

## ARTICLE 4

### RELATING TO SECURITY--UNEMPLOYMENT INSURANCE

SECTION 1. Section 28-43-7 of the General Laws in Chapter 28-43 entitled "Employment Security – Contributions" is hereby amended to read as follows:

**28-43-7. Taxable wage base.** -- (a) ~~The taxable wage base under this chapter for the tax year beginning January 1, 1999, and all subsequent tax years ending with the tax year 2011 shall be:~~

(1) Twelve thousand dollars (\$12,000) if the amount of the employment security fund, not including any federal disbursements made to the states pursuant to 42 U.S.C. § 1103, is more than two hundred twenty-five million dollars (\$225,000,000);

(2) Fourteen thousand dollars (\$14,000) if the amount of the employment security fund is more than one hundred seventy-five million dollars (\$175,000,000) but less than or equal to two hundred twenty-five million dollars (\$225,000,000);

(3) Sixteen thousand dollars (\$16,000) if the amount of the employment security fund is more than one hundred twenty-five million dollars (\$125,000,000) but less than or equal to one hundred seventy-five million dollars (\$175,000,000);

(4) Eighteen thousand dollars (\$18,000) if the amount of the employment security fund is less or equal to than one hundred twenty-five million dollars (\$125,000,000) but more than seventy-five million dollars (\$75,000,000); or

(5) Nineteen thousand dollars (\$19,000) if the amount of the employment security is less than or equal to seventy-five million (\$75,000,000).

~~(b) The taxable wage base shall be determined by the amount of the employment security fund on September 30th of each calendar year and that taxable wage base shall be effective for the tax year immediately following the determination date. The taxable wage base under this chapter for the tax year beginning January 1, 2012, and all subsequent tax years, shall be equal to forty-six and one-half percent (46.5%) of the average annual wage in covered employment during the calendar year immediately preceding the computation date for the effective tax year; the computed figure shall be rounded upward to the next higher even multiple of two hundred dollars (\$200). That taxable wage base shall be computed as follows: On September 30, 2011, and each September 30 thereafter, the total annual wages paid to individuals in covered employment for the preceding calendar year by all employers who are required to pay contributions under the provisions of chapters 42 – 44 of this title, shall be divided by the monthly average number of individuals in covered employment during the preceding calendar year, and the quotient shall be multiplied by four hundred sixty-five thousandths (.465). If the result thus obtained is not an even multiple of two hundred dollars (\$200), it shall be rounded upward to the next higher even multiple of two hundred dollars (\$200). That taxable wage base shall be effective for the tax year immediately following the computation date.~~

(c) Notwithstanding the above, the taxable wage base for employers with reserve account percentages of negative twenty-four (-24.00) or less for the tax years beginning January 1, 2012, and thereafter, shall be one thousand five hundred dollars (\$1,500) above the taxable wage base computed for all other employers under subsection (b) of this section.

SECTION 2. Sections 28-44-6, 28-44-9, 28-44-17, 28-44-18, 28-44-20 and 28-44-59 of the General Laws in Chapter 28-44 entitled "Employment Security – Benefits" are hereby amended to read as follows:

**28-44-6. Weekly benefits for total unemployment -- Year established -- Dependents' allowance. [Effective January 1, 2011.]** -- (a) (1) The benefit rate payable under this chapter to any eligible individual with respect to any week of his or her total unemployment, when that week occurs within a benefit year, shall be, for benefit years beginning on or after October 1, 1989 and prior to July 1, 2012, four and sixty-two hundredths percent (4.62%) of the wages paid

to the individual in that calendar quarter of the base period in which the individual's wages were highest;

(2) The benefit rate payable under this chapter to any eligible individual with respect to any week of his or her total unemployment, when that week occurs within a benefit year, shall be, for benefit years beginning on or after July 1, 2012 and prior to July 1, 2013, four and thirty-eight hundredths percent (4.38%) of the average quarterly wage paid to the individual in the two (2) calendar quarters of the base period in which the individual's wages were highest;

