

6138

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 8, 2011

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 1 of section 518 of the labor  
2     law, as amended by chapter 589 of the laws of 1998, is amended to read  
3     as follows:  
4     (a) "Wages" means all remuneration paid, except that such term does  
5     not include remuneration paid to an employee by an employer after eight  
6     thousand five hundred dollars have been paid to such employee by such  
7     employer with respect to employment during any calendar year, EXCEPT  
8     THAT SUCH TERM DOES NOT INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN  
9     EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING  
10    WITH THE FIRST DAY OF JANUARY, TWO THOUSAND TWELVE WHICH EXCEEDS NINE  
11    THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION  
12    PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY  
13    CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND  
14    THIRTEEN WHICH EXCEEDS TEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH  
15    TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH  
16    RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST  
17    DAY OF JANUARY, TWO THOUSAND FOURTEEN WHICH EXCEEDS ELEVEN THOUSAND FIVE  
18    HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN  
19    EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR  
20    YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND FIFTEEN WHICH  
21    EXCEEDS TWELVE THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERA-  
22    TION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT  
23    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.

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1 THOUSAND SIXTEEN WHICH EXCEEDS TWELVE THOUSAND FIVE HUNDRED DOLLARS, NOR  
2 SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER  
3 WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE  
4 FIRST DAY OF JANUARY, TWO THOUSAND SEVENTEEN WHICH EXCEEDS THIRTEEN  
5 THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN  
6 EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR  
7 YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND EIGHTEEN  
8 WHICH EXCEEDS THIRTEEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH  
9 TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH  
10 RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST  
11 DAY OF JANUARY, TWO THOUSAND NINETEEN WHICH EXCEEDS FOURTEEN THOUSAND  
12 DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY  
13 AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGIN-  
14 NING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND TWENTY AND THEREAFTER  
15 WHICH EXCEEDS EIGHTEEN PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE;  
16 PROVIDED, HOWEVER, THAT IN CALCULATING SUCH MAXIMUM AMOUNT OF REMUNERA-  
17 TION, THE AMOUNT ARRIVED AT BY MULTIPLYING THE STATE'S AVERAGE WEEKLY  
18 WAGE TIMES EIGHTEEN PERCENT SHALL BE ROUNDED UP TO THE NEAREST HUNDRED  
19 DOLLARS. The term "employment" includes for the purposes of this subdi-  
20 vision services constituting employment under any unemployment compen-  
21 sation law of another state or the United States. NOTWITHSTANDING THE  
22 FOREGOING, THE MAXIMUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE  
23 "WAGES" WITHIN THE MEANING OF THIS SECTION AS OF THE FIRST DAY OF JANU-  
24 ARY, TWO THOUSAND TWENTY-TWO, AND ON EACH JANUARY FIRST THEREAFTER,  
25 SHALL BE REDUCED BY ONE PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE, WITH  
26 THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE NEAREST HUNDRED DOLLARS,  
27 IF ON THE PRECEDING THIRTY-FIRST DAY OF DECEMBER THE COMMISSIONER SHALL  
28 HAVE DETERMINED THAT ON SUCH DAY AND THE IMMEDIATELY PRECEDING  
29 THIRTY-FIRST DAY OF DECEMBER, THE FUND HAD A BALANCE EQUAL TO OR GREATER  
30 THAN 1.7 PERCENT OF AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, PROVIDED  
31 HOWEVER, THAT IF, ON ANY THIRTY-FIRST DAY OF DECEMBER FOLLOWING SUCH  
32 REDUCTION IN THE MAXIMUM AMOUNT OF REMUNERATION, THE COMMISSIONER SHALL  
33 DETERMINE THAT THE BALANCE OF THE FUND IS LESS THAN 1.25 PERCENT OF  
34 AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, THE MAXIMUM AMOUNT OF REMUN-  
35 ERATION FOR THE CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY  
36 NEXT SUCCEEDING SUCH DATE SHALL INCREASE BY TWO PERCENT OF THE STATE'S  
37 AVERAGE ANNUAL WAGE, WITH THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE  
38 NEAREST HUNDRED DOLLARS. IN NO CASE MAY SUCH REDUCTION REDUCE THE MAXI-  
39 MUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE WAGES BELOW TEN THOU-  
40 SAND DOLLARS.

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

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

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

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

52 1. Liability. Any employer shall become liable for contributions under  
53 this article if he has paid remuneration of [three hundred dollars] ONE  
54 PERCENT OF AVERAGE ANNUAL WAGE ROUNDED UP TO THE NEAREST TEN DOLLARS, or  
55 more in any calendar quarter, except that liability with respect to  
56 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	0%	0.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%	4.0%	4.5%	5.0%
	Than	but	but	but	but	but	but	but	but	but	but	or
	0%	less	less	less	less	less	less	less	less	less	less	more
		than	than	than	than	than	than	than	than	than	than	
		0.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%	4.0%	4.5%	5.0%	

Negative

1	21.0%												
2	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
3													
4	20.5%												
5	or more												
6	but less												
7	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
8													
9	20.0%												
10	or more												
11	but less												
12	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
13													
14	19.5%												
15	or more												
16	but less												
17	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
18													
19	19.0%												
20	or more												
21	but less												
22	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
23													
24	18.5%												
25	or more												
26	but less												
27	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
28													
29	18.0%												
30	or more												
31	but less												
32	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
33													
34	17.5%												
35	or more												
36	but less												
37	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
38													
39	17.0%												
40	or more												
41	but less												
42	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
43													
44	16.5%												
45	or more												
46	but less												
47	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
48													
49	16.0%												
50	or more												
51	but less												
52	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
53													
54	15.5%												
55	or more												



