekly wage for covered
5 employment as calculated by the department no sooner than July first,
6 two thousand and no later than August first, two thousand, rounded
7 [down] to the [lowest] NEXT dollar. ON THE FIRST MONDAY OF JULY, TWO
8 THOUSAND NINE, THE WEEKLY BENEFIT SHALL NOT EXCEED FOUR HUNDRED SEVEN-
9 TY-FIVE DOLLARS NOR LESS THAN SEVENTY-FIVE DOLLARS, UNTIL THE FIRST
10 MONDAY OF JULY, TWO THOUSAND TEN AT WHICH TIME THE WEEKLY BENEFIT SHALL
11 NOT EXCEED FIVE HUNDRED TWENTY-FIVE DOLLARS, UNTIL THE FIRST MONDAY OF
12 JULY, TWO THOUSAND ELEVEN AT WHICH TIME THE MAXIMUM WEEKLY BENEFIT SHALL
13 NOT EXCEED FIVE HUNDRED SEVENTY-FIVE DOLLARS, UNTIL THE FIRST MONDAY OF
14 JULY, TWO THOUSAND TWELVE, AT WHICH TIME THE MAXIMUM WEEKLY BENEFIT
15 SHALL NOT EXCEED SIX HUNDRED TWENTY-FIVE DOLLARS UNTIL THE FIRST MONDAY
16 OF JULY, TWO THOUSAND THIRTEEN, AT WHICH TIME THE MAXIMUM WEEKLY BENEFIT
17 PURSUANT TO THIS SUBDIVISION SHALL EQUAL ONE-HALF OF THE STATE AVERAGE
18 WEEKLY WAGE AS CALCULATED BY THE DEPARTMENT NO SOONER THAN JULY FIRST,
19 TWO THOUSAND THIRTEEN AND NOT LATER THAN AUGUST FIRST, TWO THOUSAND
20 THIRTEEN AND ON JULY FIRST OF EACH SUCCEEDING YEAR THE MAXIMUM BENEFIT
21 SHALL EQUAL ONE-HALF OF THE STATE AVERAGE WEEKLY WAGE AS CALCULATED BY
22 THE DEPARTMENT ANNUALLY PURSUANT TO THE MANNER DESCRIBED IN THIS SUBDI-
23 VISION.

24 S 2. Paragraph (a) of subdivision 1 of section 518 of the labor law,
25 as amended by chapter 589 of the laws of 1998, is amended to read as
26 follows:

27 (a) "wages" means all remuneration paid, except that such term does
28 not include remuneration paid to an employee by an employer after [eight
29 thousand five hundred] NINE THOUSAND SEVEN HUNDRED FIFTY dollars have
30 been paid to such employee by such employer with respect to employment
31 during any calendar year PRECEDING THE FIRST DAY OF JANUARY, TWO THOU-
32 SAND TEN, NOR TO INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER
33 AFTER ELEVEN THOUSAND FIVE HUNDRED DOLLARS HAVE BEEN PAID TO SUCH
34 EMPLOYEE BY SUCH EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR
35 YEAR PRECEDING THE FIRST DAY OF JANUARY, TWO THOUSAND ELEVEN, NOR TO
36 INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER AFTER THIRTEEN
37 THOUSAND DOLLARS HAVE BEEN PAID TO SUCH EMPLOYEE BY SUCH EMPLOYER WITH
38 RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR PRECEDING THE FIRST DAY
39 OF JANUARY, TWO THOUSAND TWELVE, NOR TO INCLUDE REMUNERATION PAID TO AN
40 EMPLOYEE BY AN EMPLOYER AFTER FIFTEEN THOUSAND DOLLARS HAVE BEEN PAID TO
41 SUCH EMPLOYEE BY SUCH EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY
42 CALENDAR YEAR PRECEDING THE FIRST DAY OF JANUARY, TWO THOUSAND THIRTEEN.
43 IN EACH SUCCEEDING CALENDAR YEAR, THE DEPARTMENT SHALL CALCULATE THE
44 BASE AMOUNT OF REMUNERATION NECESSARY FROM WHICH TO PRODUCE SUFFICIENT
45 PREMIUM TO PROVIDE FOR THE ANNUAL INCREASES IN MAXIMUM WEEKLY BENEFIT
46 PROVIDED FOR IN THIS ARTICLE, AND OTHER FUNDING FOR THE UNEMPLOYMENT
47 INSURANCE TRUST FUND PURSUANT TO SECTION FIVE HUNDRED FIFTY OF THIS
48 ARTICLE, AS MAY BE NECESSARY. The term "employment" includes for the
49 purposes of this subdivision services constituting employment under any
50 unemployment compensation law of another state or the United States.

51 S 3. Subdivision 10 of section 590 of the labor law is amended by
52 adding a new paragraph (d) to read as follows:

53 (D) IN THE CASE OF COLLEGES OR UNIVERSITIES ASSIGNED THE NORTH AMERI-
54 CAN INDUSTRY CLASSIFICATION CODE 611310 OR 611210 FOR SERVICES PERFORMED
55 IN A PRINCIPAL, ADMINISTRATIVE, RESEARCH OR INSTRUCTIONAL CAPACITY A
56 PERSON IS PRESUMED NOT TO HAVE REASONABLE ASSURANCE UNDER AN OFFER THAT

1 IS CONDITIONED ON ENROLLMENT, FUNDING OR PROGRAMMATIC CHANGES. IT IS THE
2 EMPLOYER'S BURDEN TO PROVIDE SUFFICIENT DOCUMENTATION TO OVERCOME THIS
3 PRESUMPTION. REASONABLE ASSURANCE MUST BE DETERMINED ON A CASE-BY-CASE
4 BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATHER THAN THE EXISTENCE OF ANY
5 ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO THE CONTINGENT NATURE OF AN
6 OFFER OF EMPLOYMENT BASED ON ENROLLMENT, FUNDING AND PROGRAM CHANGES.
7 PROVIDED, HOWEVER, THAT IN ANY UNEMPLOYMENT INSURANCE PROCEEDING A WRIT-
8 TEN LETTER FROM AN EMPLOYER TO AN EMPLOYEE WHICH MAKES EMPLOYMENT CONDI-
9 TIONAL SHALL NOT BE PRIMA FACIE EVIDENCE OF REASONABLE ASSURANCE TO BE
10 USED TO DENY A CLAIM FOR UNEMPLOYMENT.