(3) The benefit rate payable under this chapter to any eligible individual with respect to any week of his or her total unemployment, when that week occurs within a benefit year, shall be, for benefit years beginning on or after July 1, 2013 and prior to July 1, 2014, four and fifteen hundredths percent (4.15%) of the average quarterly wage paid to the individual in the two calendar quarters of the base period in which the individual's wages were highest;

(4) The benefit rate payable under this chapter to any eligible individual with respect to any week of his or her total unemployment, when that week occurs within a benefit year, shall be, for benefit years beginning on or after July 1, 2014, three and eighty-five hundredths percent (3.85%) of the average quarterly wage paid to the individual in the two calendar quarters of the base period in which the individual's wages were highest;

~~(2)~~(5) Provided, that the benefit rate prior to July 1, 2012 shall not be more than sixty-seven percent (67%) of the average weekly wage paid to individuals in employment covered by the Employment Security Act for the preceding calendar year ending December 31. Provided, further that the benefit rate on or after July 1, 2012 shall not be more than fifty-seven and one-half percent (57.5%) of the average weekly wage paid to individuals in employment covered by the Employment Security Act for the preceding calendar year ending December 31 or the maximum weekly benefit rate that was in effect as of July 1, 2011, whichever is the highest. If the maximum weekly benefit rate is not an exact multiple of one dollar (\$1.00), then the rate shall be rounded to the next lower multiple of one dollar (\$1.00).

~~(3)~~(6) The average weekly wage of individuals in covered employment shall be computed as follows: On or before May 31 of each year, the total annual wages paid to individuals in covered employment for the preceding calendar year by all employers shall be divided by the monthly average number of individuals in covered employment during that preceding calendar year, and the quotient shall be divided by fifty-two (52). That weekly benefit rates shall be effective throughout benefit years beginning on or after July 1 of that year and prior to July 1, of the succeeding calendar year.

~~(4)~~(7) The benefit rate of any individual, if not an exact multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

(b) (1) An individual to whom benefits for total or partial unemployment are payable under this chapter with respect to any week shall, in addition to those benefits, be paid with respect to each week a dependents' allowance of fifteen dollars (\$15.00) or five percent (5%) of the individual's benefit rate whichever is greater for each of that individual's children, including adopted and stepchildren, or that individual's court appointed wards who, at the beginning of the individual's benefit year, is under eighteen (18) years of age, and who is at that time in fact dependent on that individual, including individuals who have been appointed the legal guardian of such child by the appropriate court. The total dependents' allowance paid to any individual shall not exceed the greater of fifty dollars (\$50) or twenty-five percent (25%) of the individual's benefit rate. Notwithstanding the above, the total amount of the dependents' allowance paid to individuals receiving partial unemployment benefits for any week shall be based on the percentage that their partial weekly benefit rate is compared to their full weekly benefit rate.

(2) The dependent's allowance shall also be paid to the individual for any child, including an adopted child or a stepchild, eighteen (18) years of age or over, incapable of earning any wages because of mental or physical incapacity, and who is dependent on that individual in fact at the beginning of the individual's benefit year.

(3) In no instance shall the number of dependents for which an individual may receive dependents' allowances exceed five (5) in total.

(4) The weekly total of dependents' allowances payable to any individual, if not an exact multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

(5) The number of an individual's dependents, and the fact of their dependency, shall be

determined as of the beginning of that individual's benefit year. Only one individual shall be entitled to a dependent's allowance for the same dependent with respect to any week. As to two (2) or more parties making claim for an allowance for the same dependent for the same week, the benefit shall be provided to the party who has actual custody of the dependent or in the case of joint custody, to the party who has physical possession of the dependent.

(6) Each individual who claims a dependent's allowance shall establish his or her claim to it to the satisfaction of the director under procedures established by the director.

(7) This subsection shall be effective for all benefit years beginning on or after January 1, 2011.

