S T A T E  O F  N E W  Y O R K

6138

2011-2012 Regular Sessions

I N  A S S E M B L Y

March 8, 2011

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to unemployment insurance benefits, contributions, and partial unemployment; and to repeal subdivision 4 of section 575-a of such law relating to penalties relating to wage information

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

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

(a) "Wages" means all remuneration paid, except that such term does not include remuneration paid to an employee by an employer after eight thousand five hundred dollars have been paid to such employee by such employer with respect to employment during any calendar year, EXCEPT THAT SUCH TERM DOES NOT INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND TWELVE WHICH EXCEEDS NINE THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND THIRTEEN WHICH EXCEEDS TEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND FOURTEEN WHICH EXCEEDS ELEVEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND FIFTEEN WHICH EXCEEDS TWELVE THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO

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

LBD06806-01-1

THOUSAND SIXTEEN WHICH EXCEEDS TWELVE THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND SEVENTEEN WHICH EXCEEDS THIRTEEN THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND EIGHTEEN WHICH EXCEEDS THIRTEEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND NINETEEN WHICH EXCEEDS FOURTEEN THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND TWENTY AND THEREAFTER WHICH EXCEEDS EIGHTEEN PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE; PROVIDED, HOWEVER, THAT IN CALCULATING SUCH MAXIMUM AMOUNT OF REMUNERATION, THE AMOUNT ARRIVED AT BY MULTIPLYING THE STATE'S AVERAGE WEEKLY WAGE TIMES EIGHTEEN PERCENT SHALL BE ROUNDED UP TO THE NEAREST HUNDRED DOLLARS. The term "employment" includes for the purposes of this subdivision services constituting employment under any unemployment compensation law of another state or the United States. NOTWITHSTANDING THE FOREGOING, THE MAXIMUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE "WAGES" WITHIN THE MEANING OF THIS SECTION AS OF THE FIRST DAY OF JANUARY, TWO THOUSAND TWENTY-TWO, AND ON EACH JANUARY FIRST THEREAFTER, SHALL BE REDUCED BY ONE PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE, WITH THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE NEAREST HUNDRED DOLLARS, IF ON THE PRECEDING THIRTY-FIRST DAY OF DECEMBER THE COMMISSIONER SHALL HAVE DETERMINED THAT ON SUCH DAY AND THE IMMEDIATELY PRECEDING THIRTY-FIRST DAY OF DECEMBER, THE FUND HAD A BALANCE EQUAL TO OR GREATER THAN 1.7 PERCENT OF AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, PROVIDED HOWEVER, THAT IF, ON ANY THIRTY-FIRST DAY OF DECEMBER FOLLOWING SUCH REDUCTION IN THE MAXIMUM AMOUNT OF REMUNERATION, THE COMMISSIONER SHALL DETERMINE THAT THE BALANCE OF THE FUND IS LESS THAN 1.25 PERCENT OF AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, THE MAXIMUM AMOUNT OF REMUNERATION FOR THE CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY NEXT SUCCEEDING SUCH DATE SHALL INCREASE BY TWO PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE, WITH THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE NEAREST HUNDRED DOLLARS. IN NO CASE MAY SUCH REDUCTION REDUCE THE MAXIMUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE WAGES BELOW TEN THOUSAND DOLLARS.

S 2. The labor law is amended by adding a new section 529 to read as follows:

S 529. AVERAGE ANNUAL WAGE; AVERAGE WEEKLY WAGE. 1. THE "AVERAGE ANNUAL WAGE" SHALL BE THE AVERAGE ANNUAL WAGE OF THE STATE OF NEW YORK FOR THE PREVIOUS CALENDAR YEAR DETERMINED BY THE COMMISSIONER NO LATER THAN THE THIRTY-FIRST DAY OF MAY OF EACH YEAR.

2. THE "AVERAGE WEEKLY WAGE" SHALL BE THE AVERAGE WEEKLY WAGE OF THE STATE OF NEW YORK FOR THE PREVIOUS CALENDAR YEAR DETERMINED BY THE COMMISSIONER NO LATER THAN THE THIRTY-FIRST DAY OF MAY OF EACH YEAR.

