

**H. B. 2261**

(By Delegate Caputo)

[Introduced January 12, 2011; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §21A-1A-27 of the Code of West Virginia, 1931, as amended; and to amend and reenact §21A-6-10 and §21A-6-11 of said code, all relating to changing the amount a person can earn while receiving unemployment compensation benefits, without it changing the benefits received, from \$60 a week to forty percent of the person's weekly benefit rate.

*Be it enacted by the Legislature of West Virginia:*

That §21A-1A-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §21A-6-10 and §21A-6-11 of said code be amended and reenacted, all to read as follows:

**ARTICLE 1A. DEFINITIONS.**

**§21A-1A-27. Total and partial unemployment.**

"Total and partial unemployment" means:

(1) An individual is totally unemployed in any week in which

1 ~~such~~ the individual is separated from employment for an employing  
 2 unit and during which he or she performs no services and with  
 3 respect to which no wages are payable to him or her.

4 (2) An individual who has not been separated from employment  
 5 is partially unemployed in any week in which due to lack of full-  
 6 time work wages payable to him or her are less than his or her  
 7 weekly benefit amount plus ~~sixty dollars~~ forty percent of the  
 8 individual's weekly benefit rate: *Provided, That ~~said~~ the*  
 9 individual must have earnings of at least ~~sixty-one dollars~~ forty  
 10 percent of the individual's weekly benefit rate.

11 **ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.**

12 **§21A-6-10. Benefit rate -- Total unemployment; annual computation**  
 13 **and publication of rates.**

14 (a) Each eligible individual who is totally unemployed in any  
 15 week shall be paid benefits with respect to that week at the weekly  
 16 rate appearing in column (C) in the benefit table in this section,  
 17 on the line on which in column (A) there is indicated the  
 18 employee's wage class, except as otherwise provided under the term  
 19 "total and partial unemployment" in section twenty-seven, article  
 20 one-a of this chapter. The employee's wage class ~~shall be~~ is  
 21 determined by his or her base period wages as shown in Column (B)  
 22 in the benefit table. The right of an employee to receive benefits  
 23 ~~shall not be~~ is not prejudiced nor may the amount ~~thereof~~ of the  
 24 benefits be diminished by reason of failure by an employer to pay

1 either the wages earned by the employee or the contribution due on  
2 such wages. An individual who is totally unemployed but earns in  
3 excess of ~~\$60~~ forty percent of the individual's weekly benefit  
4 rate as a result of odd job or subsidiary work, or is paid a bonus  
5 in any benefit week shall be paid benefits for such week in  
6 accordance with the provisions of this chapter pertaining to  
7 benefits for partial unemployment.

8 (b) (1) The maximum benefit for each wage class shall be equal  
9 to twenty-six times the weekly benefit rate.

10 (2) The maximum benefit rate shall be sixty-six and two-thirds  
11 percent of the average weekly wage in West Virginia.

12 (c) On July 1 of each year, the commissioner shall determine  
13 the maximum weekly benefit rate upon the basis of the formula set  
14 forth above and shall establish wage classes as are required,  
15 increasing or decreasing the amount of the base period wages  
16 required for each wage class by \$150, establishing the weekly  
17 benefit rate for each wage class by rounded dollar amount to be  
18 fifty-five percent of one fifty-second of the median dollar amount  
19 of wages in the base period for such wage class and establishing  
20 the maximum benefit for each wage class as an amount equal to  
21 twenty-six times the weekly benefit rate: *Provided*, That the  
22 commissioner shall not increase or decrease the maximum weekly  
23 benefit rate for the period beginning on the effective date of the  
24 amendment and reenactment of this section in the regular session of

1 the Legislature in 2009 until the threshold wage is reduced to  
2 \$9,000, as required by subsection (d), section twenty-eight,  
3 article one-a of this chapter. The maximum weekly benefit rate,  
4 when computed by the commissioner, in accordance with the foregoing  
5 provisions, shall be rounded to the next lowest multiple of \$1.