**28-44-9. Duration of benefits.** -- ~~(a) The maximum total amount of benefits payable during a benefit year to any eligible individual whose benefit year begins on or after November 16, 1958, and prior to October 1, 1989, shall be determined in the following manner:~~

~~(i) The total number of weeks of employment in his or her base period shall be multiplied by three-fifths ( $\frac{3}{5}$ ), and the result, if not a whole number of weeks, shall be adjusted to the next higher whole number of weeks, and~~

~~(ii) The number of weeks so obtained shall be multiplied by the individual's weekly benefit rate for total unemployment; and the result shall be the total amount of benefit credits to which that individual is entitled during his or her benefit year. However, no individual shall be paid total benefits in any benefit year which exceed twenty-six (26) times his or her weekly benefit rate. Dependents' allowances to which he or she might be entitled under § 28-44-6 shall be in addition to those total benefits.~~

~~(2) Each week of employment within an individual's base period shall be counted as one week for the purpose of this section, regardless of the number of employers for whom an individual performed services in employment during that week. For the purpose of this section, a week of employment shall be any calendar week within which an individual has performed services in employment for one or more employers subject to chapters 42 – 44 of this title.~~

~~(b) The total amount of benefits payable during a benefit year to any eligible individual whose benefit year begins on or after October 1, 1989, but prior to July 1, 2012, shall be an amount equal to thirty-six percent (36%) of the individual's total wages for employment by employers subject to chapters 42 – 44 of this title during his or her base period; provided, that the total amount of benefits payable during a benefit year to any eligible individual whose benefit year begins on or after July 1, 2012 shall be an amount equal to thirty-three percent (33%) of the individual's total wages for employment by employers subject to chapters 42 – 44 of this title during his or her base period; provided, that no individual shall be paid total benefits in any benefit year which exceed twenty-six (26) times his or her weekly benefit rate. Dependents' allowances to which he or she might be entitled under § 28-44-6 shall be in addition to the total benefits. If the total amount of benefits is not an exact multiple of one dollar (\$1.00), then it shall be rounded to the next lower multiple of one dollar (\$1.00).~~

**28-44-17. Voluntary leaving without good cause. [Effective January 1, 2011].** -- (a) For benefit years beginning prior to July 1, 2012, an individual who leaves work voluntarily without good cause shall be ineligible for waiting period credit or benefits for the week in which the voluntary quit occurred and until he or she establishes to the satisfaction of the director that he or she has subsequent to that leaving had at least eight (8) weeks of work, and in each of those eight (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage as defined in chapter 12 of this title for performing services in employment for one or more employers subject to chapters 42 – 44 of this title. For benefit years beginning on or after July 1, 2012, an individual who leaves work voluntarily without good cause shall be ineligible for waiting period credit or benefits for the week in which the voluntary quit occurred and until he or she establishes to the satisfaction of the director that he or she has subsequent to that leaving had at least eight (8) weeks of work, and in each of those eight (8) weeks has had earnings greater than or equal to his or her weekly benefit rate for performing services in employment for one or more employers subject to chapters 42 – 44 of this title. For the purposes of this section, "voluntarily leaving work with good cause" shall include:

(1) sexual harassment against members of either sex;

(2) voluntarily leaving work with an employer to accompany, join or follow his or her spouse to a place, due to a change in location of the spouse's employment, from which it is impractical for such individual to commute; and

(3) the need to take care for a member of the individual's immediate family due to illness or disability as defined by the Secretary of Labor; provided that the individual shall not be eligible for waiting period credit or benefits until he or she is able to work and is available for work. For the purposes of this provision, the following terms apply:

(i) "immediate family member" means a spouse, parents, mother-in-law, father-in-law and children under the age of eighteen (18);

(ii) "illness" means a verified illness which necessitates the care of the ill person for a period of time longer than the employer is willing to grant leave, paid or otherwise; and

(iii) "disability" means all types of verified disabilities, including mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities.

(b) For the purposes of this section, "voluntarily leaving work without good cause" shall include voluntarily leaving work with an employer to accompany, join or follow his or her spouse in a new locality in connection with the retirement of his or her spouse, or failure by a temporary employee to contact the temporary help agency upon completion of the most recent work assignment to seek additional work unless good cause is shown for that failure; provided, that the temporary help agency gave written notice to the individual that the individual is required to contact the temporary help agency at the completion of the most recent work assignment to seek additional work.

