Legislative Analysis

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UNEMPLOYMENT INSURANCE AMENDMENTS

House Bill 4781 (reported without amendment)
Sponsor: Rep. Wayne Schmidt

House Bill 4782 (reported without amendment)
Sponsor: Rep. Joe Haveman
Committee: Commerce

Complete to 8-25-11

A SUMMARY OF HOUSE BILLS 4781 & 4782 AS REPORTED FROM COMMITTEE 6-22-11

BRIEF SUMMARY: The bills would make several amendments to the Michigan Employment Security Act concerning (1) the calculation of a claimant's weekly benefit amount, (2) the designation of employers as "seasonal employers," (3) the work search requirements for claimants, and (4) reasons of separation from employment that disqualify claimants for benefits.[1]

BRIEF FISCAL IMPACT: Generally speaking, the bills would tend to reduce benefit outlays from the Unemployment Trust Fund and, accordingly, would tend to reduce state UI taxes on contributing employers. At present, no estimate is available from the Unemployment Insurance Agency.

DETAILED SUMMARY:

House Bill 4781

Weekly Benefit Amount
House Bill 4781 would amend the Michigan Employment Security Act (MESA) to revise the calculation used by the Unemployment Insurance Agency (UIA) to determine a claimant's weekly benefit amount (WBA).

While federal law imposes implicit mandates on state UI programs covering a range of topics – including financing, coverage, and administration – states are free to determine the monetary conditions of benefits, including the weekly benefit amount, and the duration of benefits.[2] States use a variety of methods to determine the WBA, although

[1] See, also, the companion legislation in the Senate: SB 500 (Sen. Jansen) and SB 501 (Sen. Kowall), introduced on June 16, 2011, and referred to the Senate Committee on Economic Development.

[2] For an overview see the 2010 edition of *Comparison of State Unemployment Laws*, U.S. Department of Labor, Employment and Training Administration, http://www.ows.doleta.gov/unemploy/comparison2010.asp. On this point researchers have noted, "[t]he original Federal-State UI system was formulated with the idea that each State individually should be able to design and operate its own UI program, paying attention to local needs and to local characteristics of labor markets." See Robert L. Crosslin and William W. Ross, "Achieving Wage-Replacement

the general principle since the program's establishment more than 75 years ago has been that the weekly benefit amount should replace 50 percent of a claimant's former wages.[3] There is great variability among the states in determining the weekly benefit amount, including setting a maximum WBA, although most (including Michigan) use a WBA formula that uses the highest quarterly wages in the base year. Other approaches include looking at a claimant's wages in multiple quarters, annual wages, or the claimant's average weekly wage.[4]

Under current law, the state WBA is calculated as 4.1% of the wages earned in the quarter in the base period with the highest wages ("high quarter wages"), plus $6 per dependent (up to 5), capped at $362.[5] The calculated WBA is rounded down to the nearest whole dollar.

Under House Bill 4781, the WBA would be calculated as 47% of the individual's prior average weekly wage (AWW), plus $6 per dependent (up to 5), capped at $362. The prior average weekly wage would be the claimant's total base period wages divided by 52.[6] The new calculation would first be used for benefit years beginning on or after

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Goals", in *Unemployment Compensation: Studies and Research, Volume 1*, National Commission on Unemployment Compensation, July 1980.

[3] O'Leary and Rubin (1997) noted that "[s]ince the beginning of the federal-state UI program in the United States, there has been general acceptance of the idea that the weekly benefit should replace one-half of the worker's lost weekly wages. There is little historical evidence concerning the 50 percent concept, but it appears that the idea initially became established primarily through the influence of the first UI law in Wisconsin." See, Christopher J. O'Leary and Murray A. Rubin, "Adequacy of the Weekly Benefit Amount", in *Unemployment Insurance in the United States: Analysis of Policy Issues*, 1997, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI.

[4] O'Leary and Rubin (1997) noted, "[o]ver the years, a widely held view has formed that the weekly benefit amount should be high enough to sustain a worker and family without having to resort to public welfare assistance, but that benefits should not be so high as to undermine the incentive to return to work. There has been little agreement on the specifics of how this principle should be implemented. For example, there is concurrence that the benefit should be waged related, but states differ widely in how they measure past wages, the amount of wages to be replaced by the benefits, and the highest amount of benefits that should be payable." See, "Adequacy of the Weekly Benefit Amount."

[5] Under Section 45 of the MESA (MCL 421.45), the base period is the first 4 of the last 5 completed calendar quarters. Alternatively, if a person does not have sufficient earnings with the base period to be monetarily eligible for benefits, the UIA uses an alternate base period, which consists of the four most recent completed calendar quarters prior to the first day of the individual's benefit year. To establish a benefit year (i.e. be monetarily eligible for benefits) a worker must have wages within the base period (1) in at least two quarters, (2) in the high quarter at least equal to 388.06 multiplied by the state minimum wage of $7.40 ($2,871), and (3) in the entire base period at least equal to 150% of the high quarter wages. The act provides for an alternate earnings calculation if a person does not have sufficient wages in the base period, with the claimant being required to have wages in at least two quarters in the base period and total base period wages of at least 20 times the state average weekly wage. Under the regular earnings calculation, the minimum weekly benefit amount is $117: $2,871 x 4.1% = $117.71, rounded down to $117. The minimum base period wages (earned in at least two quarters) is $4,306.50 ($2,871x 150%).