6 (d) After he or she has established such wage classes, the  
7 commissioner shall prepare and publish a table setting forth such  
8 information.

9 (e) Average weekly wage shall be computed by dividing the  
10 number of employees in West Virginia earning wages in covered  
11 employment into the total wages paid to employees in West Virginia  
12 in covered employment, and by further dividing said result by  
13 fifty-two, and shall be determined from employer wage and  
14 contribution reports for the previous calendar year which are  
15 furnished to the department on or before June 1 following such  
16 calendar year. The average weekly wage, as determined by the  
17 commissioner, shall be rounded to the next higher dollar.

18 (f) The computation and determination of rates as aforesaid  
19 shall be completed annually before July 1 and any such new wage  
20 class, with its corresponding wages in base period, weekly benefit  
21 rate and maximum benefit in a benefit year established by the  
22 commissioner in the foregoing manner effective on July 1 shall  
23 apply only to a new claim established by a claimant on and after  
24 July 1, and does not apply to continued claims of a claimant based

1 on his or her new claim established before said July 1.

2 **BENEFIT TABLE**

3	<b>A</b>	<b>B</b>	<b>C</b>
4	<b>WAGE</b>	<b>WAGES IN</b>	<b>WEEKLY</b>
5	<b>CLASS</b>	<b>BASE PERIOD</b>	<b>BENEFIT RATE</b>
6		Under \$ 2,200.00	Ineligible
7	1	\$ 2,200.00 -2,359.99	24.00
8	2	2,350.00 -2,499.99	25.00
9	3	2,500.00 -2,649.99	27.00
10	4	2,650.00 -2,799.99	28.00
11	5	2,800.00 -2,949.99	30.00
12	6	2,950.00 -3,099.99	31.00
13	7	3,100.00 -3,249.99	33.00
14	8	3,250.00 -3,399.99	35.00
15	9	3,400.00 -3,549.99	36.00
16	10	3,550.00 -3,699.99	38.00
17	11	3,700.00 -3,849.99	39.00
18	12	3,850.00 -3,999.99	41.00
19	13	4,000.00 -4,149.99	43.00
20	14	4,150.00 -4,299.99	44.00
21	15	4,300.00 -4,449.99	46.00
22	16	4,450.00 -4,599.99	47.00
23	17	4,600.00 -4,749.99	49.00
24	18	4,750.00 -4,899.99	51.00
25	19	4,900.00 -5,049.99	52.00
26	20	5,050.00 -5,199.99	54.00
27	21	5,200.00 -5,349.99	55.00
28	22	5,350.00 -5,499.99	57.00
29	23	5,500.00 -5,649.99	58.00
30	24	5,650.00 -5,799.99	60.00
31	25	5,800.00 -5,949.99	62.00
32	26	5,950.00 -6,099.99	63.00
33	27	6,100.00 -6,249.99	65.00
34	28	6,250.00 -6,399.99	66.00
35	29	6,400.00 -6,549.99	68.00
36	30	6,550.00 -6,699.99	70.00
37	31	6,700.00 -6,849.99	71.00
38	32	6,850.00 -6,999.99	73.00
			1,430.00
			1,482.00
			1,508.00
			1,560.00
			1,612.00
			1,638.00
			1,690.00
			1,716.00
			1,768.00
			1,820.00
			1,846.00
			1,898.00