**28-44-18. Discharge for misconduct.** – For benefit years beginning prior to July 1, 2012, an individual who has been discharged for proved misconduct connected with his or her work shall become ineligible for waiting period credit or benefits for the week in which that discharge occurred and until he or she establishes to the satisfaction of the director that he or she has, subsequent to that discharge, had at least eight (8) weeks of work, and in each of that eight (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage as defined in chapter 12 of this title for performing services in employment for one or more employers subject to chapters 42 – 44 of this title. For benefit years beginning on or after July 1, 2012, an individual who has been discharged for proved misconduct connected with his or her work shall become ineligible for waiting period credit or benefits for the week in which that discharge occurred and until he or she establishes to the satisfaction of the director that he or she has, subsequent to that discharge, had at least eight (8) weeks of work, and in each of that eight (8) weeks has had earnings greater than or equal to his or her weekly benefit rate for performing services in employment for one or more employers subject to chapters 42 – 44 of this title. Any individual who is required to leave his or her work pursuant to a plan, system, or program, public or private, providing for retirement, and who is otherwise eligible, shall under no circumstances be deemed to have been discharged for misconduct. If an individual is discharged and a complaint is issued by the regional office of the National Labor Relations board or the state labor relations board that an unfair labor practice has occurred in relation to the discharge, the individual shall be entitled to benefits if otherwise eligible. For the purposes of this section, "misconduct" is defined as deliberate conduct in willful disregard of the employer's interest, or a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee's incompetence. Notwithstanding any other provisions of chapters 42 – 44 of this title, this section shall be construed in a manner that is fair and reasonable to both the employer and the employed worker.

**28-44-20. Refusal of suitable work.** -- (a) For benefit years beginning prior to July 1, 2012, if an otherwise eligible individual fails, without good cause, either to apply for suitable work when notified by the employment office, or to accept suitable work when offered to him or her, he or she shall become ineligible for waiting period credit or benefits for the week in which that failure occurred and until he or she establishes to the satisfaction of the director that he or she has, subsequent to that failure, had at least eight (8) weeks of work and in each of those eight (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage, as defined in chapter 12 for performing services in employment for one or more employers subject to chapters

42 – 44 of this title. For benefit years beginning on or after July 1, 2012, if an otherwise eligible individual fails, without good cause, either to apply for suitable work when notified by the employment office, or to accept suitable work when offered to him or her, he or she shall become ineligible for waiting period credit or benefits for the week in which that failure occurred and until he or she establishes to the satisfaction of the director that he or she has, subsequent to that failure, had at least eight (8) weeks of work and in each of those eight (8) weeks has had earnings greater than or equal to his or her weekly benefit rate for performing services in employment for one or more employers subject to chapters 42 – 44 of this title.

(b) "Suitable work" means any work for which the individual in question is reasonably fitted, which is located within a reasonable distance of his or her residence or last place of work and which is not detrimental to his or her health, safety, or morals. No work shall be deemed suitable, and benefits shall not be denied under chapters 42 – 44 of this title to any otherwise eligible individual for refusing to accept new work, under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (2) If the wages, hours, or other conditions of the work are substantially less favorable to the employee than those prevailing for similar work in the locality;
- (3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

**28-44-59. Severance or dismissal pay allocation.** – For benefit years beginning prior July 1, 2012, for the purpose of determining an individual's benefit eligibility for any week of unemployment, any remuneration received by an employee from his or her employer in the nature of severance or dismissal pay, whether or not the employer is legally required to pay that remuneration, shall be deemed to be wages paid on the last day of employment for services performed prior to that date. For benefit years beginning on or after July 1, 2012, for the purpose of determining an individual's benefit eligibility for any week of unemployment, any remuneration received by an employee from his or her employer in the nature of severance or dismissal pay, whether or not the employer is legally required to pay that remuneration, shall be allocated on a weekly basis from the individual's last day of work for a period not to exceed twenty-six (26) weeks, and the individual will not be entitled to receive benefits for any such week for which it has been determined that the individual received severance or dismissal pay. Such severance or dismissal pay, if the employer does not specify a set number of weeks, such be allocated using the individual's weekly benefit rate.

SECTION 3. This Article shall take effect upon passage.