[6] Weeks during the base period where the claimant had little or no earnings (e.g. for unpaid time off or a period of lay-off) would be included and would tend to reduce the weekly benefit amount calculated under this method. Ohio, for example, uses an average weekly wage formula to calculate a claimant's weekly benefit amount where the weekly benefit amount is 50% of the claimant's average weekly wage. (See ORC 4141.30). Under ORC 4141.01, the average weekly wage is the total remuneration for all "qualifying weeks" within the base period, divided by the number of "qualifying weeks". "Qualifying weeks" is defined as any week in the base period in which the claimant earns or is paid remuneration.

January 15, 2012.[7] Under the act, the WBA calculated under the bill would still be rounded down to the nearest whole dollar.

Seasonal Employers

Under current law, workers who work for "seasonal" employers are generally not eligible for benefits if they have reasonable assurance from their employer that at the end of the seasonal work period that they will be rehired when the new season begins. Seasonal workers are eligible for benefits for periods of unemployment during the normal work period. If a worker was given reasonable assurance of continuing employment and was denied benefits during the time between seasons but is not hired in the subsequent season, the worker may receive retroactive payments.[8]

To be designated as a "seasonal" employer by the UIA, an employer must submit an application to the UIA requesting such a designation at least 20 days before the beginning date of a normal seasonal work period.[9] At the time of the application, the employer must also post a copy of the application on its premises.

Under the act, the UIA designates an employer as a seasonal employer if the employer offers work in "seasonal employment." The determination of whether employment is seasonal in nature depends on the nature of both the industry as a whole and the specific activities of the employer. An employer can offer seasonal employment, but if its industry is not seasonal in nature, it cannot be designated as seasonal by the UIA. Moreover, the employer must, itself, operate seasonally as well.

The act defines "seasonal employment" as employment in an industry that (1) customarily operates during regularly recurring periods of 26 weeks or less in any 52 consecutive week period or (2) customarily employs at least half of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks.[10]

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[7] The January 15, 2012, date coincides with the date after which claimants with new benefit years are allowed a maximum of 20 weeks of benefits, as provided for in Public Act 14 of 2010 (House Bill 4408).

[8] On this topic, Blaustein, Cohen, and Haber (1993) noted "[d]uring the early years of the program, as many as thirty-three states had adopted special provisions to limit the benefit entitlement of workers employed in seasonal activities. The principal motivations for these provisions were (1) the fears that benefits claimed by such workers during their off-season would drain reserve funds and threaten solvency, and (2) the fears of employers of such workers that the heavy costs of off-season benefits would make their tax rates very high due to experience rating. The application of these seasonal provisions, however, generally proved to be difficult and generated various anomalies, inequities, and administrative problems. Over the years, the trend has been toward the abandonment of seasonal provisions." See, Saul Blaustein with Wilbur J. Cohen and William Haber, *Unemployment Insurance in the United States: The First Half Century*, W.E. Upjohn Institute for Employment Research, 1993, Kalamazoo, MI. O'Connor (1962) noted that, "[w]hen in the late 1930's individual states wrote unemployment compensation programs into law, there was widespread sentiment against including seasonally unemployed workers under coverage. Implicit in those laws which in fact barred seasonal employees was the notion that workers deliberately chose seasonal employments and therefore, during slack seasons, were voluntarily unemployed." See, James O'Connor, "Seasonal Unemployment and Unemployment Insurance", *The American Economic Review*, Vol. 52, No. 3 (June 1962).

[9] See UIA Form 1155, http://www.michigan.gov/documents/uia_UC1155_76087_7.pdf.

[10] According to the U.S. Department of Labor, 15 other states have similar provisions concerning seasonal employment. See the 2010 edition of *Comparison of State Unemployment Laws*, U.S. Department of Labor, Employment and Training Administration, http://www.ows.doleta.gov/unemploy/comparison2010.asp.

House Bill 4781 amends the definition of "seasonal employment" to mean employment for an employer (rather than in an industry) that (1) customarily employs at least half of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks; or (2) customarily requires employees for peak employment periods, such as holiday work or work with a predetermined beginning and ending date that does not exceed 26 weeks.

House Bill 4782

The general principle of unemployment insurance is that benefits are to be payable to workers who have lost their jobs through no fault of their own and have an attachment to the labor market by being able, available, and actively seeking work.[11] Accordingly, each state's UI law contains provisions basing the determination of initial and continuing eligibility for benefits, in part, on the reason for the separation from employment and the worker's ability to work, availability for work, work search activities, and refusal to work.[12] Federal law implicitly requires that compensation not be denied to a claimant for refusing an offer of new work if the wages, hours, or other conditions of the work offered are substantially less favorable to the claimant than those prevailing for similar work in the locality.[13] Beyond this requirement, states can establish other requirements for determining what constitutes "suitable work." House Bill 4782 amends the MESA by adding to the work search requirements, expanding the definition of "suitable work", and expanding the reasons for separation from employment that would disqualify workers for benefits.

Work Search Requirements

Under the MESA[14], when filing a claim for benefits, claimants must register for work with the employment office (the local Michigan Works! Agency) and be actively "seeking work."[15]

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[11] On this point researchers have noted, "[w]hile one of the objectives of unemployment insurance (UI) is to reduce the financial hardship of job loss, it was not originally designed to be simply a welfare program for the indigent: it was to be an earned right for workers who become unemployed. Thus, the program requires not only that recipients demonstrate past labor market attachment but that they maintain that attachment." See Patricia M. Anderson, "Continuing Eligibility" in *Unemployment Insurance in the United States: Analysis of Policy Issues*, 1997, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI.