S 3. Subdivision 1 of section 560 of the labor law, as amended by chapter 103 of the laws of 1965, is amended to read as follows:

1. Liability. Any employer shall become liable for contributions under this article if he has paid remuneration of [three hundred dollars] ONE PERCENT OF AVERAGE ANNUAL WAGE ROUNDED UP TO THE NEAREST TEN DOLLARS, or more in any calendar quarter, except that liability with respect to persons employed in personal or domestic service in private homes shall

be considered separately and an employer shall become liable for contributions with respect to such persons only if he has paid to them remuneration in cash of [five hundred dollars] ONE AND ONE-HALF PERCENT OF AVERAGE ANNUAL WAGE, ROUNDED UP TO THE NEAREST TEN DOLLARS, or more in any calendar quarter. Such liability for contributions shall commence on the first day of such calendar quarter.

An employer who, by operation of law, purchase or otherwise becomes successor to an employer liable for contributions shall become liable for contributions on the day of his succession. This provision shall not affect such successor's liability as otherwise prescribed by law for unpaid contributions due from his predecessor.

S 4. Subparagraph 3 of paragraph (e) of subdivision 1 of section 581 of the labor law, as amended by chapter 589 of the laws of 1998, is amended to read as follows:

(3) An employer's account shall not be charged, and the charges shall instead be made to the general account, for benefits paid to a claimant RESULTING FROM A VOLUNTARY SEPARATION RESULTING FROM DOMESTIC VIOLENCE, THE ILLNESS OR DISABILITY OF A MEMBER OF THE CLAIMANT'S IMMEDIATE FAMILY, OR THE NEED FOR THE CLAIMANT TO ACCOMPANY HIS OR HER SPOUSE DUE TO A CHANGE IN LOCATION OF THE SPOUSE'S EMPLOYMENT TO A PLACE FROM WHICH IT IS IMPRACTICAL FOR SUCH INDIVIDUAL TO COMMUTE, OR after the expiration of a period of disqualification from benefits following a final determination that the claimant lost employment with the employer through misconduct or voluntary separation of employment without good cause within the meaning of section five hundred ninety-three of this article and the charges are attributable to remuneration paid during the claimant's base period of employment with such employer prior to the claimant's loss of employment with such employer through misconduct or voluntary separation of employment without good cause.

S 5. Paragraph (a) of subdivision 2 of section 581 of the labor law, as added by chapter 413 of the laws of 2003, is amended to read as follows:

(a) Each qualified employer's rate of contribution shall be the percentage shown in the column headed by the size of the fund index as of the computation date and on the same line with his or her negative or positive employer's account percentage, except that if within the three payroll years preceding the computation date any part of a negative balance has been transferred from any employer's account as a charge to the general account pursuant to the provisions of paragraph (e) of subdivision one of this section such employer's rate of contribution shall be the maximum contribution rate as shown in the column headed by the size of fund index;