1	33	7,000.00	-7,149.99	74.00	1,924.00
2	34	7,150.00	-7,299.99	76.00	1,976.00
3	35	7,300.00	-7,449.99	78.00	2,028.00
4	36	7,450.00	-7,599.99	79.00	2,054.00
5	37	7,600.00	-7,749.99	81.00	2,106.00
6	38	7,750.00	-7,899.99	82.00	2,132.00
7	39	7,900.00	-8,049.99	84.00	2,184.00
8	40	8,050.00	-8,199.99	85.00	2,210.00
9	41	8,200.00	-8,349.99	87.00	2,262.00
10	42	8,350.00	-8,499.99	89.00	2,314.00
11	43	8,500.00	-8,649.99	90.00	2,340.00
12	44	8,650.00	-8,799.99	92.00	2,392.00
13	45	8,800.00	-8,949.99	93.00	2,418.00
14	46	8,950.00	-9,099.99	95.00	2,470.00
15	47	9,100.00	-9,249.99	97.00	2,522.00
16	48	9,250.00	-9,399.99	98.00	2,548.00
17	49	9,400.00	-9,549.99	100.00	2,600.00
18	50	9,550.00	-9,699.99	101.00	2,626.00
19	51	9,700.00	-9,849.99	103.00	2,678.00
20	52	9,850.00	-9,999.99	104.00	2,704.00
21	53	10,000.00	-10,149.99	106.00	2,756.00
22	54	10,150.00	-10,299.99	108.00	2,808.00
23	55	10,300.00	-10,449.99	109.00	2,834.00
24	56	10,450.00	-10,599.99	111.00	2,886.00
25	57	10,600.00	-10,749.99	112.00	2,912.00
26	58	10,750.00	-10,899.99	114.00	2,964.00
27	59	10,900.00	-11,049.99	116.00	3,016.00
28	60	11,050.00	-11,199.99	117.00	3,042.00
29	61	11,200.00	-11,349.99	119.00	3,094.00
30	62	11,350.00	-11,499.99	120.00	3,120.00
31	63	11,500.00	-11,649.99	122.00	3,172.00
32	64	11,650.00	-11,799.99	124.00	3,224.00
33	65	11,800.00	-11,949.99	125.00	3,250.00
34	66	11,950.00	-12,099.99	127.00	3,302.00
35	67	12,100.00	-12,249.99	128.00	3,328.00
36	68	12,250.00	-12,399.99	130.00	3,380.00
37	69	12,400.00	-12,549.99	131.00	3,406.00
38	70	12,550.00	-12,699.99	133.00	3,458.00
39	71	12,700.00	-12,849.99	135.00	3,510.00
40	72	12,850.00	-12,999.99	136.00	3,536.00
41	73	13,000.00	-13,149.99	138.00	3,588.00

1	74	13,150.00	-13,299.99	139.00	3,614.00
2	75	13,300.00	-13,449.99	141.00	3,666.00
3	76	13,450.00	-13,599.99	143.00	3,718.00
4	77	13,600.00	-13,749.99	144.00	3,744.00
5	78	13,750.00	-13,899.99	146.00	3,796.00
6	79	13,900.00	-14,049.99	147.00	3,822.00
7	80	14,050.00	-14,199.99	149.00	3,874.00
8	81	14,200.00	-14,349.99	150.00	3,900.00
9	82	14,350.00	-14,499.99	152.00	3,952.00
10	83	14,500.00	-14,649.99	154.00	4,004.00
11	84	14,650.00	-14,799.99	155.00	4,030.00
12	85	14,800.00	-14,949.99	157.00	4,082.00
13	86	14,950.00	-15,099.99	158.00	4,108.00
14	87	15,100.00	-15,249.99	160.00	4,160.00
15	88	15,250.00	-15,399.99	162.00	4,212.00
16	89	15,400.00	-15,549.99	163.00	4,238.00
17	90	15,550.00	-15,699.99	165.00	4,290.00
18	91	15,700.00	-15,849.99	166.00	4,316.00
19	92	15,850.00	-15,999.99	168.00	4,368.00
20	93	16,000.00	-16,149.99	170.00	4,420.00
21	94	16,150.00	-16,299.99	171.00	4,446.00
22	95	16,300.00	-16,449.99	173.00	4,498.00
23	96	16,450.00	-16,599.99	174.00	4,524.00
24	97	16,600.00	-16,749.99	176.00	4,576.00
25	98	16,750.00	-16,899.99	177.00	4,602.00
26	99	16,900.00	-17,049.99	179.00	4,654.00
27	100	17,050.00	-17,199.99	181.00	4,706.00
28	101	17,200.00	-17,349.99	182.00	4,732.00
29	102	17,350.00	-17,499.99	184.00	4,784.00
30	103	17,500.00	-17,649.99	185.00	4,810.00
31	104	17,650.00	-17,799.99	187.00	4,862.00
32	105	17,800.00	-17,949.99	189.00	4,914.00
33	106	17,950.00	-18,099.99	190.00	4,940.00
34	107	18,100.00	-18,249.99	192.00	4,992.00
35	108	18,250.00	-18,399.99	193.00	5,018.00
36	109	18,400.00	-18,549.99	195.00	5,070.00
37	110	18,550.00	-18,699.99	196.00	5,096.00
38	111	18,700.00	-18,849.99	198.00	5,148.00
39	112	18,850.00	-18,999.99	200.00	5,200.00
40	113	19,000.00	-19,149.99	201.00	5,226.00
41	114	19,150.00	-19,299.99	203.00	5,278.00