[12] For an overview of these requirements and other nonmonetary eligibility provisions among state UI laws, see the 2010 edition of *Comparison of State Unemployment Laws.*

[13] See 26 USC 3304. The federal government has noted that this provision "was designed to prevent the unemployment compensation system from exerting downward pressure on existing labor standards. It was not intended to increase wages or improve the conditions under which workers are employed, but to prevent any compulsion upon workers, through denial of benefits, to accept work under less favorable conditions than those generally to be obtained in the locality for such work." See, Unemployment Compensation Program Letter No. 130, *Principles Underlying the Prevailing Conditions Standard*, January 6, 1947, http://www.workforcesecurity.doleta.gov/dmstree/uipl/uipl_pre75/uipl_130.htm. This is an implicit requirement since the Federal Unemployment Tax Act conditions federal administrative funding to state unemployment insurance agencies and the receipt of a significant tax credit against the federal unemployment tax by contributing employers based on the inclusion of this provision, among others, in the states' unemployment insurance laws.

[14] See Section 28(1)(a). Rule 208 (R 421.208) of the UIA's general administrative rules, provides "a claimant shall register for work as instructed by the agency and fully and accurately supply information as to the claimant's past

The act further provides that the claimant will be disqualified from receiving benefits if he or she fails without good cause to *apply* for available suitable work after receiving notice of the availability of that work from the local MWA or the UIA.

House Bill 4782 alters this requirement to specify that a person must apply for available work "diligently" and must apply for work with employers who could reasonably be expected to have suitable work.[16]

Suitable Work

The MESA provides that in determining whether work is "suitable" for an individual, the UIA shall consider the following factors:

- The degree of risk involved to the individual's health, safety, and morals.
- The individual's physical fitness and prior training.
- The individual's length of unemployment and prospects for securing local work in the individual's customary occupation.
- The distance of the available work from the individual's residence.[17]

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work experience and training and other personal data as may be necessary to assure that the claimant is considered for referral to any available suitable work."

[15] See, Workforce Development Agency Policy Issuance 10-32, *Employment Service (ES) Manual*, July 5, 2011, http://web.michworks.org/OWD/PDFnew/10-32.pdf. The policy issuance notes that to register for work, claimants must enter their resume on the Michigan Talent Bank website [https://www.michworks.org] either through an MWA service center or any other Internet connection. Claimants must take their resume and UIA Form 1222-M, *Notice to Register to Work* [http://www.michigan.gov/documents/uia_1222-M_86454_7.pdf] to an MWA service center to verify that the claimant is registered for work. Claimants are advised to report to an MWA service center at least 5 days before filing a claim for benefits. If a claimant uploads his/her resume on the MTB website, but fails to report in-person to the MWA service center, benefits will be denied. In May 2011, the U.S. House of Representatives, Committee on Ways and Means, adopted legislation (HR 1745, known as the Jobs, Opportunity, Benefits, and Services Act of 2011, or JOBS Act of 2011), that would establish minimum work search requirements and require participation in reemployment services, as a condition of receiving regular state UI benefits. The work-search provision would require claimants to be "actively engaged in a systematic and sustained effort" to obtain work, and would include registering for employment services, posting a resume (e.g. through the Michigan Talent Bank), and applying for work "similar to that previously performed by the individual, and which offers wages comparable to wages for similar work in the local labor market in which the individual resides or is actively seeking work."

[16] Additionally, Section 29(1)(e) of the MESA [MCL 421.29(1)(e)] disqualifies a claimant if he or she fails without good cause to accept suitable work offered to the individual. On this point, the UIA notes that "[c]ourts have said that the offer of work must be specific, as far as hours, wages, fringe benefits, conditions, and duties of the job. The offer must be made known to the particular worker (verbally or in writing), not just posted in the workplace." See, http://www.michigan.gov/uia/0,1607,7-118-26831_27122_27127-78544--,00.html.

[17] On this point the U.S. Department of Labor has noted, "[t]o determine if the offered work is suitable, States conduct a two-tiered analysis. First, the work must be suitable to the individual considering his or her previous wage and skill levels. Whether the work is suitable under this test is generally a matter of State law. Second, the work must meet the requirements of [26 USC 3304], including the 'prevailing conditions of work' requirement. See, Unemployment Insurance Program Letter 41-98, *Application of the Prevailing Conditions of Work Requirement*, August 17, 1998, http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1819. The federal government has also noted that the purpose of disqualifying claimants due to their refusal, without good cause, to accept suitable work "is intended to prevent payment of benefits to workers voluntarily unemployed because they are not willing to accept work. To avoid depressing labor standard and working hardships on claimants, this is generally qualified by the requirement that the offered work be 'suitable' and that the claimant [has] refused it without good cause." See, Unemployment Compensation Program Letter No. 101, *Principles Underlying the Suitable-Work Disqualification*, November 26, 1945, http://www.workforcesecurity.doleta.gov/dmstree/uipl/uipl_pre75/ucpl_101a.pdf. Others have

The MESA further provides that the UIA shall consider the individual's experience and prior earnings, although an individual who refuses otherwise suitable work must be denied benefits if the pay rate is at least 70% of the gross pay rate in the individual's prior employment.