11 S 4. Paragraph (d) of subdivision 11 of section 590 of the labor law,
12 as amended by chapter 102 of the laws of 2002, is amended to read as
13 follows:

14 (d) IN THE CASE OF A CLAIMANT WHO WAS EMPLOYED IN OTHER THAN AN
15 INSTRUCTIONAL, RESEARCH OR PRINCIPAL ADMINISTRATIVE CAPACITY BY AN
16 EDUCATIONAL INSTITUTION, OR PERFORMED SERVICES IN SUCH AN INSTITUTION IN
17 SUCH CAPACITY WHILE EMPLOYED BY AN EDUCATIONAL SERVICE AGENCY, SUCH
18 CLAIMANT IS PRESUMED NOT TO HAVE REASONABLE ASSURANCE UNDER AN OFFER
19 THAT IS CONDITIONED ON ENROLLMENT, FUNDING OR PROGRAMMATIC CHANGES. IT
20 IS THE COLLEGE'S BURDEN TO PROVIDE SUFFICIENT DOCUMENTATION TO OVERCOME
21 THIS PRESUMPTION. REASONABLE ASSURANCE MUST BE DETERMINED ON A CASE-BY-
22 CASE BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATHER THAN THE EXISTENCE OF
23 ANY ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO THE CONTINGENT NATURE OF
24 AN OFFER OF EMPLOYMENT BASED ON ENROLLMENT, FUNDING AND PROGRAM CHANGES.
25 PROVIDED, HOWEVER, THAT IN ANY UNEMPLOYMENT INSURANCE PROCEEDING A WRIT-
26 TEN LETTER FROM AN EMPLOYER TO AN EMPLOYEE WHICH MAKES EMPLOYMENT CONDI-
27 TIONAL SHALL NOT BE PRIMA FACIE EVIDENCE OF REASONABLE ASSURANCE TO BE
28 USED TO DENY A CLAIM FOR UNEMPLOYMENT.

29 (E) Notwithstanding the foregoing provisions of this subdivision, a
30 claimant who was not offered an opportunity to perform services for the
31 educational institution for the second of such academic years or terms
32 shall be entitled to be paid benefits retroactively for each week for
33 which the claimant filed a timely claim for benefits and for which bene-
34 fits were denied solely by reason of this subdivision.

35 "Educational service agency" means a governmental agency or govern-
36 mental entity or Indian tribal entity which is established and operated
37 exclusively for the purpose of providing to one or more educational
38 institutions services mentioned under this subdivision or subdivision
39 ten of this section.

40 S 5. Section 10 of chapter 413 of the laws of 2003 amending the labor
41 law relating to the self-employment assistance program and other
42 matters, as amended by chapter 200 of the laws of 2007, is amended to
43 read as follows:

44 S 10. This act shall take effect immediately; provided, however, that
45 sections eight and nine of this act shall expire December 7, [2009] 2011
46 when upon such date the provisions of such sections shall be deemed
47 repealed.

48 S 6. Subdivision 1 of section 593 of the labor law, as amended by
49 chapter 415 of the laws of 1983, paragraph (a) as amended by chapter 268
50 of the laws of 1999, and paragraph (b) as amended by chapter 589 of the
51 laws of 1998, is amended to read as follows:

52 1. Voluntary separation; SEPARATION FOR A COMPELLING FAMILY REASON.

53 (a) No days of total unemployment shall be deemed to occur after a
54 claimant's voluntary separation without good cause from employment until
55 he or she has subsequently worked in employment and earned remuneration
56 at least equal to five times his or her weekly benefit rate. In addition

1 to other circumstances that may be found to constitute good cause,
2 INCLUDING A COMPELLING FAMILY REASON AS SET FORTH IN PARAGRAPH (B) OF
3 THIS SUBDIVISION, voluntary separation from employment shall not in
4 itself disqualify a claimant if circumstances have developed in the
5 course of such employment that would have justified the claimant in
6 refusing such employment in the first instance under the terms of subdivi-
7 sion two of this section or if the claimant, pursuant to an option
8 provided under a collective bargaining agreement or written employer
9 plan which permits waiver of his right to retain the employment when
10 there is a temporary layoff because of lack of work, has elected to be
11 separated for a temporary period and the employer has consented thereto.
12 (B) A [voluntary separation may also be deemed for good cause if it
13 occurred as a consequence of circumstances directly resulting from the
14 claimant being a victim of domestic violence] CLAIMANT SHALL NOT BE
15 DISQUALIFIED FROM RECEIVING BENEFITS FOR SEPARATION FROM EMPLOYMENT DUE
16 TO ANY COMPELLING FAMILY REASON. FOR PURPOSES OF THIS PARAGRAPH, THE
17 TERM "COMPELLING FAMILY REASON" SHALL INCLUDE, BUT NOT BE LIMITED TO,
18 SEPARATIONS RELATED TO:
19 (I) DOMESTIC VIOLENCE; OR
20 (II) THE ILLNESS OR DISABILITY OF A MEMBER OF THE INDIVIDUAL'S IMMEDI-
21 ATE FAMILY; OR
22 (III) THE NEED FOR THE INDIVIDUAL TO ACCOMPANY SUCH INDIVIDUAL'S
23 SPOUSE: (A) TO A PLACE FROM WHICH IT IS IMPRACTICAL FOR SUCH INDIVIDUAL
24 TO COMMUTE; AND (B) DUE TO A CHANGE IN LOCATION OF THE SPOUSE'S EMPLOY-
25 MENT.
26 [(b)] (C) A disqualification as provided in this subdivision shall
27 also apply after a claimant's voluntary separation from employment if
28 such voluntary separation was due to claimant's marriage.
29 (D) "DOMESTIC VIOLENCE" REFERRED TO IN CLAUSE (I) OF PARAGRAPH (B) OF
30 THIS SUBDIVISION MEANS ABUSE COMMITTED AGAINST AN EMPLOYEE OR AN EMPLOY-
31 EE'S DEPENDENT CHILD BY:
32 (I) A CURRENT OR FORMER SPOUSE OF THE EMPLOYEE; OR
33 (II) A PERSON WITH WHOM THE EMPLOYEE SHARES PARENTAGE OF A CHILD IN
34 COMMON; OR
35 (III) A PERSON WHO IS COHABITATING WITH, OR HAS COHABITATED WITH, THE
36 EMPLOYEE; OR
37 (IV) A PERSON WHO IS RELATED BY BLOOD OR MARRIAGE; OR
38 (V) A PERSON WITH WHOM THE EMPLOYEE HAS OR HAD A DATING OR ENGAGEMENT
39 RELATIONSHIP.
40 (E) "ABUSE" MEANS:
41 (I) CAUSING, OR ATTEMPTING TO CAUSE, PHYSICAL HARM; OR
42 (II) PLACING ANOTHER PERSON IN FEAR OF IMMINENT SERIOUS PHYSICAL HARM;
43 OR
44 (III) CAUSING ANOTHER PERSON TO ENGAGE INVOLUNTARILY IN SEXUAL
45 RELATIONS BY FORCE, THREAT OR DURESS, OR THREATENING TO DO SO; OR
46 (IV) ENGAGING IN MENTAL ABUSE, WHICH INCLUDES THREATS, INTIMIDATION,
47 STALKING AND ACTS DESIGNED TO INDUCE TERROR; OR
48 (V) DEPRIVING ANOTHER PERSON OF MEDICAL CARE, HOUSING, FOOD OR OTHER
49 NECESSITIES OF LIFE; OR
50 (VI) RESTRAINING THE LIBERTY OF ANOTHER.
51 (F) A CLAIMANT SHALL NOT BE DISQUALIFIED FROM RECEIVING UNEMPLOYMENT
52 INSURANCE BENEFITS IF THE CLAIMANT ESTABLISHES TO THE SATISFACTION OF
53 THE COMMISSIONER THAT THE REASON THE CLAIMANT LEFT WORK WAS DUE TO
54 DOMESTIC VIOLENCE, INCLUDING:
55 (I) THE CLAIMANT'S REASONABLE FEAR OF FUTURE DOMESTIC VIOLENCE AT OR
56 EN ROUTE TO OR FROM THE CLAIMANT'S PLACE OF EMPLOYMENT;