1	115	19,300.00	-19,449.99	204.00	5,304.00
2	116	19,450.00	-19,599.99	206.00	5,356.00
3	117	19,600.00	-19,749.99	208.00	5,408.00
4	118	19,750.00	-19,899.99	209.00	5,434.00
5	119	19,900.00	-20,049.99	211.00	5,486.00
6	120	20,050.00	-20,199.99	212.00	5,512.00
7	121	20,200.00	-20,349.99	214.00	5,564.00
8	122	20,350.00	-20,499.99	216.00	5,616.00
9	123	20,500.00	-20,649.99	217.00	5,642.00
10	124	20,650.00	-20,799.99	219.00	5,694.00
11	125	20,800.00	-20,949.99	220.00	5,720.00
12	126	20,950.00	-21,099.99	222.00	5,772.00
13	127	21,100.00	-21,249.99	223.00	5,798.00
14	128	21,250.00	-21,399.99	225.00	5,850.00
15	129	21,400.00	-21,549.99	227.00	5,902.00
16	130	21,550.00	-21,699.99	228.00	5,928.00
17	131	21,700.00	-21,849.99	230.00	5,980.00
18	132	21,850.00	-21,999.99	231.00	6,006.00
19	133	22,000.00	-22,149.99	233.00	6,058.00
20	134	22,150.00	-22,299.99	235.00	6,110.00
21	135	22,300.00	-22,449.99	236.00	6,136.00
22	136	22,450.00	-22,599.99	238.00	6,188.00
23	137	22,600.00	-22,749.99	239.00	6,214.00
24	138	22,750.00	-22,899.99	241.00	6,266.00
25	139	22,900.00	-23,049.99	243.00	6,318.00
26	140	23,050.00	-23,199.99	244.00	6,344.00
27	141	23,200.00	-23,349.99	246.00	6,396.00
28	142	23,350.00	-23,499.99	247.00	6,422.00
29	143	23,500.00	-23,649.99	249.00	6,474.00
30	144	23,650.00	-23,799.99	250.00	6,500.00
31	145	23,800.00	-23,949.99	252.00	6,552.00
32	146	23,950.00	-24,099.99	254.00	6,604.00
33	147	24,100.00	-24,249.99	255.00	6,630.00
34	148	24,250.00	-24,399.99	257.00	6,682.00
35	149	24,400.00	-24,549.99	258.00	6,708.00
36	150	24,550.00	-24,699.99	260.00	6,760.00
37	151	24,700.00	-24,849.99	262.00	6,812.00
38	152	24,850.00	-24,999.99	263.00	6,838.00
39	153	25,000.00	-25,149.99	265.00	6,890.00
40	154	25,150.00	-25,299.99	266.00	6,916.00
41	155	25,300.00	-25,449.99	268.00	6,968.00