House Bill 4782 provides that, in addition to the criteria above, beginning September 1, 2011, after an individual has received benefits for half of their available benefit weeks in the benefit year[18], work would not be considered to be unsuitable if it is outside of the individual's training and experience or if the pay rate of the work is at least the minimum wage and at least 120% of the individual's weekly benefit amount.[19]

Disqualifying Reasons for Separation (Misconduct)

The MESA provides that an individual shall be disqualified from benefits if the individual is suspended or discharged for misconduct connected with the individual's work.[20]

House Bill 4782 amends the definition of "misconduct," by explicitly providing that an individual would be disqualified for benefits if the individual was suspended or

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noted, "[t]he provision's universal existence [in state UI laws] is attributable, in part at least, to a generally held concept that the purpose of unemployment compensation is to compensate for a wage loss due to unemployment resulting from a lack of work. Where a claimant without good cause refuses suitable work, his immediate unemployment is not due to the absence of [a] suitable work opportunity." See, Arthur A. Menard, "Refusal of Suitable Work", *Yale Law Journal*, Vol. 55, No. 1 (December 1945).

[18] The U.S. Department of Labor notes, "[a] few states provide for changing the definition of suitable work as the duration of the individual's unemployment grows. The suitability of the offered wage is the factor states have chosen to alter." These states include Florida, Maine, Iowa, and Utah, among others. See, *Comparison of State Unemployment Laws.*

[19] As noted above, the existing "suitable work" standard includes consideration of the claimant's prior training and experience. On this point, the federal government has noted, "[t]he main purpose of this factor is to prevent downgrading of the claimant's skills. In applying this factor, the question is not whether the claimant is able to perform the work but whether it requires the maximum utilization of the claimant's skill. Ideally, the job should make the maximum use of the claimant's highest skill, but a modification of this policy is required if his skills [are] not in demand either during a very long seasonal slack or because of technological changes. In these cases, lack of prospects of customary work should be given more weight. In application of the factor, consideration should be given to the effect of the worker's acceptance of an offered job at less than his highest skill upon his future prospects of work at his highest skill…Phrased differently, the question is not whether the claimant is fitted for the job, but whether the job is fitted to the claimant...if the claimant has been unemployed for a long time and prospects for work in his usual occupation or slim or nonexistent, he may reasonably be expected to take work not exactly in line with his prior training or experience. See, Unemployment Compensation Program Letter No. 101.

[20] On this point, the UIA has noted, "[u]nemployment compensation cases say that to be misconduct, the actions by the worker must be harmful to the interests of the employer, and must be done intentionally or in disregard of the employer's interests. Actions that are grossly negligent will also be considered misconduct. A single incident of misconduct or of gross negligence may be enough to disqualify a worker from unemployment benefits. A worker who commits many infractions may be disqualified, even if none of the infractions, alone, would be misconduct resulting in disqualification. However, the final incident in a series, for which the worker is fired, must itself show an intentional disregard of the employer's interests." Additionally, the UIA has noted, "If a worker is consistently absent or tardy from work, without a justifiable excuse, the worker could be disqualified from receiving benefits. If a worker is discharged based on an arrest occurring on the worker's own time and not connected with the job, then the worker would not be disqualified. If a worker is discharged for being unable to meet production quotas, but is otherwise a co-operative worker, that worker will probably not be disqualified from receiving unemployment benefits." See, http://www.michigan.gov/uia/0,1607,7-118-26831_27122_27127-78538--,00.html.

discharged because of the individual's failure to perform the work correctly or meet normal production quotas, and for consistent tardiness or absence without justifiable cause.[21]

Individuals disqualified for benefits for these added reasons could requalify for benefits if they complete 13 requalifying weeks. A requalifying week is a week in which the individual (1) earns or receives remuneration in an amount equal to at least 1/13 of the minimum amount needed in a calendar quarter of the base period for an individual to qualify for benefits, rounded down to the nearest whole dollar,[22] or (2) otherwise meets all of the requirements of the act to receive benefits if the individual had not been disqualified.

FISCAL IMPACT:

Unemployment Trust Fund: Generally speaking, the bills would tend to reduce benefit outlays from the Unemployment Trust Fund and, accordingly, would tend to reduce state UI taxes on contributing employers. At present, no estimate is available from the Unemployment Insurance Agency.

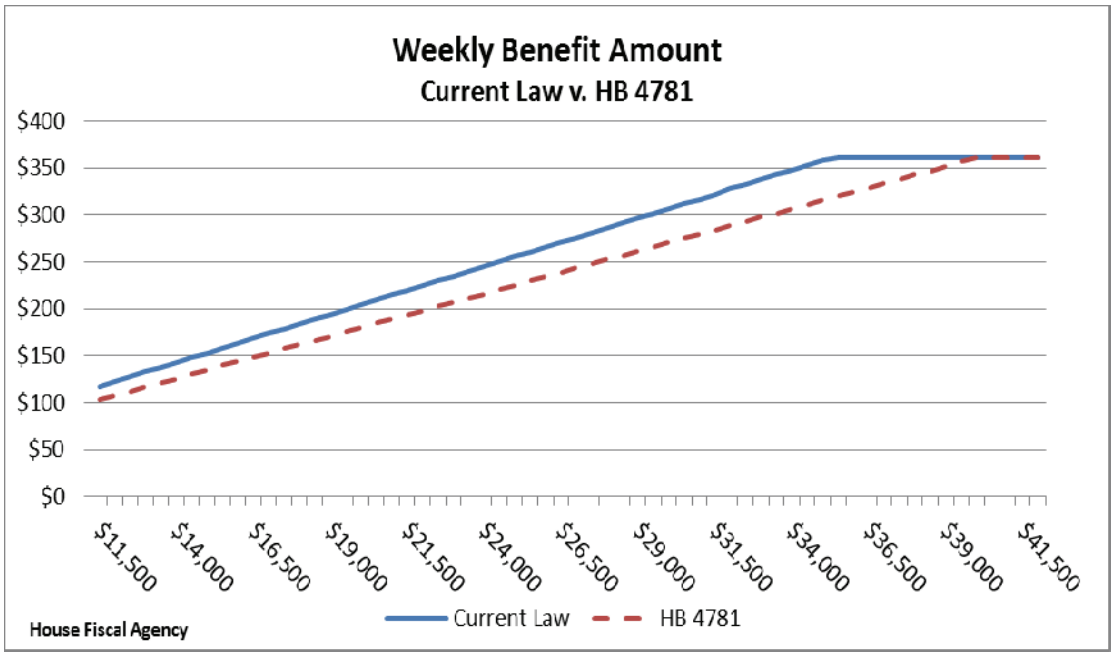
Under the MESA, an employer's state unemployment tax rate is based on its "experience Rating." In general, employers that have more former employees receiving unemployment benefits have a higher tax rate than those employers with fewer former