1	but less												
2	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
3													
4	9.5%												
5	or more												
6	but less												
7	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
8													
9	9.0%												
10	or more												
11	but less												
12	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
13													
14	8.5%												
15	or more												
16	but less												
17	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
18													
19	8.0%												
20	or more												
21	but less												
22	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
23													
24	7.0%												
25	or more												
26	but less												
27	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
28													
29	6.0%												
30	or more												
31	but less												
32	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
33													
34	5.0%												
35	or more												
36	but less												
37	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
38													
39	4.0%												
40	or more												
41	but less												
42	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
43													
44	3.0%												
45	or more												
46	but less												
47	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
48													
49	2.0%												
50	or more												
51	but less												
52	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	but less												
2	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
3													
4	Less												
5	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
6													
7	Positive												
8	Less												
9	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
10													
11	1.0%												
12	or more												
13	but less												
14	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
15													
16	2.0%												
17	or more												
18	but less												
19	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
20													
21	3.0%												
22	or more												
23	but less												
24	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
25													
26	4.0%												
27	or more												
28	but less												
29	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
30													
31	5.0%												
32	or more												
33	but less												
34	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
35													
36	5.5%												
37	or more but												
38	less than												
39	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
40													
41	5.75%												
42	or more												
43	but less												
44	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
45													
46	6.0%												
47	or more but												
48	less than												
49	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
50													
51	6.25%												
52	or more												
53	but less												
54	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

1													
2	6.5%												
3	or more but												
4	less than												
5	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													
7	6.75%												
8	or more												
9	but less												
10	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
11													
12	7.0%												
13	or more but												
14	less than												
15	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
16													
17	7.25%												
18	or more												
19	but less												
20	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
21													
22	7.5%												
23	or more but												
24	less than												
25	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
26													
27	7.75%												
28	or more												
29	but less												
30	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
31													
32	8.0%												
33	or more but												
34	less than												
35	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
36													
37	8.25%												
38	or more												
39	but less												
40	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
41													
42	8.5%												
43	or more but												
44	less than												
45	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
46													
47	8.75%												
48	or more												
49	but less												
50	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
51													
52	9.0%												
53	or more but												
54	less than												
55	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



1														
2	9.25%													
3	or more													
4	but less													
5	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	0.00
6														
7	9.5%													
8	or more but													
9	less than													
10	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	0.00
11														
12	9.75%													
13	or more but													
14	less than													
15	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	0.00
16														
17	10.0%													
18	or more but													
19	less than													
20	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	0.00
21														
22	10.25%													
23	or more but													
24	less than													
25	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	0.00
26														
27	10.5%													
28	or more [but													
29	less than													
30	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	0.00
31														
32	[10.75%													
33	or more but													
34	less than													
35	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	0.00
36														
37	11.0%													
38	or more but													
39	less than													
40	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	0.00
41														
42	11.25%													
43	or more but													
44	less than													
45	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	0.00
46														
47	11.5%													
48	or more but													
49	less than													
50	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	0.00
51														
52	11.75%													
53	or more but													
54	less than													
55	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	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	0.00
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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

1 FOUR HUNDRED SEVENTY-FIVE DOLLARS. ON THE FIRST MONDAY OF JULY, TWO  
2 THOUSAND THIRTEEN, THE MAXIMUM BENEFIT RATE SHALL BE FORTY-THREE PERCENT  
3 OF THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND  
4 FOURTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-FIVE PERCENT OF  
5 THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND  
6 EIGHTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-SEVEN PERCENT OF  
7 THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND  
8 NINETEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FIFTY PERCENT OF THE  
9 AVERAGE WEEKLY WAGE. EACH YEAR THEREAFTER, THE MAXIMUM BENEFIT RATE  
10 SHALL BE FIFTY PERCENT OF THE AVERAGE WEEKLY WAGE.

11 S 7. Paragraph (a) of subdivision 1, the opening paragraph of subdivi-  
12 sion 2 and subdivision 3 of section 593 of the labor law, paragraph (a)  
13 of subdivision 1 as amended by chapter 35 of the laws of 2009, the open-  
14 ing paragraph of subdivision 2 as amended by chapter 5 of the laws of  
15 2000 and subdivision 3 as amended by chapter 589 of the laws of 1998,  
16 are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 S 10. Section 575 of the labor law is amended by adding a new subdivi-  
26 sion 2 to read as follows:

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

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

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

15 [4] 3. Collection and disposition of penalties. Any penalty pursuant  
16 to the provisions of this section AND SECTION FIVE HUNDRED  
17 SEVENTY-FIVE-A OF THIS TITLE shall be assessed, collected, and paid into  
18 the [fund] UNEMPLOYMENT INSURANCE CONTROL FUND ESTABLISHED PURSUANT TO  
19 SECTION FIVE HUNDRED FIFTY-TWO-B OF THIS ARTICLE in the same manner as  
20 if it were a deficiency, in accordance with the provisions of this  
21 title.

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

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

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

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

3 S 14. Section 605 of the labor law, as amended by section 2 of chapter  
4 81 of the laws of 1992, is amended to read as follows:

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

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



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

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

6 a. sections one, three and five of this act shall take effect January  
7 1, 2012 and shall apply to all wages payable in the taxable year begin-  
8 ning with such date;

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

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

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

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

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