1	156	25,450.00	-25,599.99	269.00	6,994.00
2	157	25,600.00	-25,749.99	271.00	7,046.00
3	158	25,750.00	-25,899.99	273.00	7,098.00
4	159	25,900.00	-26,049.99	274.00	7,124.00
5	160	26,050.00	-26,199.99	276.00	7,176.00
6	161	26,200.00	-26,349.99	277.00	7,202.00
7	162	26,350.00	-26,499.99	279.00	7,254.00
8	163	26,500.00	-26,649.99	281.00	7,306.00
9	164	26,650.00	-26,799.99	282.00	7,332.00
10	165	26,800.00	-26,949.99	284.00	7,384.00
11	166	26,950.00	-27,099.99	285.00	7,410.00
12	167	27,100.00	-27,249.99	287.00	7,462.00
13	168	27,250.00	-27,399.99	289.00	7,514.00
14	169	27,400.00	-27,549.99	290.00	7,540.00
15	170	27,550.00	-27,699.99	292.00	7,592.00
16	171	27,700.00	-27,849.99	293.00	7,618.00
17	172	27,850.00	-27,999.99	295.00	7,670.00
18	173	28,000.00	-28,149.99	296.00	7,696.00
19	174	28,150.00	-28,299.99	298.00	7,748.00
20	175	28,300.00	-28,449.99	300.00	7,800.00
21	176	28,450.00	-28,599.99	301.00	7,826.00
22	177	28,600.00	-28,749.99	303.00	7,878.00
23	178	28,750.00	-28,899.99	304.00	7,904.00
24	179	28,900.00	-29,049.99	306.00	7,956.00
25	180	29,050.00	-29,199.99	308.00	8,008.00
26	181	29,200.00	-29,349.99	309.00	8,034.00
27	182	29,350.00	-29,499.99	311.00	8,086.00
28	183	29,500.00	-29,649.99	312.00	8,112.00
29	184	29,650.00	-29,799.99	314.00	8,164.00
30	185	29,800.00	-29,949.99	315.00	8,190.00
31	186	29,950.00	-30,099.99	317.00	8,242.00
32	187	30,100.00	-30,249.99	319.00	8,294.00
33	188	30,250.00	-30,399.99	320.00	8,320.00
34	189	30,400.00	-30,549.99	322.00	8,372.00
35	190	30,550.00	-30,699.99	323.00	8,398.00
36	191	30,700.00	-30,849.99	325.00	8,450.00
37	192	30,850.00	-30,999.99	327.00	8,502.00
38	193	31,000.00	-31,149.99	328.00	8,528.00
39	194	31,150.00	-31,299.99	330.00	8,580.00
40	195	31,300.00	-31,449.99	331.00	8,606.00
41	196	31,450.00	-31,599.99	333.00	8,658.00