[21] Courts have long held that workers who are separated from employment due to poor performance generally are still eligible for benefits, although claimants can still be disqualified for benefits due to poor performance, including consistent absence or tardiness, depending on the specific circumstances in the case. See, generally, *Carter v. Employment Security Commission*, 364 Mich 538 (1961). Citing *Boynton Cab Co. v. Neubeck & Industrial Commission*, 237 Wis 249 (1941), the Michigan Supreme Court in *Carter* stated, " . . . the intended meaning of the term 'misconduct' . . . is limited to conduct evincing such wilful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed 'misconduct' within the meaning of the statute." Additionally, in *Boynton*, the Wisconsin Supreme Court held, "[i]f mere mistakes, errors in judgment or in the exercise of discretion, minor and but casual or unintentional carelessness or negligence, and similar minor peccadilloes must be considered to be within the term 'misconduct,' and no such element of wantonness, culpability or willfulness with wrongful intent or evil design is to be included as an essential element in order to constitute misconduct within the intended meaning of the term as used in the statute, then there will be defeated, as to many of the great mass of less capable industrial workers, who are in the lower income brackets and for whose benefit the act was largely designed, the principal purpose and object under the act of alleviating the evils of unemployment by cushioning the shock of a layoff, which is apt to be most serious to such workers."

[22] Under Section 46 (MCL 421.46), the minimum high quarter wage must be at least 388.06 multiplied by the state minimum wage ($7.40), rounded down to the nearest whole dollar. To have a requalifying week under this provision, a disqualified individual shall have remuneration of at least $220 ($2,871 ÷ 13 = $220.86). Under the act, disqualified individuals with the same requalifying requirement - such as those disqualified for failing to apply for available work or refusing to accept an offer of suitable work - are eligible for the maximum amount of weeks of benefits otherwise available (had they not been disqualified) minus the lesser of (1) the number of requalifying weeks [13] or (2) the number of weeks remaining on the claim. See Sec. 29(4)(f) of the act. The bill does not expand this provision to include individuals disqualified for the reasons added by the bill.

employees receiving benefits. The UIA maintains for each employer an account that tracks the amount of benefits paid out to former employees and the amount of state unemployment taxes paid. Benefits paid to an employer's former employees are "charged" against this account. The main component of the state unemployment tax rate is the Chargeable Benefits Component (CBC) rate, which is determined by dividing the employer's total amount of benefit charges for the past five years (ending the previous June 30th) by the employer's total taxable payroll over the same time period. Under this calculation, the higher the benefit charges, the higher the tax rate. Accordingly, as benefit charges are reduced – as fewer former employers receive benefits or as former employees receive less in benefits – the employer's state UI tax rate is reduced.

***Weekly Benefit Amount*:** Altering the calculation of the weekly benefit amount from 4.1% of "high quarter wages" to 47% of the 52-week average weekly wage would tend to reduce benefits payable to claimant with lower base period wages. For workers with higher base period wages, the revised calculation would have no impact, as the weekly benefit amount would still be subject to the maximum amount of $362. The chart below illustrates this issue by looking at the calculated WBA for claimants with wages between $11,500 and $42,000.



Note: Calculated WBA assumes equal quarterly wages. The actual WBA under current law depends on high quarter wages and could result in claimants with the same total base period wages receiving different weekly benefit amounts depending on the wages in the high quarter.

For claimants earning $35,500 or less, the WBA equates to approximately 53% percent of their 52-week average weekly wage. Under HB 4781, this group of claimants would see a reduction in their WBA of approximately 12%. Under current law, a claimant with $35,500 in base period wages would be eligible for the statutory maximum of $362. For claimants with higher base period wages, the replacement

ratio falls as claimants hit the statutory maximum WBA of $362. Those workers would tend to see a smaller reduction in benefits.[23]

***Work Search Requirements*:** By requiring that claimants "diligently" apply for employment and apply for employment with firms "reasonably" expected to have available suitable work, the bill would tend to reduce benefit outlays from the Unemployment Trust Fund, as more workers could be denied benefits for having not complied with this requirement or because they are reemployed sooner resulting from a more diligent work search activity.[24] Ultimately, any potential decrease in benefit outlays depends on how this provision would be enforced by the Unemployment Insurance Agency[25] – e.g. requiring claimants to maintain a log of work search

[23] As a point of comparison, in February 2011, the Indiana General Assembly enacted legislation also setting its weekly benefit amount to as 47% of the claimant's 52-week average weekly wage, with the change estimated to reduce benefit outlays by 25%. Previously, Indiana law established the weekly benefit amount as 5% of the first $2,000 in high quarter "wage credits" plus 4% of high quarter "wage credits" above $2,000, with the total amount of high quarter wage credits capped at $9,250 and the weekly benefit amount capped at $390. See, Indiana House Enrolled Act 1450, http://www.in.gov/legislative/bills/2011/PDF/HE/HE1450.1.pdf. For a claimant with equal quarterly wages, the prior Indiana law would have provided a higher WBA than current Michigan law. Under HB 4781 and HEA 1450, the two states would provide essentially the same amount of benefits, although Michigan residents would hit the $362 statutory maximum WBA at just over $40,000 in base period wages, while Indiana claimants would hit the $390 statutory maximum WBA at just over $43,100 in base period wages.