(II) THE CLAIMANT'S NEED TO RELOCATE TO ANOTHER GEOGRAPHIC AREA IN ORDER TO AVOID FUTURE DOMESTIC VIOLENCE;

(III) THE CLAIMANT'S NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL AND LEGAL IMPACTS OF DOMESTIC VIOLENCE;

(IV) THE CLAIMANT'S NEED TO LEAVE EMPLOYMENT AS A CONDITION OF RECEIVING SERVICES OR SHELTER FROM AN AGENCY WHICH PROVIDES SUPPORT SERVICES OR SHELTER TO VICTIMS OF DOMESTIC VIOLENCE;

(V) ANY OTHER SITUATION IN WHICH DOMESTIC VIOLENCE CAUSES THE CLAIMANT TO REASONABLY BELIEVE THAT TERMINATION OF EMPLOYMENT IS NECESSARY FOR THE FUTURE SAFETY OF THE CLAIMANT OR THE CLAIMANT'S FAMILY.

(G) A CLAIMANT MAY DEMONSTRATE THE EXISTENCE OF DOMESTIC VIOLENCE BY PROVIDING ONE OF THE FOLLOWING:

(I) A RESTRAINING ORDER OR OTHER DOCUMENTATION OF EQUITABLE RELIEF ISSUED BY A COURT OF COMPETENT JURISDICTION;

(II) A POLICE RECORD DOCUMENTING THE ABUSE;

(III) DOCUMENTATION THAT THE ABUSER HAS BEEN CONVICTED OF ONE OR MORE CRIMINAL OFFENSES ENUMERATED IN THE PENAL LAW AGAINST THE CLAIMANT;

(IV) MEDICAL DOCUMENTATION OF THE ABUSE;

(V) A STATEMENT PROVIDED BY A COUNSELOR, SOCIAL WORKER, HEALTH WORKER, MEMBER OF THE CLERGY, SHELTER WORKER, LEGAL ADVOCATE, OR OTHER PROFESSIONAL WHO HAS ASSISTED THE CLAIMANT IN ADDRESSING THE EFFECTS OF THE ABUSE ON THE CLAIMANT OR THE CLAIMANT'S FAMILY; OR

(VI) A SWORN STATEMENT FROM THE CLAIMANT ATTESTING TO THE ABUSE.

(H) NO EVIDENCE OF DOMESTIC VIOLENCE EXPERIENCED BY A CLAIMANT, INCLUDING THE CLAIMANT'S STATEMENT AND CORROBORATING EVIDENCE, SHALL BE DISCLOSED BY THE DEPARTMENT UNLESS CONSENT FOR DISCLOSURE IS GIVEN BY THE CLAIMANT.

(I) FOR A CLAIMANT WHO LEFT WORK DUE TO DOMESTIC VIOLENCE, REQUIREMENTS TO PURSUE SUITABLE WORK MUST REASONABLY ACCOMMODATE THE CLAIMANT'S NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL, LEGAL AND OTHER EFFECTS OF THE DOMESTIC VIOLENCE.

S 7. Paragraph (d) of subdivision 2 of section 593 of the labor law, as amended by chapter 282 of the laws of 2002, is amended and a new paragraph (e) is added to read as follows:

(d) the wages or compensation or hours or conditions offered are substantially less favorable to the claimant than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions[.]; OR

(E) THE CLAIMANT IS SEEKING PART-TIME WORK AS PROVIDED IN SUBDIVISION FIVE OF SECTION FIVE HUNDRED NINETY-SIX OF THIS TITLE AND THE OFFER OF EMPLOYMENT IS NOT COMPARABLE TO HIS OR HER PART-TIME WORK AS DEFINED IN SUCH SUBDIVISION.