1	197	31,600.00	-31,749.99	335.00	8,710.00
2	198	31,750.00	-31,899.99	336.00	8,736.00
3	199	31,900.00	-32,049.99	338.00	8,788.00
4	200	32,050.00	-32,199.99	339.00	8,814.00
5	201	32,200.00	-32,349.99	341.00	8,866.00
6	202	32,350.00	-32,499.99	342.00	8,892.00
7	203	32,500.00	-32,649.99	344.00	8,944.00
8	204	32,650.00	-32,799.99	346.00	8,996.00
9	205	32,800.00	-32,949.99	347.00	9,022.00
10	206	32,950.00	-33,099.99	349.00	9,074.00
11	207	33,100.00	-33,249.99	350.00	9,100.00
12	208	33,250.00	-33,399.99	352.00	9,152.00
13	209	33,400.00	-33,549.99	354.00	9,204.00
14	210	33,550.00	-33,699.99	355.00	9,230.00
15	211	33,700.00	-33,849.99	357.00	9,282.00
16	212	33,850.00	-33,999.99	358.00	9,308.00
17	213	34,000.00	-34,149.99	360.00	9,360.00
18	214	34,150.00	-34,299.99	361.00	9,386.00
19	215	34,300.00	-34,449.99	363.00	9,438.00
20	216	34,450.00	-34,599.99	365.00	9,490.00
21	217	34,600.00	-34,749.99	366.00	9,516.00
22	218	34,750.00	-34,899.99	368.00	9,568.00
23	219	34,900.00	-35,049.99	369.00	9,594.00
24	220	35,050.00	-35,199.99	371.00	9,646.00
25	221	35,200.00	-35,349.99	373.00	9,698.00
26	222	35,350.00	-35,499.99	374.00	9,724.00
27	223	35,500.00	-35,649.99	376.00	9,776.00
28	224	35,650.00	-35,799.99	377.00	9,802.00
29	225	35,800.00	-35,949.99	379.00	9,854.00
30	226	35,950.00	-36,099.99	381.00	9,906.00
31	227	36,100.00	-36,249.99	382.00	9,932.00
32	228	36,250.00	-36,399.99	384.00	9,984.00
33	229	36,400.00	-36,549.99	385.00	10,010.00
34	230	36,550.00	-36,699.99	387.00	10,062.00
35	231	36,700.00	-36,849.99	388.00	10,088.00
36	232	36,850.00	-36,999.99	390.00	10,140.00
37	233	37,000.00	-37,149.99	392.00	10,192.00
38	234	37,150.00	-37,299.99	393.00	10,218.00
39	235	37,300.00	-37,449.99	395.00	10,270.00
40	236	37,450.00	-37,599.99	396.00	10,296.00
41	237	37,600.00	-37,749.99	398.00	10,348.00

1	238	37,750.00	-37,899.99	400.00	10,400.00
2	239	37,900.00	-38,049.99	401.00	10,426.00
3	240	38,050.00	-38,199.99	403.00	10,478.00
4	241	38,200.00	-38,349.99	404.00	10,504.00
5	242	38,350.00	-38,499.99	406.00	10,556.00
6	243	38,500.00	-38,649.99	408.00	10,608.00
7	244	38,650.00	-38,799.99	409.00	10,634.00
8	245	38,800.00	-38,949.99	411.00	10,686.00
9	246	38,950.00	-39,099.99	412.00	10,712.00
10	247	39,100.00	-39,249.99	414.00	10,764.00
11	248	39,250.00	-39,399.99	415.00	10,790.00
12	249	39,400.00	-39,549.99	417.00	10,842.00
13	250	39,550.00	-39,699.99	419.00	10,894.00
14	251	39,700.00	-39,849.99	420.00	10,920.00
15	252	39,850.00	-39,999.99	422.00	10,972.00
16	253	40,000.00	-40,149.99	423.00	10,998.00
17	254	40,150.00	-and above	424.00	11,024.00

18 **§21A-6-11. Benefit rate -- Partial unemployment.**

19 An eligible individual who is partially unemployed in any week  
20 shall, upon claim ~~therefor~~ filed within ~~such~~ the time and in ~~such~~  
21 the manner ~~as~~ the commissioner may by ~~regulation~~ rule prescribe, be  
22 paid benefits for ~~such~~ the partial unemployment in an amount equal  
23 to ~~his~~ the individual's weekly benefit rate, as determined in  
24 accordance with section ten of this article, less that part of  
25 wages from any source payable or bonus paid to him or her with  
26 respect to ~~such~~ the week which is in excess of ~~sixty dollars~~ forty  
27 percent of the individual's weekly benefit rate. ~~Provided, That~~  
28 ~~such~~ The amount of benefits if not a multiple of one dollar shall  
29 be computed to the next lowest multiple of one dollar. ~~Such~~ The  
30 partial benefits shall be paid to ~~such~~ the individual for the week

1 for which he or she is claiming benefits without regard to the  
2 provisions of subdivision (1), section one of this article.

NOTE: The purpose of this bill is to change the amount a person can earn while receiving unemployment compensation benefits, without it changing the benefits received, from \$60 a week to forty percent of the person's weekly benefit rate.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.