SENATE BILL 1411

AN ACT

AMENDING SECTIONS 23-622, 23-771, 23-771.01, 23-779 AND 23-780, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-799.01; RELATING TO UNEMPLOYMENT INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-622, Arizona Revised Statutes, is amended to read:

23-622. Wages
A. "Wages" means all remuneration for services from whatever source, including commissions, bonuses and fringe benefits and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department.

B. "Wages" shall not include:
1. For the purpose of sections 23-604, 23-726 and 23-728 and 23-730.01, that part of the remuneration, other than remuneration referred to in succeeding paragraphs 3 through 16 of this subsection, in excess of: seven thousand dollars
   (a) $7,000 paid in 1983 or in a calendar year thereafter through December 31, 2021 to an individual by an employer or his predecessor with respect to employment during the calendar year, unless that part of such excess remuneration is subject to a tax, under federal law, against which credit may be taken for contributions required to be paid into a state unemployment fund by employers subject to the federal law.
   (b) $8,000 paid in the 2022 calendar year or in a calendar year thereafter to an individual by an employer or the employer's predecessor with respect to employment during the calendar year, unless that part of such excess remuneration is subject to a tax, under federal law, against which credit may be taken for contributions required to be paid into a state unemployment fund by employers subject to the federal law.

2. For the purpose of this paragraph 1 of this subsection, the remuneration paid to an individual by an employer with respect to employment in another state or states, upon which contributions were required of and paid by such employer under an unemployment compensation law of such other state or states, shall be included as part of remuneration equal to the above specified amounts in paragraph 1 of this subsection.

3. The amount of any payment, including monies paid by an employer for insurance or annuities or into a fund to provide payments for insurance or annuities, made to or on behalf of an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally, for his employees generally and their dependents, for a class of his employees or for a class of his employees and their dependents, on account of any of the following:
(a) Sickness or accident disability, except that in the case of payments made to an employee or any of the employee's dependents, this subdivision excludes from wages only payments which are received under a workers' compensation law.

(b) Medical or hospitalization expenses in connection with sickness or accident disability.

(c) Death.

4. The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the internal revenue code relating to federal insurance contributions with respect to remuneration paid to an employee for domestic service in a private home or for agricultural labor.

5. Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employing unit.

6. Any payment made to, or on behalf of, an employee or his beneficiary:

(a) From or to a trust described in section 401(a) of the internal revenue code relating to qualified pension, profit sharing and stock bonus plans which is exempt from tax under section 501(a) of the internal revenue code at the time of the payment unless the payment is made to an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employing unit.

(b) Under or to an annuity plan, at the time of such payment, is a plan described in section 403(a) of the internal revenue code relating to taxability of beneficiaries under qualified annuity plans.

(c) Under a simplified employee pension as defined in section 408(k)(1) of the internal revenue code other than contributions described in section 408(k)(6) of the internal revenue code relating to employee salary reduction arrangements.

(d) Under or to an annuity contract described in section 403(b) of the internal revenue code relating to taxation of beneficiaries under annuities purchased by certain tax exempt organizations, other than a payment for the purchase of the contract which is made by reason of a salary reduction agreement whether evidenced by a written instrument or otherwise.

(e) Under or to an exempt governmental deferred compensation plan as defined in section 3121(v)(3) of the internal revenue code.

(f) To supplement pension benefits under a plan or trust described in this paragraph to take into account some portion or all of the increase in the cost of living since retirement as determined by the United States secretary of labor, but only if the supplemental payments are under a plan.
which THAT is treated as a welfare plan under section 3(2)(b)(ii) of the employee retirement income security act of 1974.

(g) Under a cafeteria plan within the meaning of section 125 of the internal revenue code if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that, if section 125 of the internal revenue code applied for purposes of this section, section 125 of the internal revenue code would not treat any wages as constructively received.

7. Remuneration paid in any medium other than cash to an employee for service not in the course of the employing unit’s trade or business.

8. Remuneration paid for agricultural labor performed in any medium other than cash.

9. Any tip, gratuity or service charge received by an employee except:
   (a) Before January 1, 1986, if either of the following applies:
      (i) It is specified and collected by the employing unit.
      (ii) It is used by the employing unit in order to conform to the minimum wage requirements of federal or state law.
   (b) From and after December 31, 1985, if it is reported by the employee in writing to the employer on or before the tenth day of the month following the month in which it was received.