S 8. Subdivision 5 of section 596 of the labor law, as added by chapter 705 of the laws of 1944 and as renumbered by section 148-a of part B of chapter 436 of the laws of 1997 and such section as renumbered by chapter 663 of the laws of 1946, is amended to read as follows:

5. [Short-time worker. A] PART TIME WORK. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, A claimant who for reasons personal to himself OR HERSELF is unable or unwilling to work [usual] full time and who customarily [works] WORKED less than the full time prevailing in his OR HER place of employment [shall register, when unemployed, as a short-time worker in such manner as the commissioner shall prescribe. The time which such claimant normally works in any calendar week shall be deemed his week of full-time employment] FOR A MAJORITY OF THE WEEKS WORKED DURING THE APPLICABLE BASE PERIOD, SHALL NOT BE DENIED UNEMPLOYMENT INSURANCE SOLELY BECAUSE THE CLAIMANT IS ONLY SEEKING PART TIME WORK.

1 FOR PURPOSES OF THIS SUBDIVISION, "SEEKING PART TIME WORK" SHALL MEAN
2 THE CLAIMANT IS WILLING TO WORK FOR A NUMBER OF HOURS PER WEEK THAT ARE
3 COMPARABLE TO THE CLAIMANT'S PART TIME WORK DURING THE MAJORITY OF TIME
4 IN THE BASE PERIOD.

5 S 9. Section 599 of the labor law, as amended by chapter 593 of the
6 laws of 1991, is amended to read as follows:

7 S 599. Career and related training; preservation of eligibility. 1.
8 Notwithstanding any other provision of this article, a claimant shall
9 not become ineligible for benefits because of the claimant's regular
10 attendance in a program of training which the commissioner has approved.
11 The commissioner shall give due consideration to existing and prospec-
12 tive conditions of the labor market in the state, taking into account
13 present and anticipated supply and demand regarding the occupation or
14 skill to which the training relates, and to any other relevant factor.
15 A DETERMINATION OF POTENTIAL ELIGIBILITY FOR BENEFITS UNDER THIS ARTICLE
16 SHALL BE ISSUED TO AN UNEMPLOYED INDIVIDUAL IF THE COMMISSIONER FINDS
17 THAT THE TRAINING IS AUTHORIZED BY THE FEDERAL WORKFORCE INVESTMENT ACT,
18 THE STATE DIVISION OF VETERANS' AFFAIRS, THE DEPARTMENT, THE NEW YORK
19 STATE DEPARTMENTS OF EDUCATION, CORRECTIONAL SERVICES, HEALTH, OR THE
20 OFFICE OF MENTAL HEALTH, THE EMPIRE STATE DEVELOPMENT CORPORATION, OR
21 THE STATE UNIVERSITY OF NEW YORK EDUCATIONAL OPPORTUNITY CENTER. Howev-
22 er, in no event shall the commissioner approve [such] training for a
23 claimant NOT AUTHORIZED BY SUCH LEGISLATIVE ACT OR STATE OR QUASI-STATE
24 ENTITY LISTED ABOVE unless:

25 (a) (1) the training will upgrade the claimant's existing skill or
26 train the claimant for an occupation likely to lead to more regular long
27 term employment; ENABLE THE CLAIMANT TO OBTAIN EMPLOYMENT THAT ACHIEVES
28 WAGE PRESERVATION OR MAKES PROGRESS TOWARD A FAMILY-SUSTAINING WAGE; or

29 (2) employment opportunities for the claimant are or may be substan-
30 tially impaired because of:

31 (i) existing or prospective conditions of the labor market in the
32 locality or in the state or reduced opportunities for employment in the
33 claimant's occupation or skill; or

34 (ii) technological change, plant closing or plant removal, discontin-
35 uance of specific plant operations, or similar reasons; or

36 (iii) limited opportunities for employment throughout the year due to
37 the seasonal nature of the industry in which the claimant is customarily
38 employed; or

39 (iv) the claimant's personal traits such as physical or mental hand-
40 icap; and

41 (b) the training, INCLUDING REMEDIAL EDUCATION WHICH IS INTEGRAL TO
42 CAREER ADVANCEMENT OR REQUIRED FOR COMPLETING CAREER-RELATED TRAINING,
43 relates to an occupation or skill for which there are, or are expected
44 to be in the immediate future, reasonable employment opportunities in
45 the state; and

46 (c) the training is offered by a competent and reliable agency and
47 does not require more than twenty-four months to complete; and

48 (d) the claimant has the required qualifications and aptitudes to
49 complete the training successfully.

50 2. (a) Notwithstanding any other provision of this chapter, a claimant
51 attending an approved training course or program under this section may
52 receive additional benefits of up to one hundred four effective days
53 following exhaustion of regular and, if in effect, any other extended
54 benefits, provided that entitlement to a new benefit claim cannot be
55 established. Certification of continued satisfactory participation and
56 progress in such training course or program must be submitted to the

1 commissioner prior to the payment of any such benefits. [The duration of
2 such additional benefits shall in no case exceed twice the number of
3 effective days of regular benefits to which the claimant is entitled at
4 the time the claimant is accepted in, or demonstrates application for
5 appropriate training.] ANY UNEMPLOYED INDIVIDUAL RECEIVING UNEMPLOYMENT
6 INSURANCE BENEFITS PAYABLE UNDER THIS SUBDIVISION, WHO NOTIFIES THE
7 DEPARTMENT WITH THE INTENT TO SEEK TRAINING OPPORTUNITIES UNDER THIS
8 ARTICLE NO LATER THAN THE SIXTEENTH WEEK OF HIS OR HER RECEIVING BENE-
9 FITS, AND IS DETERMINED ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE, IS
10 ENTITLED TO A TRAINING EXTENSION OF THE FULL ONE HUNDRED FOUR EFFECTIVE
11 DAYS ON HIS OR HER UNEMPLOYMENT COMPENSATION CLAIM, IF NECESSARY, TO
12 COMPLETE APPROVED TRAINING.

13 (b) No more than [twenty] FIFTY million dollars of benefits per year
14 shall be made available for payment to claimants participating in such
15 courses or programs.

16 (c) Participation in such training course or program shall not be
17 limited to any selected areas or localities of the state but subject to
18 the availability of funds, shall be available to any claimant otherwise
19 eligible to participate in training courses or programs pursuant to this
20 section.

21 (d) The additional benefits paid to a claimant shall be charged to the
22 general account.

23 3. Notwithstanding any other provision of this article, a claimant who
24 is in training approved under the federal trade act of nineteen hundred
25 seventy-four shall not be disqualified or become ineligible for benefits
26 because he OR SHE is in such training or because he OR SHE left employ-
27 ment which is not suitable employment to enter such training. For
28 purposes hereof, "suitable employment" means work of a substantially
29 equal or higher skill level than the claimant's past adversely affected
30 employment and for which the remuneration is not less than eighty
31 percent of the claimant's average weekly wage.