[24] Many contend that unemployment compensation provides workers with a "disincentive" to reemployment. On this point, Decker (1997) notes, "[t]he theory supporting the disincentive effect of UI is based on the premise that UI tends to prolong unemployment spells because it lowers the cost of unemployment. Unemployed workers who receive UI benefits tend to consume more leisure, to reduce the intensity (and therefore the cost) of their job search, or to be more selective in accepting a job offer than they would be in the absence of UI. All of these tendencies will tend to generate longer unemployment spells. See, Paul T. Decker, "Work Incentives and Disincentives" in Unemployment Insurance in the United States: Analysis of Policy Issues, 1997, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI. Others dispute this notion, arguing that, at least during more recent economic downturns, the work disincentive effects previously estimated are overstated. See, for example, *Beyond Sound Bites—Understanding the Impact of Unemployment Insurance on the Severity of Unemployment*, National Employment Law Project, May 2010, http://nelp.3cdn.net/2e73fd99708056efc1_r8m6i6jx4.pdf. See, also, *Does Unemployment Insurance Inhibit Job Search?*, Majority Staff of the Joint Economic Committee, July 2010, http://jec.senate.gov/public/?a=Files.Serve&File_id=935ec1e7-45a0-461f-a265-bbba6d6d11de.

[25] The UIA administers a more stringent work-search requirement for the Extended Benefit (EB) program, as required under Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), particularly for claimants whose work prospects are "not good." The EUCA requires, among other things, that these claimants for EB benefits be engaged in a "systematic and sustained effort to obtain work" and provide "tangible evidence" to the state UI agency of work-search activities. This requirement is mirrored in Section 64 of the MESA (MCL 421.64). As defined in federal regulations (20 CFR 615.2), a "systematic and sustained" work search effort means, among other things, "a high level of job search activity throughout the given week, compatible with the number of employers and employment opportunities in the labor market reasonably applicable to the individual." The U.S. Department of Labor notes that this provision requires these EB claimants "to make a more diligent effort to seek work than would normally be required of an individual receiving regular benefits." See, Unemployment Insurance Program Letter 14-81 (February 2, 1981), http://www.ows.doleta.gov/dmstree/uipl/uipl81/uipl_1481.htm. Under federal regulations (20 CFR 615.2), "tangible evidence" means "a written record which can be verified, and which includes the actions taken, methods of applying for work, types of work sought, dates and places where work was sought, the name of the employer or person who was contacted and the outcome of the contact." See, UIA Form 1583, http://www.michigan.gov/documents/uia/1583_268058_7.pdf. The UIA requires at least two employer contacts per week

activities, subject to random audit by the UIA – and how the additional requirement would impact the work search behavior of claimants.[26]

In a 1986 study on the actual work search efforts of UI claimants in five states (not including Michigan), St. Louis et al. found that claimants significantly over-reported their work search activities, with reported employer contacts averaging 2.61 per week compared to an average of 1.78 actual employer contacts per week. The authors note, "[t]wo questions raised by the large differences in reported compared with actual job contacts…are why UI recipients engage in such substantial misreporting and why UI agencies are not able to detect more of the misreporting that occurs. In terms of the latter issue, the difficult for UI agencies is that it is an extremely costly process to detect misreporting…Claimants very likely engage in substantial misreporting because they are aware that the detection of concocted job contact reports is extremely unlikely, as long as the reports are superficially plausible.[27]

There is some research studying the impact of the intensity of monitoring of the work search activities of UI claimants, with the studies generally finding that more intensive monitoring tends to shorten the duration of the receipt of benefits.[28] Johnson and Klepinger (1994) found that claimants with no work-search requirement had a longer duration of benefits (3.3 additional weeks) and were more likely to exhaust benefits than workers with standards work-search requirements (i.e. require three employer contacts per week.[29] In a study of Maryland UI claimants Johnson,

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[26] On this point, Boone et al. (2004) note, "[i]n theory the job search behavior of an unemployed worker is influenced by a system of benefit sanctions in two distinct ways. First, if an unemployed worker is confronted with a benefit sanction, a reduction of the benefits, a worker will be more likely to accept a given job offer…Second, to avoid being confronted with a benefit sanction a worker will be more likely to accept a given wage offer than he would if his benefits would be constant and no system of benefit sanctions existed." See Jan Bonne, Abdolkarim Sadrieh, and Jan C. van Ours, "Experiments on Unemployment Sanctions and Job Search Behavior", IZA Discussion Paper No. 1000, Institute for the Study of Labor, http://ftp.iza.org/dp1000.pdf.

[27] See, Robert D. St. Louis, Paul L. Burgess, and Jerry L. Kingston, "Reported vs. Actual Job Search By Unemployment Insurance Claimants", *Journal of Human Resources*, Vol. 21, No. 1 (Winter 1986), pp. 92-117.