10. Remuneration which THAT the individual receives for drill, training or other national guard or reserve activity which THAT occurs on not more than one weekend per month or in lieu of a weekend drill or the equivalent.

11. Remuneration paid to or on behalf of an employee if and to the extent that at the time of the payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code relating to moving expenses determined without regard to section 274(n) of the internal revenue code relating to the disallowance of certain meal and entertainment expenses.

12. Any contribution, payment or service provided by an employer which THAT may be excluded from the gross income of any employee, THE EMPLOYEE’S spouse or THE EMPLOYEE’S dependents under the provisions of section 120 of the internal revenue code relating to amounts received under qualified group legal services plans.

13. Any payment made or benefit furnished to or for the benefit of an employee if at the time of the payment or furnishing it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under section 127, relating to educational assistance, or section 129, relating to dependent care assistance, of the internal revenue code.

14. The value of any meals or lodging furnished by or on behalf of the employer if at the time of the furnishing it is reasonable
to believe that the employee will be able to exclude these items from income under section 119 of the internal revenue code.

14. Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which the employee died.

15. Any benefit provided to or on behalf of an employee if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude the benefit from income under section 74(c) relating to employee achievement awards, section 117 relating to qualified scholarships or section 132 relating to certain fringe benefits of the internal revenue code.

C. Subsection B, paragraphs 2-3 through 15 of this section do not exclude from wages any of the following:

1. An employer contribution under a qualified cash or deferred arrangement as defined in section 401(k) of the internal revenue code to the extent the contribution is not included in gross income pursuant to section 402(a)(8) of the internal revenue code relating to cash or deferred arrangements.

2. An amount treated as an employer contribution under section 414(h)(2) of the internal revenue code, relating to tax treatment of contributions by government units, if the employer picks up the contribution pursuant to a written or unwritten salary reduction agreement.

3. An amount deferred under any plan or other arrangement for deferral of compensation other than a plan described in subsection B, paragraph 5-6 of this section. An amount considered as wages pursuant to this paragraph shall be taxed only once and after being taxed shall not be considered wages for the purposes of this chapter.

D. In applying the provisions of subsection B of this section, any remuneration excluded from the definition of wages under United States Code section 3306(b) shall not be wages.

Sec. 2. Section 23-771, Arizona Revised Statutes, is amended to read:

23-771. Eligibility for benefits
A. An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that the individual:
   1. Has registered for work at and thereafter has continued to report at an employment office in accordance with the regulations prescribed by the department.
   2. Has made a claim for benefits in accordance with section 23-772.
   3. Is able to work.
   4. Except for an individual who is applying for shared work benefits pursuant to article 5.1 of this chapter, is available for work and both of the following apply:
(a) The individual has engaged in a systematic and sustained effort to obtain work during at least four days of the week.

(b) The individual has made at least one job contact per day on four different days of the week.

5. Has been unemployed for a waiting period of one week. A week is not counted as a week of unemployment for the purpose of this paragraph:
   (a) Unless it occurs within the benefit year that includes the week with respect to which the individual claims payment of benefits.
   (b) Unless the individual was eligible for benefits with respect to THE WEEK as provided in this section and sections 23-775, 23-776 and 23-777.

6. Has met one of the following requirements:
   (a) Has been paid wages for insured work during the individual's base period equal to at least one and one-half times the wages paid to the individual in the calendar quarter of the individual's base period in which the wages were highest, and the individual has been paid wages for insured work in one calendar quarter of the individual's base period equal to an amount that is equal to at least three hundred ninety times the minimum wage prescribed by section 23-363 that is in effect when the individual files a claim for benefits.
   (b) Has for a benefit year beginning on or after September 2, 1984, been paid wages for insured work during at least two quarters of the individual's base period and the amount of the wages paid in one quarter would be sufficient to qualify the individual for the maximum weekly benefit amount payable under this chapter and the total of the individual's base-period wages is equal to or greater than the taxable limit as specified in section 23-622, subsection B, paragraph PARAGRAPHS 1 AND 2.