32 S 10. Section 3 of chapter 831 of the laws of 1981, amending the labor
33 law relating to fees and expenses in unemployment insurance proceedings,
34 as amended by chapter 634 of the laws of 2008, is amended to read as
35 follows:

36 S 3. This act shall take effect January 1, 1982, provided, however,
37 that paragraphs (a) and (c) of subdivision 3 of section 538 of the labor
38 law as added by section one of this act shall remain in full force and
39 effect until December 31, [2010] 2012.

40 S 11. Subdivision 4 of section 597 of the labor law, as amended by
41 chapter 61 of the laws of 1998, is amended to read as follows:

42 4. Effect of review. Whenever a new determination in accordance with
43 [the preceding] subdivision THREE OF THIS SECTION or a decision by a
44 referee, the appeal board, or a court results in a decrease or denial of
45 benefits previously allowed, such new determination or decision, unless
46 it shall be based upon a retroactive payment of remuneration, shall not
47 affect the rights to any benefits already paid under the authority of
48 the prior determination or decision provided they were accepted by the
49 claimant in good faith and the claimant did not make any false statement
50 or representation and did not wilfully conceal any pertinent fact in
51 connection with his or her claim for benefits. NON-RECOVERABLE BENEFITS
52 PURSUANT TO THIS SECTION SHALL BE CONSIDERED TO HAVE BEEN ALLOWED BENE-
53 FITS FOR PURPOSES OF SECTION FIVE HUNDRED THIRTY-EIGHT OF THIS ARTICLE.

54 S 12. The opening paragraph of paragraph (a) of subdivision 6 of
55 section 511 of the labor law, as amended by chapter 675 of the laws of
56 1977, is amended to read as follows:

1 The term "employment" [does not include] INCLUDES agricultural labor
2 [unless it is covered pursuant to section five hundred sixty-four]. The
3 term "agricultural labor" includes all service performed:

4 S 13. Section 564 of the labor law, as added by chapter 675 of the
5 laws of 1977, is amended to read as follows:

6 S 564. Agricultural labor CREW LEADERS. [1. Coverage. (a) Notwith-
7 standing the provisions of section five hundred sixty of this article,
8 an employer of persons engaged in agricultural labor shall become liable
9 for contributions under this article if the employer:

10 (1) has paid cash remuneration of twenty thousand dollars or more in
11 any calendar quarter to persons employed in agricultural labor, and such
12 liability shall commence on the first day of such quarter, or

13 (2) has employed in agricultural labor ten or more persons on each of
14 twenty days during a calendar year or the preceding calendar year, each
15 day being in a different calendar week, and the liability shall in such
16 event commence on the first day of the calendar year, or

17 (3) is liable for the tax imposed under the federal unemployment tax
18 act as an employer of agricultural labor and the liability shall in such
19 event commence on the first day of the calendar quarter in such calendar
20 year when he first paid remuneration for agricultural labor in this
21 state.

22 (b) An employer who becomes liable for contributions under paragraph
23 (a) of this subdivision shall cease to be liable as of the first day of
24 a calendar quarter next following the filing of a written application
25 provided the commissioner finds that the employer:

26 (1) has not paid to persons employed in agricultural labor cash remun-
27 eration of twenty thousand dollars or more in any of the eight calendar
28 quarters preceding such day, and

29 (2) has not employed in agricultural labor ten or more persons on each
30 of twenty days during the current or the preceding calendar year, each
31 day being in a different week, and

32 (3) is not liable for the tax imposed under the federal unemployment
33 tax act as an employer of agricultural labor.

34 2. Crew leader.] Whenever a person renders services as a member of a
35 crew which is paid and furnished by the crew leader to perform services
36 in agricultural labor for another employer, such other employer shall,
37 for the purpose of this article, be deemed to be the employer of such
38 person, unless:

39 (a) the crew leader holds a valid certificate of registration under
40 the federal farm labor contractor registration act of nineteen hundred
41 sixty-three or substantially all the members of the crew operate or
42 maintain tractors, mechanized harvesting or cropdusting machinery or any
43 other mechanized equipment which is provided by the crew leader, and

44 (b) the crew leader is not an employee of such other employer and has
45 not entered into a written agreement with such employer under which he
46 is designated as an employee.

47 S 14. Section 601 of the labor law, as added by chapter 2 of the laws
48 of 1971, paragraphs (a) and (b) of subdivision 1, paragraph (e) of
49 subdivision 2, subdivisions 3 and 6 as amended and paragraph (f) of
50 subdivision 2 as added by chapter 554 of the laws of 1982, clause (i) of
51 subparagraph 1 of paragraph (a) of subdivision 1 as amended by section 3
52 of chapter 554 of the laws of 1982, paragraphs (c) and (d) of subdivi-
53 sion 2 as amended by chapter 1035 of the laws of 1981, subdivision 4 as
54 amended by chapter 589 of the laws of 1998, subdivision 5 as amended by
55 chapter 1034 of the laws of 1981 and paragraph (f) of subdivision 5 as
56 added by chapter 341 of the laws of 1993, is amended to read as follows:

1 S 601. Extended benefits. 1. Definitions. For the purposes of this
2 section:

3 (a) (1) There shall be a "state 'on' indicator" for a week if, as
4 determined by the commissioner in accordance with the regulations of the
5 secretary of labor of the United States, the rate of insured unemploy-
6 ment for the period consisting of such week and the preceding twelve
7 weeks [equals or exceeds]

8 (i) EQUALED OR EXCEEDED five [percentum] PER CENTUM and

9 (ii) EQUALED OR EXCEEDED one hundred and twenty [percentum] PER CENTUM
10 of the average of such rates for the corresponding thirteen-week periods
11 ending in each of the preceding two calendar years; OR