| | Size of Fund Index | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Employer's Account Percentage | Less Than 0% | 0% but less than 0.5% | 0.5% but less than 1.0% | 1.0% but less than 1.5% | 1.5% but less than 2.0% | 2.0% but less than 2.5% | 2.5% but less than 3.0% | 3.0% but less than 3.5% | 3.5% but less than 4.0% | 4.5% but less than 5.0% | 5.0% or more |
| Negative | | | | | | | | | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 21.0% or more | 8.90 | 8.70 | 8.50 | 8.30 | 8.10 | 7.30 | 6.90 | 6.50 | 6.20 | 6.10 | 6.00 | 5.90 |
| 20.5% or more but less than 21.0% | 8.80 | 8.60 | 8.40 | 8.20 | 8.00 | 7.20 | 6.80 | 6.40 | 6.10 | 6.00 | 5.90 | 5.80 |
| 20.0% or more but less than 20.5% | 8.70 | 8.50 | 8.30 | 8.10 | 7.90 | 7.10 | 6.70 | 6.30 | 6.00 | 5.90 | 5.80 | 5.70 |
| 19.5% or more but less than 20.0% | 8.60 | 8.40 | 8.20 | 8.00 | 7.80 | 7.00 | 6.60 | 6.20 | 5.90 | 5.80 | 5.70 | 5.60 |
| 19.0% or more but less than 19.5% | 8.50 | 8.30 | 8.10 | 7.90 | 7.70 | 6.90 | 6.50 | 6.10 | 5.80 | 5.70 | 5.60 | 5.50 |
| 18.5% or more but less than 19.0% | 8.40 | 8.20 | 8.00 | 7.80 | 7.60 | 6.80 | 6.40 | 6.00 | 5.70 | 5.60 | 5.50 | 5.40 |
| 18.0% or more but less than 18.5% | 8.30 | 8.10 | 7.90 | 7.70 | 7.50 | 6.70 | 6.30 | 5.90 | 5.60 | 5.50 | 5.40 | 5.30 |
| 17.5% or more but less than 18.0% | 8.20 | 8.00 | 7.80 | 7.60 | 7.40 | 6.60 | 6.20 | 5.80 | 5.50 | 5.40 | 5.30 | 5.20 |
| 17.0% or more but less than 17.5% | 8.10 | 7.90 | 7.70 | 7.50 | 7.30 | 6.50 | 6.10 | 5.70 | 5.40 | 5.30 | 5.20 | 5.10 |
| 16.5% or more but less than 17.0% | 8.00 | 7.80 | 7.60 | 7.40 | 7.20 | 6.40 | 6.00 | 5.60 | 5.30 | 5.20 | 5.10 | 5.00 |
| 16.0% or more but less than 16.5% | 7.90 | 7.70 | 7.50 | 7.30 | 7.10 | 6.30 | 5.90 | 5.50 | 5.20 | 5.10 | 5.00 | 4.90 |
| 15.5% or more | | | | | | | | | | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| but less than 16.0% | 7.80 | 7.60 | 7.40 | 7.20 | 7.00 | 6.20 | 5.80 | 5.40 | 5.10 | 5.00 | 4.90 | 4.80 |
| 15.0% or more but less than 15.5% | 7.70 | 7.50 | 7.30 | 7.10 | 6.90 | 6.10 | 5.70 | 5.30 | 5.00 | 4.90 | 4.80 | 4.70 |
| 14.5% or more but less than 15.0% | 7.60 | 7.40 | 7.20 | 7.00 | 6.80 | 6.00 | 5.60 | 5.20 | 4.90 | 4.80 | 4.70 | 4.60 |
| 14.0% or more but less than 14.5% | 7.50 | 7.30 | 7.10 | 6.90 | 6.70 | 5.90 | 5.50 | 5.10 | 4.80 | 4.70 | 4.60 | 4.50 |
| 13.5% or more but less than 14.0% | 7.40 | 7.20 | 7.00 | 6.80 | 6.60 | 5.80 | 5.40 | 5.00 | 4.70 | 4.60 | 4.50 | 4.40 |
| 13.0% or more but less than 13.5% | 7.30 | 7.10 | 6.90 | 6.70 | 6.50 | 5.70 | 5.30 | 4.90 | 4.60 | 4.50 | 4.40 | 4.30 |
| 12.5% or more but less than 13.0% | 7.20 | 7.00 | 6.80 | 6.60 | 6.40 | 5.60 | 5.20 | 4.80 | 4.50 | 4.40 | 4.30 | 4.20 |
| 12.0% or more but less than 12.5% | 7.10 | 6.90 | 6.70 | 6.50 | 6.30 | 5.50 | 5.10 | 4.70 | 4.40 | 4.30 | 4.20 | 4.10 |
| 11.5% or more but less than 12.0% | 7.00 | 6.80 | 6.60 | 6.40 | 6.20 | 5.40 | 5.00 | 4.60 | 4.30 | 4.20 | 4.10 | 4.00 |
| 11.0% or more but less than 11.5% | 6.90 | 6.70 | 6.50 | 6.30 | 6.10 | 5.30 | 4.90 | 4.50 | 4.20 | 4.10 | 4.00 | 3.90 |
| 10.5% or more but less than 11.0% | 6.80 | 6.60 | 6.40 | 6.20 | 6.00 | 5.20 | 4.80 | 4.40 | 4.10 | 4.00 | 3.90 | 3.80 |
| 10.0% or more | | | | | | | | | | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| but less than 10.5% | 6.70 | 6.50 | 6.30 | 6.10 | 5.90 | 5.10 | 4.70 | 4.30 | 4.00 | 3.90 | 3.80 | 3.70 |
| 9.5% or more but less than 10.0% | 6.60 | 6.40 | 6.20 | 6.00 | 5.80 | 5.00 | 4.60 | 4.20 | 3.90 | 3.80 | 3.70 | 3.60 |
| 9.0% or more but less than 9.5% | 6.50 | 6.30 | 6.10 | 5.90 | 5.70 | 4.90 | 4.50 | 4.10 | 3.80 | 3.70 | 3.60 | 3.50 |
| 8.5% or more but less than 9.0% | 6.40 | 6.20 | 6.00 | 5.80 | 5.60 | 4.80 | 4.40 | 4.00 | 3.70 | 3.60 | 3.50 | 3.40 |
| 8.0% or more but less than 8.5% | 6.30 | 6.10 | 5.90 | 5.70 | 5.50 | 4.70 | 4.30 | 3.90 | 3.60 | 3.50 | 3.40 | 3.30 |
| 7.0% or more but less than 8.0% | 6.20 | 6.00 | 5.80 | 5.60 | 5.40 | 4.60 | 4.20 | 3.80 | 3.50 | 3.40 | 3.30 | 3.20 |
| 6.0% or more but less than 7.0% | 6.10 | 5.90 | 5.70 | 5.50 | 5.30 | 4.50 | 4.10 | 3.70 | 3.40 | 3.30 | 3.20 | 3.10 |
| 5.0% or more but less than 6.0% | 6.00 | 5.80 | 5.60 | 5.40 | 5.20 | 4.40 | 4.00 | 3.60 | 3.30 | 3.20 | 3.10 | 3.00 |
| 4.0% or more but less than 5.0% | 5.90 | 5.70 | 5.50 | 5.30 | 5.10 | 4.30 | 3.90 | 3.50 | 3.20 | 3.10 | 3.00 | 2.90 |
| 3.0% or more but less than 4.0% | 5.60 | 5.40 | 5.20 | 5.00 | 4.80 | 4.20 | 3.80 | 3.40 | 3.10 | 3.00 | 2.90 | 2.80 |
| 2.0% or more but less than 3.0% | 5.50 | 5.30 | 5.10 | 4.90 | 4.70 | 4.10 | 3.70 | 3.30 | 3.00 | 2.90 | 2.80 | 2.70 |