7. Following the beginning date of a benefit year established under this chapter or the unemployment compensation law of any other state and before the effective date of a subsequent benefit year under this chapter, has performed services whether or not in employment as defined in section 23-615 for which wages were payable in an amount equal to or in excess of eight times the weekly benefit amount for which the individual is otherwise qualified under section 23-779. In making a determination under this paragraph the department shall use information available in its records or require the individual to furnish necessary information within thirty days after the date notice is given that the information is required.

B. If an unemployed individual cannot establish a benefit year as defined in section 23-609 due to receipt during the base period of compensation for a temporary total disability pursuant to chapter 6 of this title, or any similar federal law, the individual's base period shall be the first four of the last five completed calendar quarters immediately
preceding the first day of the calendar week in which the disability began. Wages previously used to establish a benefit year may not be reused. This subsection does not apply unless all of the following occur:

1. The individual has filed a claim for benefits not later than the fourth calendar week of unemployment after the end of the period of disability.
2. The claim is filed within two years after the period of disability begins.
3. The individual meets the requirements of subsection A of this section.
4. The individual has attempted to return to the employment where the temporary total disability occurred.

C. If an unemployed individual is a member of the national guard or other reserve component of the United States armed forces, the individual is not considered to be either employed or unavailable for work by reason of the individual's participation in drill, training or other national guard or reserve activity that occurs on not more than one weekend per month or in lieu of a weekend drill or the equivalent.

D. The department shall not disqualify an individual from receiving benefits under this chapter on the basis of the individual's separation from employment if the individual is a victim of domestic violence and leaves employment due to a documented case involving domestic violence pursuant to section 13-3601 or 13-3601.02. Benefits paid to an individual pursuant to this subsection shall not be charged against an employer's account pursuant to section 23-727, subsection G.

E. For the purposes of subsection A, paragraph 6 of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if that benefit year begins subsequent to the date on which the employing unit by which those wages were paid has become an employer subject to this chapter.

Sec. 3. Section 23-771.01, Arizona Revised Statutes, is amended to read:

23-771.01. Approved training; definition
A. Notwithstanding any other provision of this chapter, no otherwise eligible individual shall be denied benefits for any week FOR ANY OF THE FOLLOWING:
1. Because THE INDIVIDUAL is in training approved by the secretary of labor under section 236 of the trade act of 1974, as amended, or because of leaving work which THAT is not suitable employment to enter such training.
2. Because THE INDIVIDUAL is in training with the approval of the department.
3. Because of the application to any such week of such training of any provision of this chapter relating to availability for work, active search for work or refusal to apply for or accept work.
B. No payment of benefits under this chapter made possible under this section shall be made to any individual for any week, or part of any week, with respect to which the individual is entitled to receive any training allowance under any public training or retraining program if such training allowance equals or exceeds the benefits to which the individual would otherwise be entitled. If the training allowance is less than the benefits to which the individual would otherwise be entitled, his benefits shall be computed in accordance with section 23-779, subsection D, treating the training allowance in the same manner as wages, and benefits shall be paid accordingly.

C. In FOR THE PURPOSES OF this section, unless the context otherwise requires: "suitable employment" means, with respect to an individual, work which is of a substantially equal or higher skill level than the individual's past adversely affected employment and for which the wages equal or exceed eighty percent of the individual's average weekly wage. FOR THE PURPOSES OF THIS SUBSECTION, "adversely affected employment" and "average weekly wage" have the meanings prescribed by section 247 of the trade act of 1974, as amended.

Sec. 4. Section 23-779, Arizona Revised Statutes, is amended to read:

23-779. Amount of benefits
A. The weekly benefit amount of an individual shall be an amount equal to one twenty-fifth of the person's total wages for insured work paid during that quarter of the person's base period in which such total wages were highest, but if:
1. From and after June 30, 1999 and before July 1, 2004, this amount is more than two hundred five dollars, the weekly benefit amount shall be two hundred five dollars.
2. From and after June 30, 2004 AND BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION OR THE DATE THAT THE FEDERAL UNEMPLOYMENT INSURANCE BENEFIT PROGRAMS ESTABLISHED UNDER THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (P.L. 116–136; 134 STAT. 281) AND EXTENDED BY THE AMERICAN RESCUE PLAN ACT OF 2021, OR ANY SUBSEQUENT FEDERAL LEGISLATION EXTENDING THESE PROGRAMS, EXPIRE, WHICHEVER IS LATER, this amount is more than two hundred forty dollars $240, the weekly benefit amount shall be two hundred forty dollars $240.
3. BEGINNING THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION OR THE DATE THAT THE FEDERAL UNEMPLOYMENT INSURANCE BENEFIT PROGRAMS ESTABLISHED UNDER THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (P.L. 116–136; 134 STAT. 281) AND EXTENDED BY THE AMERICAN RESCUE PLAN ACT OF 2021, OR ANY SUBSEQUENT FEDERAL LEGISLATION EXTENDING THESE PROGRAMS, EXPIRE, WHICHEVER IS LATER, AND BEFORE JULY 1 FOLLOWING THE DATE THAT THE DEPARTMENT DETERMINES THAT THE CONDITION DESCRIBED IN SUBSECTION B OF THIS SECTION HAS OCCURRED, THIS AMOUNT IS MORE THAN $320, THE WEEKLY BENEFIT AMOUNT SHALL BE $320. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, AN
INDIVIDUAL'S BENEFIT AMOUNT SHALL BE REDETERMINED DURING THE PERSON'S BENEFIT YEAR WHEN THE NEW MAXIMUM WEEKLY BENEFIT AMOUNT PRESCRIBED IN THIS PARAGRAPH BECOMES EFFECTIVE.

3. BEGINNING JULY 1 FOLLOWING THE DATE THAT THE DEPARTMENT DETERMINES THAT THE CONDITION DESCRIBED IN SUBSECTION B OF THIS SECTION HAS OCCURRED, THIS AMOUNT IS MORE THAN $400, THE WEEKLY BENEFIT AMOUNT SHALL BE $400.

B. EACH YEAR, THE DEPARTMENT SHALL DETERMINE WHETHER THIS STATE MEETS THE FEDERAL ELIGIBILITY CRITERIA PRESCRIBED UNDER 20 CODE OF FEDERAL REGULATIONS SECTION 606.32 AS EFFECTIVE ON JANUARY 1, 2021 TO RECEIVE AN INTEREST-FREE UNEMPLOYMENT INSURANCE LOAN FROM THE FEDERAL GOVERNMENT. IF THE DEPARTMENT DETERMINES THAT THIS STATE MEETS THE FEDERAL ELIGIBILITY CRITERIA PRESCRIBED UNDER 20 CODE OF FEDERAL REGULATIONS SECTION 606.32 AS EFFECTIVE ON JANUARY 1, 2021 TO RECEIVE AN INTEREST-FREE UNEMPLOYMENT INSURANCE LOAN FROM THE FEDERAL GOVERNMENT BOTH OF THE FOLLOWING APPLY:

1. THE WEEKLY BENEFIT AMOUNT SHALL BE PERMANENTLY INCREASED AS PRESCRIBED IN SUBSECTION A, PARAGRAPH 3 OF THIS SECTION ON JULY 1 FOLLOWING THE DATE THAT THE DEPARTMENT MAKES THIS DETERMINATION.

2. THE DEPARTMENT IS NOT REQUIRED TO MAKE THIS DETERMINATION IN SUBSEQUENT YEARS.

C. If the weekly benefit amount is less than the maximum weekly benefit prescribed in subsection A OF THIS SECTION and is not a multiple of one-dollar $1, the amount shall be rounded to the nearest dollar, with an even one-half dollar being rounded to the next higher multiple of one-dollar $1. An individual's benefit amount shall not be redetermined during the person's benefit year because of a new maximum or minimum weekly benefit amount becoming effective during the person's benefit year.

D. Each eligible individual unemployed with respect to any week shall be paid with respect to that week a benefit in an amount equal to the person's weekly benefit amount less that part of the wages, if any, payable to the person with respect to that week which is in excess of thirty-dollars $160. The benefit, if not a multiple of one-dollar $1, shall be rounded to the nearest dollar, with an even one-half dollar being rounded to the next higher multiple of one-dollar $1.