12 (III) FOR WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER FEBRUARY FIRST,
13 TWO THOUSAND NINE UNTIL THE WEEK ENDING THREE WEEKS PRIOR TO THE LAST
14 WEEK FOR WHICH ONE HUNDRED PERCENT FEDERAL SHARING IS AUTHORIZED BY
15 SECTION 2005(A) OF PUBLIC LAW 111-5, OR FOR WEEKS OF UNEMPLOYMENT ENDING
16 THREE WEEKS PRIOR TO THE LAST WEEK FOR WHICH CONGRESS, PURSUANT TO ANY
17 FUTURE AMENDMENT OF THE FEDERAL STATE EXTENDED COMPENSATION ACT OF 1970,
18 HAS AUTHORIZED ONE HUNDRED PERCENT FEDERAL SHARING, WHICH MEET THE
19 FOLLOWING:

20 (A) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT (SEASONABLY ADJUSTED), AS
21 DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR THE PERIOD
22 CONSISTING OF THE MOST RECENT THREE MONTHS FOR WHICH DATA FOR ALL STATES
23 ARE PUBLISHED BEFORE THE CLOSE OF SUCH WEEK EQUALS OR EXCEEDS SIX AND
24 ONE-HALF PERCENT, AND

25 (B) THE AVERAGE RATE OF TOTAL UNEMPLOYMENT IN THE STATE (SEASONABLY
26 ADJUSTED), AS DETERMINED BY THE UNITED STATES SECRETARY OF LABOR, FOR
27 THE THREE-MONTH PERIOD REFERRED TO IN ITEM (A) OF THIS CLAUSE, EQUALS OR
28 EXCEEDS ONE HUNDRED TEN PERCENT OF THE AVERAGE FOR EITHER OR BOTH OF THE
29 CORRESPONDING THREE-MONTH PERIODS ENDING IN THE TWO PRECEDING CALENDAR
30 YEARS; OR

31 (IV) FOR ANY PERIOD OF HIGH UNEMPLOYMENT WHICH SHALL OTHERWISE MEET
32 ALL OF THE PROVISIONS OF CLAUSE (III) OF THIS SUBPARAGRAPH, EXCEPT THAT
33 "EIGHT PERCENT" IS SUBSTITUTED FOR "SIX AND ONE-HALF PERCENT" IN ITEM
34 (A) OF CLAUSE (III) OF THIS SUBPARAGRAPH.

35 (2) There shall be a "state 'off' indicator" for a week [if, as deter-
36 mined by the commissioner in accordance with the regulations of the
37 secretary of labor of the United States, for the period consisting of
38 such week and the preceding twelve weeks either of the conditions set
39 forth under (i) or (ii) of subparagraph (1) is not met] ONLY, IF FOR THE
40 PERIOD CONSISTING OF SUCH WEEK AND THE IMMEDIATELY PRECEDING TWELVE
41 WEEKS, NONE OF THE OPTIONS SPECIFIED IN SUBPARAGRAPH ONE OF THIS PARA-
42 GRAPH RESULT IN AN "ON" INDICATOR. NOTWITHSTANDING ANY PROVISION OF THIS
43 ARTICLE, THERE SHALL BE A "STATE 'OFF' INDICATOR" WITH RESPECT TO CLAUS-
44 ES (III) AND (IV) OF SUBPARAGRAPH ONE OF THIS PARAGRAPH FOR THE WEEK
45 ENDING THREE WEEKS PRIOR TO THE LAST WEEK FOR WHICH ONE HUNDRED PERCENT
46 FEDERAL SHARING IS AUTHORIZED BY SECTION 2005(A) OF PUBLIC LAW 111-5 OR
47 FOR THE WEEK ENDING THREE WEEKS PRIOR TO THE LAST WEEK FOR WHICH
48 CONGRESS, PURSUANT TO ANY FUTURE AMENDMENT OF THE FEDERAL STATE EXTENDED
49 COMPENSATION ACT OF 1970, HAS AUTHORIZED ONE HUNDRED PERCENT FEDERAL
50 SHARING.

51 (3) "Rate of insured unemployment" means for the purposes of this
52 paragraph the percentage obtained upon dividing the average weekly
53 number of persons filing claims for regular benefits in this state for
54 unemployment with respect to the most recent thirteen consecutive week
55 period, as determined by the commissioner on the basis of his OR HER
56 reports to the secretary of labor of the United States, by the average

1 monthly employment subject to this article for the first four of the
2 last six calendar quarters ending before the end of such period. Compu-
3 tations required hereunder shall be made in accordance with regulations
4 prescribed by the secretary of labor of the United States.

5 (4) "RATE OF TOTAL UNEMPLOYMENT" MEANS, FOR THE PURPOSES OF THIS PARA-
6 GRAPH, THE AVERAGE PERCENTAGE OBTAINED BY DIVIDING THE TOTAL NUMBER OF
7 UNEMPLOYED RESIDENTS OF THE STATE FOR THE MOST RECENT THREE CONSECUTIVE
8 MONTHS, AS DETERMINED BY THE UNITED STATES BUREAU OF LABOR STATISTICS,
9 BY THE TOTAL CIVILIAN LABOR FORCE OF THE STATE FOR THE SAME THREE-MONTH
10 PERIOD, ALSO AS DETERMINED BY THE UNITED STATES BUREAU OF LABOR STATIS-
11 TICS. COMPUTATIONS REQUIRED HEREUNDER SHALL BE MADE IN ACCORDANCE WITH
12 REGULATIONS PRESCRIBED BY THE SECRETARY OF LABOR OF THE UNITED STATES.

13 (b) "Extended benefit period" means a period

14 (1) beginning with the third week after the first week for which there
15 is a state "on" indicator, except that it may not begin before the four-
16 teenth week after the end of a prior extended benefit period, and

17 (2) ending with the third week after the first week for which there is
18 a state "off" indicator, except that the duration of such period shall
19 in no event be less than thirteen weeks.

20 [(d)] (C) "Eligibility period" of a claimant means the period consist-
21 ing of the weeks in his OR HER benefit year which begin in an extended
22 benefit period and, if his OR HER benefit year ends within such extended
23 benefit period, any weeks thereafter which begin in such period.
24 NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE, A CLAIMANT'S ELIGIBILITY
25 PERIOD SHALL INCLUDE ANY ALTERNATIVE ELIGIBILITY PERIOD PROVIDED FOR IN
26 SECTION 2005(B) OF PUBLIC LAW 111-5 OR OTHER FEDERAL LAW.