| 1.0% or more | | | | | | | | | | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| but less than 2.0% | 5.40 | 5.20 | 5.00 | 4.80 | 4.60 | 4.00 | 3.60 | 3.20 | 2.90 | 2.80 | 2.70 | 2.60 |
| Less than 1.0% | 5.20 | 5.00 | 4.80 | 4.60 | 4.40 | 3.80 | 3.40 | 3.00 | 2.70 | 2.60 | 2.50 | 2.40 |
| Positive | | | | | | | | | | | | |
| Less than 1.0% | 4.10 | 3.90 | 3.70 | 3.50 | 3.30 | 2.90 | 2.50 | 2.10 | 1.90 | 1.80 | 1.70 | 1.60 |
| 1.0% or more but less than 2.0% | 4.00 | 3.80 | 3.60 | 3.40 | 3.20 | 2.80 | 2.40 | 2.00 | 1.80 | 1.70 | 1.60 | 1.50 |
| 2.0% or more but less than 3.0% | 3.90 | 3.70 | 3.50 | 3.30 | 3.10 | 2.70 | 2.30 | 1.90 | 1.70 | 1.60 | 1.50 | 1.40 |
| 3.0% or more but less than 4.0% | 3.80 | 3.60 | 3.40 | 3.20 | 3.00 | 2.60 | 2.20 | 1.80 | 1.60 | 1.50 | 1.40 | 1.30 |
| 4.0% or more but less than 5.0% | 3.70 | 3.50 | 3.30 | 3.10 | 2.90 | 2.50 | 2.10 | 1.70 | 1.50 | 1.40 | 1.30 | 1.20 |
| 5.0% or more but less than 5.5% | 3.60 | 3.40 | 3.20 | 3.00 | 2.80 | 2.40 | 2.00 | 1.60 | 1.40 | 1.30 | 1.20 | 1.10 |
| 5.5% or more but less than 5.75% | 3.50 | 3.30 | 3.10 | 2.90 | 2.70 | 2.30 | 1.90 | 1.50 | 1.30 | 1.20 | 1.10 | 1.00 |
| 5.75% or more but less than 6.0% | 3.40 | 3.20 | 3.00 | 2.80 | 2.60 | 2.20 | 1.80 | 1.40 | 1.20 | 1.10 | 1.00 | 0.90 |
| 6.0% or more but less than 6.25% | 3.30 | 3.10 | 2.90 | 2.70 | 2.50 | 2.10 | 1.70 | 1.30 | 1.10 | 1.00 | 0.90 | 0.80 |
| 6.25% or more but less than 6.5% | 3.20 | 3.00 | 2.80 | 2.60 | 2.40 | 2.00 | 1.60 | 1.20 | 1.00 | 0.90 | 0.80 | 0.70 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6.5% or more but less than 6.75% | 3.10 | 2.90 | 2.70 | 2.50 | 2.30 | 1.90 | 1.50 | 1.10 | 0.90 | 0.80 | 0.70 | 0.60 |
| 6.75% or more but less than 7.0% | 3.00 | 2.80 | 2.60 | 2.40 | 2.20 | 1.80 | 1.40 | 1.00 | 0.80 | 0.70 | 0.60 | 0.50 |
| 7.0% or more but less than 7.25% | 2.90 | 2.70 | 2.50 | 2.30 | 2.10 | 1.70 | 1.30 | 0.90 | 0.70 | 0.60 | 0.50 | 0.40 |
| 7.25% or more but less than 7.5% | 2.80 | 2.60 | 2.40 | 2.20 | 2.00 | 1.60 | 1.20 | 0.80 | 0.60 | 0.50 | 0.40 | 0.30 |
| 7.5% or more but less than 7.75% | 2.70 | 2.50 | 2.30 | 2.10 | 1.90 | 1.50 | 1.10 | 0.70 | 0.50 | 0.40 | 0.30 | 0.20 |
| 7.75% or more but less than 8.0% | 2.60 | 2.40 | 2.20 | 2.00 | 1.80 | 1.40 | 1.00 | 0.60 | 0.40 | 0.30 | 0.20 | 0.10 |
| 8.0% or more but less than 8.25% | 2.50 | 2.30 | 2.10 | 1.90 | 1.70 | 1.30 | 0.90 | 0.50 | 0.30 | 0.20 | 0.10 | 0.00 |
| 8.25% or more but less than 8.5% | 2.40 | 2.20 | 2.00 | 1.80 | 1.60 | 1.20 | 0.80 | 0.40 | 0.20 | 0.10 | 0.00 | 0.00 |
| 8.5% or more but less than 8.75% | 2.30 | 2.10 | 1.90 | 1.70 | 1.50 | 1.10 | 0.70 | 0.30 | 0.10 | 0.00 | 0.00 | 0.00 |
| 8.75% or more but less than 9.0% | 2.20 | 2.00 | 1.80 | 1.60 | 1.40 | 1.00 | 0.60 | 0.20 | 0.00 | 0.00 | 0.00 | 0.00 |
| 9.0% or more but less than 9.25% | 2.10 | 1.90 | 1.70 | 1.50 | 1.30 | 0.90 | 0.50 | 0.10 | 0.00 | 0.00 | 0.00 | 0.00 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9.25% or more but less than 9.5% | 2.00 | 1.80 | 1.60 | 1.40 | 1.20 | 0.80 | 0.40 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 9.5% or more but less than 9.75% | 1.90 | 1.70 | 1.50 | 1.30 | 1.10 | 0.70 | 0.30 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 9.75% or more but less than 10.0% | 1.80 | 1.60 | 1.40 | 1.20 | 1.00 | 0.60 | 0.20 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10.0% or more but less than 10.25% | 1.70 | 1.50 | 1.30 | 1.10 | 0.90 | 0.50 | 0.10 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10.25% or more but less than 10.5% | 1.60 | 1.40 | 1.20 | 1.00 | 0.80 | 0.40 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10.5% or more [but less than 10.75%] | 1.50 | 1.30 | 1.10 | 0.90 | 0.70 | 0.30 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| [10.75% or more but less than 11.0% | 1.40 | 1.20 | 1.00 | 0.80 | 0.60 | 0.20 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 11.0% or more but less than 11.25% | 1.30 | 1.10 | 0.90 | 0.70 | 0.50 | 0.10 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 11.25% or more but less than 11.5% | 1.20 | 1.00 | 0.80 | 0.60 | 0.40 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 11.5% or more but less than 11.75% | 1.10 | 0.90 | 0.70 | 0.50 | 0.30 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 11.75% or more but less than 12.0% | 1.00 | 0.80 | 0.60 | 0.40 | 0.20 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 12.0% or more | 0.90 | 0.70 | 0.50 | 0.30 | 0.10 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00] |