[28] See, generally, Christopher J. O'Leary, *UI Work Rules and their Effects on Employment*, Report prepared for the Center for Employment Security Education and Research, National Association of State Workforce Agencies, February 2004, http://research.upjohn.org/reports/83/. On the topic of work-search requirements, Johnson and Klepinger (1994) note, "[a]lthough the UI program provides temporary income support for the involuntarily unemployed, it can reduce the incentive to seek employment because UI benefits reduce the cost of being unemployed, which will be associated with an increase in the reservation wage and longer spells of unemployment. To partially offset the negative impact UI benefits have on job search, state UI programs typically impose work-search requirements for continued benefit receipt. Work-search requirements increase job search in two ways. A work-search requirement increases job search intensity to the extent that it forces a worker to make more job contacts than he or she would have made in the absence of a work-search requirement. In general, greater intensity of job search will result in more rapid employment and lower costs to the UI program. In addition, work-search requirements raise the nonmonetary costs of continued receipt of UI benefits if claimants perceive the requirements as a burden. The increased costs of continued benefit receipt lowers the utility of UI program participation, relative to working, resulting in more intensive job search and/or a reduction in the reservation wage." See, Terry R. Johnson and Daniel H. Klepinger, "Experimental Evidence on Unemployment Insurance Work-Search Policies", *Journal of Human Resources*, Vol. 29, No. 3 (Summer 1994).

[29] See, Terry R. Johnson and Daniel H. Klepinger, "Experimental Evidence on Unemployment Insurance Work-Search Policies", *Journal of Human Resources*, Vol. 29, No. 3 (Summer 1994). In a 1987 study sponsored by the U.S. Department of Labor, researchers also found that "[c]laimants from states whose work-search rules are strict

Klepinger, and Joesch (2002) found that requiring additional employer contacts shortened the duration of benefits (0.72 weeks) and were less likely to exhaust benefits (2.5% less) than normal work-search requirements, and also found that claimant's whose weekly contacts with employers shortened the duration of benefits (0.86 weeks) and were less likely to exhaust benefits (2.8% less).[30]

It should be noted that other researchers do not necessarily find significant impacts of stricter work-search requirements. A January 2003 study prepared for the U.S. Department of Labor noted, "[l]inks between more stringent job search requirements and enforcement with either recipiency rates or duration are not easily proved. State officials did not single out stringency as a major factor, though they suggested that there may be some links between stringent enforcement of job search requirement[s] and shorter duration. The data for the states are somewhat suggestive, but not definitive. For example, South Dakota and South Carolina, which had perhaps the most stringent enforce of job search requirements, also had short durations. There is also logic behind this argument. Requirements for more job contacts and strict enforcement of claimants making such contacts would likely yield greater determinations, which may lead to lost weeks of receipt of benefits and, perhaps, total loss of benefits. In addition, if claimants are aware that staff are more rigorously checking job contacts, they may be more likely to make at least the required number of contacts and maybe more, which may hasten re-employment and reduce the likelihood of exhaustion of benefits. Despite this underlying logic and anecdotal evidence, the links between recipiency rate/duration of benefits and stringency of job search requirements/enforcement activities is far from certain."[31]

Ashenfelter et al. (2005) noted, "[w]e found some evidence that, in one of the four states we studied, tighter checks on eligibility may have a small effect on initial benefit payments. However, even in this state, eligibility checks led to little or no effect on total benefit payments or the duration of unemployment claims. Most

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are generally more likely to search for work, devote more hours to work search, and contact more employers than is true for claimants from moderately strict and lenient states. Conversely, claimants from states whose work-search rules are lenient are less likely to search, devote the fewest hours to work search, and contact the fewest number of employers. Thus, it would appear that differences in the work-search rules, or perhaps the overall work-search policy or climate, of states do influence the work-search behavior of claimants." See, Walter Corson, Stuart Kerachsky, and Ellen Eliason Kisker, *Work Search Among Unemployment Insurance Claimants: An Investigation of Some Effects of State Rules and Enforcement*, Unemployment Insurance Occasional Paper 88-1, U.S. Department of Labor, Employment and Training Administration, 1988, http://ows.doleta.gov/dmstree/op/op88/op_01-88.pdf.

[30] See, Daniel H. Klepinger, Terry R. Johnson, and Jutta M. Joesch, "Effects of Unemployment Work-Search Requirements: The Maryland Experiment", *Industrial and Labor Relations Review*, Vol. 56, No. 1 (October 2002). The researchers also found that claimants with no work-search requirement received more in benefits and were more likely to exhaust benefits, although not to the extent as their earlier research from 1994. Similar results were found for a work search verification requirement in Australia in Jeff Borland and Yi-Ping Tseng, "Does a Minimum Job Search Requirement Reduce Time on Unemployment Payments? Evidence from the Jobseeker Diary in Australia", *Industrial and Labor Relations Review*, Vol. 60, No. 3 (2007).