27 [(e)] (D) "Extended benefits" means benefits, INCLUDING BENEFITS PAYA-
28 BLE TO FEDERAL CIVILIAN EMPLOYEES AND TO EX-SERVICEMEN PURSUANT TO 5
29 U.S.C. CHAPTER 85, payable to a claimant under the provisions of this
30 section for unemployment in his OR HER eligibility period.

31 [(f)] (E) "Regular benefits" means benefits payable to a claimant
32 under this article or under any other State unemployment insurance law,
33 INCLUDING BENEFITS PAYABLE TO FEDERAL CIVILIAN EMPLOYEES AND TO EX-SER-
34 VICEMEN PURSUANT TO 5 U.S.C. CHAPTER 85, other than extended benefits.

35 2. Eligibility conditions. Extended benefits shall be payable to a
36 claimant for effective days occurring in any week within an eligibility
37 period, provided the claimant

38 (a) has exhausted his OR HER rights to regular benefits under this
39 article in his OR HER current benefit year or, his OR HER benefit year
40 having expired prior to such week, he OR SHE does not have the required
41 weeks of employment or earnings to establish a new benefit year, and he
42 OR SHE has no rights to benefits under the unemployment insurance law of
43 any other state;

44 (b) has no rights to unemployment benefits or allowances under the
45 railroad unemployment insurance act, the trade expansion act of nineteen
46 hundred sixty-two, the automotive products trade act of nineteen hundred
47 sixty-five, or such other federal laws as are specified in regulations
48 issued by the secretary of labor of the United States;

49 (c) has not received and is not seeking unemployment benefits under
50 the unemployment compensation law of the Virgin Islands or of Canada
51 unless, if he OR SHE is seeking such benefits, the appropriate agency
52 finally determines that he OR SHE is not entitled to benefits under such
53 law;

54 (d) has satisfied the conditions of this article, required to render a
55 claimant eligible for regular benefits, which are applicable to extended

benefits, including not being subject to a disqualification or suspension; [and]

(e) is not claiming benefits pursuant to an interstate claim filed under the interstate benefit payment plan in a state where an extended benefit period is not in effect, except that this condition shall not apply with respect to the first eight effective days for which extended benefits shall otherwise be payable pursuant to an interstate claim filed under the interstate benefit payment plan; and

(f) in his OR HER base period has [twenty weeks of full time employment subject to this article or] remuneration [which equals or exceeds forty times his most recent benefit rate] OF ONE AND ONE-HALF TIMES THE HIGH CALENDAR QUARTER EARNINGS IN ACCORDANCE WITH SECTION FIVE HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

3. Extended benefit amounts; rate and duration. Extended benefits shall be paid to a claimant

(a) at a rate equal to his OR HER rate for regular benefits during his OR HER applicable benefit year but

(b) for not more than fifty-two effective days with respect to his OR HER applicable benefit year, with a total maximum amount equal to fifty [percentum] PER CENTUM of the total maximum amount of regular benefits payable in such benefit year, and

(c) if a claimant's benefit year ends within an extended benefit period, the remaining balance of extended benefits to which he OR SHE would be entitled, if any, shall be reduced by the number of effective days for which he OR SHE was entitled to receive trade readjustment allowances under the federal trade act of nineteen hundred seventy-four during such benefit year, AND

(D) FOR PERIODS OF HIGH UNEMPLOYMENT FOR NOT MORE THAN EIGHTY EFFECTIVE DAYS WITH RESPECT TO THE APPLICABLE BENEFIT YEAR WITH A TOTAL MAXIMUM AMOUNT EQUAL TO EIGHTY PERCENT OF THE TOTAL MAXIMUM AMOUNT OF REGULAR BENEFITS PAYABLE IN SUCH BENEFIT YEAR.

4. Charging of extended benefits. The provisions of paragraph (e) of subdivision one of section five hundred eighty-one OF THIS ARTICLE shall apply to benefits paid pursuant to the provisions of this section, and if they were paid for effective days occurring in weeks following the end of a benefit year, they shall be deemed paid with respect to that benefit year. However, except for governmental entities as defined in section five hundred sixty-five AND INDIAN TRIBES AS DEFINED IN SECTION FIVE HUNDRED SIXTY-SIX OF THIS ARTICLE, only one-half of the amount of such benefits shall be debited to the employers' account; the remainder thereof shall be debited to the general account, and such account shall be credited with the amount of payments received in the fund pursuant to the provisions of the federal-state extended unemployment compensation act. NOTWITHSTANDING THE FOREGOING, WHERE THE STATE HAS ENTERED AN EXTENDED BENEFIT PERIOD TRIGGERED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION FOR WHICH FEDERAL LAW PROVIDES FOR ONE HUNDRED PERCENT FEDERAL SHARING OF THE COSTS OF BENEFITS, ALL CHARGES SHALL BE DEBITED TO THE GENERAL ACCOUNT AND SUCH ACCOUNT SHALL BE CREDITED WITH THE AMOUNT OF PAYMENTS RECEIVED IN THE FUND PURSUANT TO THE PROVISIONS OF THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OR OTHER FEDERAL LAW PROVIDING FOR ONE HUNDRED PERCENT FEDERAL SHARING FOR THE COST OF SUCH BENEFITS.

5. Applicability of other provisions. (a) Unless inconsistent with the provisions of this section, all provisions of this article shall apply to [entended] EXTENDED benefits in the same manner as they apply to regular benefits.

1 (b) No days of total unemployment shall be deemed to occur in any week
2 within an eligibility period during which a claimant fails to accept any
3 offer of suitable work or fails to apply for suitable work to which he
4 OR SHE was referred by the commissioner, who shall make such referral if
5 such work is available, or during which he OR SHE fails to engage
6 actively in seeking work by making a systematic and sustained effort to
7 obtain work and providing tangible evidence of such effort, and until he
8 OR SHE has worked in employment during at least four subsequent weeks
9 and earned remuneration of at least four times his OR HER benefit rate.

10 (c) For purposes of this subdivision, "suitable work" means any
11 employment which is within the claimant's capabilities, but if he OR SHE
12 furnishes evidence that his OR HER prospects for obtaining work in his
13 OR HER customary occupation within a reasonably short period are good,
14 the provisions of subdivision two of section five hundred ninety-three
15 of this article shall apply instead of the provisions hereof.