S 6. Subdivision 5 of section 590 of the labor law, as amended by chapter 413 of the laws of 2003, is amended to read as follows:

5. Benefit rate. A claimant's weekly benefit amount shall be one twenty-sixth of the remuneration paid during the highest calendar quarter of the base period by employers, liable for contributions or payments in lieu of contributions under this article. However, for claimants whose high calendar quarter remuneration during the base period is three thousand five hundred seventy-five dollars or less, the benefit amount shall be one twenty-fifth of the remuneration paid during the highest calendar quarter of the base period by employers liable for contributions or payments in lieu of contributions under this article. Any claimant whose high calendar quarter remuneration during the base period is more than three thousand five hundred seventy-five dollars shall not have a weekly benefit amount less than one hundred forty-three dollars. The weekly benefit amount, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. On the first Monday of September, nineteen hundred ninety-eight the weekly benefit amount shall not exceed three hundred sixty-five dollars nor be less than forty dollars, until the first Monday of September, two thousand, at which time the maximum benefit payable pursuant to this subdivision shall equal one-half of the state average weekly wage for covered employment as calculated by the department no sooner than July first, two thousand and no later than August first, two thousand, rounded down to the lowest dollar. ON THE FIRST MONDAY OF JANUARY, TWO THOUSAND TWELVE, THE WEEKLY BENEFIT SHALL NOT BE LESS THAN SEVENTY-FIVE DOLLARS NOR SHALL IT EXCEED