Sec. 5. Section 23-780, Arizona Revised Statutes, is amended to read:

23-780. Duration and amount of benefits; definition
A. An otherwise eligible individual shall be entitled during a benefit year to a total amount of benefits equal to:

1. Twenty-six times THE INDIVIDUAL'S weekly benefit amount, but shall IF EITHER OF THE FOLLOWING APPLIES:
   (a) THE UNEMPLOYMENT RATE IN THE PRIOR CALENDAR QUARTER IS SIX PERCENT OR MORE.
   (b) THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY THAT RESULTS IN, OR IS CAUSED BY, CONDITIONS WHEREBY BUSINESSES MUST PAUSE OPERATIONS.
NOTWITHSTANDING SUBDIVISION (a) OF THIS PARAGRAPH AND PARAGRAPH 2 OF THIS
SUBSECTION, THIS SUBDIVISION APPLIES UNTIL THE STATE OF EMERGENCY IS
LIFTED EVEN IF THE UNEMPLOYMENT RATE IN THE PRIOR CALENDAR QUARTER IS LESS
THAN SIX PERCENT. IF THE UNEMPLOYMENT RATE IS LESS THAN SIX PERCENT WHEN
THE STATE OF THE EMERGENCY IS LIFTED, THE AMOUNTS PRESCRIBED IN PARAGRAPHS
2 AND 3 OF THIS SUBSECTION APPLY.

2. TWENTY-TWO TIMES THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT IF THE
UNEMPLOYMENT RATE IN THE PRIOR CALENDAR QUARTER IS AT LEAST FOUR AND
ONE QUARTER PERCENT BUT LESS THAN SIX PERCENT.

3. TWENTY TIMES THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT IF THE
UNEMPLOYMENT RATE IN THE PRIOR CALENDAR QUARTER IS LESS THAN FOUR AND
ONE QUARTER PERCENT.

B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, AN INDIVIDUAL MAY
not receive more than one-third of his period earnings in such a benefit year.

C. FOR THE PURPOSES OF THIS SECTION, "UNEMPLOYMENT RATE IN THE
PRIOR CALENDAR QUARTER" MEANS THE AVERAGE OF THE SEASONALLY ADJUSTED
UNEMPLOYMENT RATES FOR THE THREE MONTHS OF THE MOST RECENTLY PUBLISHED
CALENDAR YEAR QUARTER AS PUBLISHED BY THE OFFICE OF ECONOMIC OPPORTUNITY.

Sec. 6. Title 23, chapter 4, article 7, Arizona Revised Statutes, is amended by adding section 23-799.01, to read:

23-799.01. Fraud prevention; report

A. TO ENSURE PROGRAM INTEGRITY, THE DEPARTMENT SHALL OBTAIN CURRENT
EMPLOYMENT AND INCOME INFORMATION FROM EXTERNAL DATA SOURCES, INCLUDING
THIRD-PARTY VENDORS, THAT ARE CONSISTENT WITH UNEMPLOYMENT INSURANCE LAWS
AND UNITED STATES DEPARTMENT OF LABOR GUIDANCE, AS PART OF THE
DEPARTMENT'S EMPLOYMENT AND INCOME VERIFICATION PROCESS TO ACCURATELY
DETERMINE AN INDIVIDUAL'S ELIGIBILITY FOR UNEMPLOYMENT BENEFITS. THE DATA
SOURCES SHALL PROVIDE A VERIFICATION SERVICE THAT DELIVERS ACTUAL,
REAL-TIME AND NONMODELED EMPLOYMENT AND INCOME INFORMATION FURNISHED BY
EMPLOYERS. THE VERIFICATION SERVICE SHALL MINIMIZE ERRONEOUS
COMMUNICATIONS TO EMPLOYERS GENERATED FROM FRAUDULENT CLAIM APPLICATIONS.

B. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL
SUBMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
SPEAKER OF THE HOUSE OF REPRESENTATIVES THAT CONTAINS DETAILS ON
UNEMPLOYMENT INSURANCE FRAUD FOR THE PREVIOUS FISCAL YEAR, INCLUDING ALL
OF THE FOLLOWING, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY
OF STATE:

1. THE NUMBER OF FRAUDULENT CLAIMS.

2. THE TOTAL PAID IN FRAUDULENT CLAIMS.

3. THE IMPACT OF FRAUD ON EMPLOYER CONTRIBUTION RATES AND
EXPERIENCE RATINGS.

Sec. 7. Effective date

Section 23-780, Arizona Revised Statutes, as amended by this act, is
effective from and after December 31, 2021.