16 (d) Notwithstanding the foregoing, a claimant shall not be disquali-
17 fied for a failure to accept an offer of or apply for suitable work if

18 (i) the gross average weekly remuneration payable for the employment
19 does not exceed the claimant's benefit rate plus the amount of any
20 supplemental unemployment compensation benefits (as defined in section
21 five hundred one (c) (17) (D) of the internal revenue code of nineteen
22 hundred fifty-four) payable to the claimant for such week; or

23 (ii) the employment was not offered to the claimant in writing and was
24 not listed with the department; or

25 (iii) such failure would not result in denial of regular benefits, to
26 the extent that the provisions of this article for payment of regular
27 benefits are not inconsistent with the provisions of this subdivision;
28 or

29 (iv) the employment pays wages less than the higher of the minimum
30 wage provided by section six (a) (1) of the fair labor standards act of
31 nineteen hundred thirty-eight, without regard to any exemption, or the
32 minimum wage provided under this chapter; OR

33 (V) THE CLAIMANT IS IN APPROVED TRAINING PURSUANT TO SECTION FIVE
34 HUNDRED NINETY-NINE OF THIS TITLE.

35 (e) No days of total unemployment shall be deemed to occur in any week
36 within an eligibility period [with respect to a claimant who was
37 disqualified for twelve months for an act constituting a felony as
38 provided in subdivision four of] UNDER section five hundred ninety-three
39 of this article, until he OR SHE has subsequently worked in employment
40 [on not less than three days in each of four weeks or earned remunera-
41 tion of at least two hundred dollars, whether during or subsequent to
42 the twelve month period] IN ACCORDANCE WITH THE REQUIREMENTS SET FORTH
43 IN SECTION FIVE HUNDRED NINETY-THREE OF THIS ARTICLE.

44 [(f) The provisions of paragraphs (b), (c), (d) and (e) of subdivision
45 five of this section shall not apply to weeks of unemployment beginning
46 after March sixth, nineteen hundred ninety-three and before January
47 first, nineteen hundred ninety-five.]

48 6. Suspension of condition for state indicators. The governor, by
49 executive order, upon advice by the [industrial] commissioner and the
50 commissioner of [commerce] ECONOMIC DEVELOPMENT may for a period speci-
51 fied in the order suspend the applicability of the provisions of [item]
52 CLAUSE (ii) of subparagraph [(1)] ONE of paragraph (a) of subdivision
53 one of this section, or of the reference to such [item] SUBPARAGRAPH ONE
54 in subparagraph [(2)] TWO of such paragraph, or of both, if he OR SHE
55 finds that such suspension is required in order to assure adequate
56 payment of benefits to unemployed workers in the state who are experi-

1 encing unemployment for an extended duration, provided the rate of
2 insured unemployment for the applicable period equals or exceeds six
3 [percentum] PER CENTUM and such suspension is not in conflict with the
4 provisions of the federal-state extended unemployment compensation act.
5 The governor may at any time prolong or shorten the period specified in
6 such order.

7 S 15. Paragraph (c) of subdivision 1 of section 538 of the labor law,
8 as amended by chapter 831 of the laws of 1981, is amended to read as
9 follows:

10 (c) Claims of representatives for services rendered to a claimant in
11 connection with any claim arising under this article shall not be
12 enforceable unless approved by the appeal board and shall in no event
13 exceed the benefit allowed, INCLUDING BENEFITS THAT ARE NON-RECOVERABLE
14 PURSUANT TO SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINETY-SEVEN OF
15 THIS ARTICLE, except as provided in paragraph (d) of this subdivision.
16 In approving any fee requested by a representative pursuant to this
17 section, the appeal board shall consider the following factors: (i) the
18 total benefit allowed; (ii) the time spent in providing representation;
19 (iii) the legal and factual complexities involved; and (iv) such other
20 factors as the appeal board may deem relevant.

21 S 16. The labor law is amended by adding a new section 541 to read as
22 follows:

23 S 541. DOMESTIC VIOLENCE TRAINING PROGRAM. 1. THE COMMISSIONER SHALL
24 IMPLEMENT A TRAINING CURRICULUM FOR EMPLOYEES OF THE DEPARTMENT WHO
25 INTERACT WITH CLAIMANTS APPLYING FOR UNEMPLOYMENT INSURANCE DUE TO THEIR
26 DOMESTIC VIOLENCE STATUS.

27 2. ALL SENIOR MANAGEMENT PERSONNEL OF THE DEPARTMENT THAT SUPERVISE
28 THE TRAINING OF EMPLOYEES INVOLVED IN HANDLING UNEMPLOYMENT CLAIMS
29 INCLUDING MEMBERS OF THE UNEMPLOYMENT APPEALS BOARD SHALL BE TRAINED IN
30 THIS CURRICULUM NOT LATER THAN ONE HUNDRED EIGHTY DAYS FROM THE EFFEC-
31 TIVE DATE OF THIS SECTION. THE COMMISSIONER SHALL DEVELOP AN ONGOING
32 PLAN FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS TO BE
33 TRAINED IN THE NATURE AND DYNAMICS OF DOMESTIC VIOLENCE, SO THAT EMPLOY-
34 MENT SEPARATIONS STEMMING FROM DOMESTIC VIOLENCE ARE RELIABLY SCREENED
35 AND ADJUDICATED, AND SO THAT VICTIMS OF DOMESTIC VIOLENCE ARE ABLE TO
36 TAKE ADVANTAGE OF THE FULL RANGE OF JOB SERVICES PROVIDED BY THE DEPART-
37 MENT.

38 S 17. The opening paragraph of subdivision 1 of section 560 of the
39 labor law, as amended by chapter 103 of the laws of 1965, is amended to
40 read as follows:

41 Liability. Any employer shall become liable for contributions under
42 this article if he OR SHE has paid remuneration of [three hundred] ONE
43 THOUSAND dollars or more in any calendar quarter, except that liability
44 with respect to persons employed in personal or domestic service in
45 private homes shall be considered separately and an employer shall
46 become liable for contributions with respect to such persons only if he
47 OR SHE has paid to them remuneration in cash of five hundred dollars or
48 more in any calendar quarter. Such liability for contributions shall
49 commence on the first day of such calendar quarter.

50 S 18. This act shall take effect immediately.