FOUR HUNDRED SEVENTY-FIVE DOLLARS. ON THE FIRST MONDAY OF JULY, TWO THOUSAND THIRTEEN, THE MAXIMUM BENEFIT RATE SHALL BE FORTY-THREE PERCENT OF THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND FOURTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-FIVE PERCENT OF THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND EIGHTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-SEVEN PERCENT OF THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND NINETEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FIFTY PERCENT OF THE AVERAGE WEEKLY WAGE. EACH YEAR THEREAFTER, THE MAXIMUM BENEFIT RATE SHALL BE FIFTY PERCENT OF THE AVERAGE WEEKLY WAGE.

S 7. Paragraph (a) of subdivision 1, the opening paragraph of subdivision 2 and subdivision 3 of section 593 of the labor law, paragraph (a) of subdivision 1 as amended by chapter 35 of the laws of 2009, the opening paragraph of subdivision 2 as amended by chapter 5 of the laws of 2000 and subdivision 3 as amended by chapter 589 of the laws of 1998, are amended to read as follows:

(a) No days of total unemployment shall be deemed to occur after a claimant's voluntary separation without good cause from employment until he or she has subsequently worked in employment and earned remuneration at least equal to [five] TEN times his or her weekly benefit rate. In addition to other circumstances that may be found to constitute good cause, including a compelling family reason as set forth in paragraph (b) of this subdivision, voluntary separation from employment shall not in itself disqualify a claimant if circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance under the terms of subdivision two of this section or if the claimant, pursuant to an option provided under a collective bargaining agreement or written employer

plan which permits waiver of his right to retain the employment when there is a temporary layoff because of lack of work, has elected to be separated for a temporary period and the employer has consented thereto.

No days of total unemployment shall be deemed to occur beginning with the day on which a claimant, without good cause, refuses to accept an offer of employment for which he is reasonably fitted by training and experience, including employment not subject to this article, until he has subsequently worked in employment and earned remuneration at least equal to [five] TEN times his or her weekly benefit rate. Except that claimants who are not subject to a recall date or who do not obtain employment through a union hiring hall and who are still unemployed after receiving thirteen weeks of benefits shall be required to accept any employment proffered that such claimants are capable of performing, provided that such employment would result in a wage not less than eighty percent of such claimant's high calendar quarter wages received in the base period and not substantially less than the prevailing wage for similar work in the locality as provided for in paragraph (d) of this subdivision. No refusal to accept employment shall be deemed without good cause nor shall it disqualify any claimant otherwise eligible to receive benefits if:

3. Misconduct. No days of total unemployment shall be deemed to occur after a claimant lost employment through misconduct in connection with his or her employment until he or she has subsequently worked in employment and earned remuneration at least equal to [five] TEN times his or her weekly benefit rate.

S 8. Section 594 of the labor law, as amended by chapter 728 of the laws of 1952, the opening paragraph as amended by chapter 139 of the laws of 1968, is amended to read as follows:

S 594. Reduction of benefits for false statement. A claimant who has wilfully made a false statement or representation to obtain any benefit under the provisions of this article shall forfeit benefits for at least the first four but not more than the first eighty effective days following discovery of such offense for which he otherwise would have been entitled to receive benefits. Such penalty shall apply only once with respect to each such offense.

For the purpose of subdivision four of section five hundred ninety of this [article] TITLE, the claimant shall be deemed to have received benefits for such forfeited effective days.

The penalty provided in this section shall not be confined to a single benefit year but shall no longer apply in whole or in part after the expiration of two years from the date [on which the offense was committed] OF THE FINAL DETERMINATION. SUCH TWO YEAR PERIOD SHALL BE EXTENDED DURING THE TIME PERIOD A CLAIMANT HAS AN APPEAL PENDING.

A claimant shall refund all moneys received because of such false statement or representation made by him AND PAY A CIVIL PENALTY IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SUCH OVERPAID BENEFITS. WHEN A DETERMINATION, BASED UPON A WILFUL FALSE STATEMENT OR REPRESENTATION OR BASED UPON THE WILLFUL CONCEALMENT OF A PERTINENT FACT IN CONNECTION WITH THE CLAIM FOR BENEFITS, BECOMES FINAL THROUGH EXHAUSTION OF APPEAL RIGHTS OR FAILURE TO EXHAUST HEARING RIGHTS, THE COMMISSIONER MAY FILE WITH THE COUNTY CLERK OF THE COUNTY WHERE THE CLAIMANT RESIDES, THE FINAL DETERMINATION OF THE COMMISSIONER, OR THE FINAL DECISION BY AN ADMINISTRATIVE LAW JUDGE, THE APPEAL BOARD OR A COURT, CONTAINING THE AMOUNT FOUND TO BE DUE, INCLUDING INTEREST AND PENALTY. THE FILING OF SUCH FINAL DETERMINATION OR DECISION SHALL HAVE THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF

SUCH CLERK. THE FINAL DETERMINATION OR DECISION MAY BE ENFORCED BY AND IN THE SAME MANNER, AND WITH LIKE EFFECT AS THAT PRESCRIBED BY THE CIVIL PRACTICE LAW AND RULES FOR THE RECOVERY OF A MONEY JUDGMENT, INCLUDING ACCRUAL OF INTEREST. PENALTIES ASSESSED BECAUSE OF SUCH FALSE STATEMENT OR REPRESENTATION OR WILLFUL CONCEALMENT MAY ALSO BE RECOVERED THROUGH COMMON LAW OR STATUTORY RIGHTS OF OFFSET AND SHALL BE DEPOSITED IN THE UNEMPLOYMENT INSURANCE CONTROL FUND ESTABLISHED PURSUANT TO SUBDIVISION TWO OF SECTION FIVE HUNDRED FIFTY-TWO-B OF THIS ARTICLE.

S 9. Subdivision 1 of section 596 of the labor law, as amended by chapter 204 of the laws of 1982, is amended to read as follows:

1. Claim filing and certification to unemployment. A claimant shall file a claim for benefits [at] WITH the [local state employment office serving the area in which he was last employed or in which he resides] DEPARTMENT'S UNEMPLOYMENT INSURANCE DIVISION within such time and in such manner as the commissioner shall prescribe. He shall disclose whether he owes child support obligations, as hereafter defined. If a claimant making such disclosure is eligible for benefits, the commissioner shall notify the state or local child support enforcement agency, as hereafter defined, that the claimant is eligible.

A claimant shall correctly report any days of employment and any compensation he received for such employment, including employments not subject to this article, and the days on which he was totally unemployed and shall make such reports in accordance with such regulations as the commissioner shall prescribe.

S 10. Section 575 of the labor law is amended by adding a new subdivision 2 to read as follows:

2. PENALTIES. IF ANY EMPLOYER FAILS TO COMPLY WITH THE PROVISIONS IN SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A PENALTY

OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS FOR EACH DAY'S FAILURE TO KEEP THE RECORDS AND/OR FURNISH THE RECORDS REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION. EACH DAY'S FAILURE TO KEEP AND/OR FURNISH THE RECORDS REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION SHALL CONSTITUTE A SEPARATE OFFENSE. IN ASSESSING THE AMOUNT OF THE PENALTY, OR THE PERIOD FOR WHICH THE PENALTY SHALL APPLY, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE SIZE OF THE EMPLOYER'S BUSINESS, THE GOOD FAITH OF THE EMPLOYER, THE GRAVITY OF THE VIOLATION, THE HISTORY OF PREVIOUS VIOLATIONS AND FAILURE TO COMPLY WITH THE PAYMENT, RECORDKEEPING, AUDIT AND REPORTING REQUIREMENTS OF THIS ARTICLE.

S 11. Subdivision 4 of section 575 of the labor law, as amended by chapter 634 of the laws of 1952 and as renumbered by chapter 639 of the laws of 1954, is amended to read as follows:

[4] 3. Collection and disposition of penalties. Any penalty pursuant to the provisions of this section AND SECTION FIVE HUNDRED SEVENTY-FIVE-A OF THIS TITLE shall be assessed, collected, and paid into the [fund] UNEMPLOYMENT INSURANCE CONTROL FUND ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED FIFTY-TWO-B OF THIS ARTICLE in the same manner as if it were a deficiency, in accordance with the provisions of this title.

S 12. Subdivision 4 of section 575-a of the labor law is REPEALED.

S 13. Section 630 of the labor law, as added by chapter 705 of the laws of 1944, is amended to read as follows:

S 630. Penalties. Any misdemeanor defined in this title shall be punishable by a fine of not more than [five hundred] ONE THOUSAND dollars or imprisonment for not more than one year, or both.

The penalties and misdemeanors imposed by this title are in addition to those otherwise prescribed in this entire article.

S 14. Section 605 of the labor law, as amended by section 2 of chapter 81 of the laws of 1992, is amended to read as follows:

S 605. Qualified employers; application. An employer who has at least [five] TWO full time employees may apply to participate in a shared work program. The application shall be made according to such forms and procedures as the commissioner may specify and shall include such information as the commissioner may require. The commissioner shall not approve such application unless the employer (1) agrees that for the duration of the program it will not eliminate or diminish health insurance, medical insurance, or any other fringe benefits provided to employees immediately prior to the application; (2) certifies that the collective bargaining agent for the employees, if any, has agreed to participate in the program; (3) certifies that if not for the shared work program to be initiated the employer would reduce or would have reduced its work force to a degree equivalent to the total number of working hours proposed to be reduced or restricted for all included employees; (4) certifies that it will not hire additional part time or full time employees for the affected work force while the program is in operation; and (5) agrees that no participant of the program shall receive, in the aggregate, more than twenty weeks of benefits exclusive of the waiting week.

S 15. Severability. If any amendment contained in a clause, sentence, paragraph, section or part of this act shall be adjudged by the United States Department of Labor to violate requirements for maintaining benefit standards required of the state in order to be eligible for any financial benefit offered through federal law or regulation including,

but not limited to, the waiver of interest on advances or the waiver of obligations to repay such advances to the state unemployment insurance fund, such amendments shall be severed from this act and shall not affect, impair or invalidate the remainder thereof.

S 16. This act shall take effect immediately, except that:

a. sections one, three and five of this act shall take effect January 1, 2012 and shall apply to all wages payable in the taxable year beginning with such date;

b. section four of this act shall take effect ninety days after this act shall have become a law and shall apply to charges related to all full weeks of benefits paid on or after the effective date of such section;

c. section seven of this act shall take effect one hundred twenty days after this act shall have become a law and shall apply only to valid original claims filed on or after the effective date of such section;

d. section six of this act shall take effect January 1, 2012 and shall apply to all persons receiving regular unemployment insurance benefits on such date and to new benefit claims payable after such date;

e. section eight of this act shall take effect sixty days after this act shall have become a law and shall apply to all willful false statements or misrepresentations made on or after the effective date of such section and determinations and penalties arising therefrom; and

f. sections ten and eleven of this act shall take effect sixty days after this act shall have become a law and shall apply to all violations committed on or after the effective date of such sections.