[31] Michael Fishman, Mary Farrell, Karen N. Gardiner, Burt Barnow, and John Trutko, *Unemployment Insurance Non-Monetary Policies and Practices: How Do They Affect Program Participation? – A Study of 8 States*, Unemployment Insurance Occasional Paper 2003-01, U.S. Department of Labor, Employment and Training Administration, 2003, http://www.doleta.gov/reports/searcheta/occ/papers/DOL-UI_Final_Report3.pdf.

important, we found no evidence that verification of claimant search behavior led to shorter claims or lower total benefit payments."[32]

There is also a body of research on the job search intensity of unemployed workers, including UI recipients. A May 2011 study of Washington UI claimants noted that claimants with effectively no work search test had a longer duration of benefits by 3.3 weeks and were more likely to exhaust benefits than those claimants required to make at least three contacts with employers, subject to verification by the state UI agency.[33] They also found that this group of claimants, on a long term basis, had a lower probability of employment compared to claimants whose work search activities were subject to verification, by about 4.5% per calendar quarter.[34]

In a March 2011 study of New Jersey UI claimants, Krueger and Mueller found, among other things, that job search intensity of UI claimants declines steeply over the duration of the unemployment spell. Utilizing diary entries on claimants' time use, Krueger and Mueller noted that through a spell of unemployment, the average daily search time was about 65 minutes, with the daily search time dropping by 30 minutes over a 12-week span.[35] The researchers further noted that, "there is no visible increase in search activity in the weeks leading up to the exhaustion of benefits" with "the downward drift in search time continu[ing] around the time that benefits are exhausted."[36] Most job search activities, the researchers found, consisted of looking at ads, placing or answering ads, and sending out applications, with the amount of time spent on each of those activities declining over the course of the unemployment spell. Job search activities conducted through the public employment service office did not decline over the course of the unemployment spell. As to reemployment, Krueger

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[32] See, Orley Ashenfelter, David Ashmore, and Olivier Deschênes, "Do Unemployment Insurance Recipients Actively Seek Work? Evidence from Randomized Trial in Four U.S. States", *Journal of Econometrics*, Vol. 125 (2005), pp. 53-75, http://www.econ.ucsb.edu/~olivier/AAD_JOE_2005.pdf.

[33] This group of claimants were told they were required to actively seek work, but their work search activities did not need to be recorded and were not subject to verification by the state UI agency. They received benefits unless they notice the state UI agency that they had stopped looking for work. This treatment, they authors noted, "amounted to an honor system with no work test." See, Merve Cebi and Stephen A. Woodbury, "Long-Term Effects of the Work Test and Job Search Assistance: Reexamining the Washington Alternative Work Search Experiment", May 2011, presented at the University of Western Ontario UM-MSU-UWO Labor Day Conference, 18 May 2011, http://economics.uwo.ca/conference/laborconference_may11/papers/woodbury.pdf.

[34] For the original study on the Washington Alternative Work Search Experiment see, Terry R. Johnson and Daniel H. Klepinger, *Evaluation of the Impacts of the Washington Alternative Work Search Experiment*, Unemployment Insurance Occasional Paper 94-4, U.S. Department of Labor, Employment and Training Administration, January 1991, http://www.ows.doleta.gov/dmstree/op/op91/op_04-91.pdf.

[35] See, Alan B. Krueger and Andreas Mueller, "Job Search, Emotional Well-Being and Job Finding in a Period of Mass Unemployment: Evidence from High-Frequency Longitudinal Data", presented at the Spring 2011 Conference of the Brookings Papers on Economic Activity, Brookings Institution, March 2011, http://www.brookings.edu/~/media/Files/Programs/ES/BPEA/2011_spring_bpea_papers/2011_spring_bpea_conference_krueger.pdf.

[36] Krueger and Mueller also looked at the emotional well-being of claimants noting, "[u]nemployed workers become increasingly sad while searching for a job the longer they are unemployed, which may raise the cost of job search and account for some of the observed drop in job search time over the spell of unemployment…Because…most effort devoted to job search does not result in a job offer, the experience of searching for a job may conjure feelings of rejection that take a psychological toll on the unemployed."

and Mueller found mixed results, as claimants who searched for 20 or more hours per week were about 20% more likely to exit the UI system before exhausting benefits. Still, though, receipt of a job offer was not related, given the available data and their model, to the amount of time spent searching for a job.

One limiting factor of the bill's additional work search requirement is that the intensity of a claimant's job search activities (and, by extension, reemployment success) is not solely determined by institutional pressures (e.g. continuing eligibility requirements for UI benefits) but by an array of social and personal conditions unique to each individual claimant. Because of these conditions, the intensity of an individual claimant's job search can wax and wane over the course of the unemployment spell.[37] In a 2001 meta-analysis, Kanfer et al. found that four of the five major personality dimensions -- openness to experiences, conscientiousness, extraversion, and agreeableness were significantly related to higher levels of job search, the receipt of more job offers, greater likelihood of obtaining employment, and shorter duration of unemployment.[38]

***Misconduct/Separation from Employment*:** Amending the definition of disqualifying "misconduct" to include poor work performance and consistent absenteeism or tardiness without justifiable cause, would tend to decrease benefit outlays from the Unemployment Trust Fund, as more claimants are disqualified for benefits due to these reasons. Under current law, separation due to poor work performance would generally not disqualify a claimant for benefits. Data on claimants' stated reason for separation from employment is not available from the UIA and does not appear to be readily available from other sources, but presumably a great many workers are separated from employment ("fired") due to performance and attendance issues, rather than simply being discharged ("laid off") due to a lack of work.

The UIA has noted that this provision potentially raises a conformity issue with federal unemployment laws, which it needs to research further. If the provision

[37] See, generally, Connie R. Wanberg, Theresa M. Glomb, Zhaili Song, and Sarah Sorenson, "Job-Search Persistence During Unemployment: A 10-Wave Longitudinal Study", *Journal of Applied Psychology*, Vol. 90, No. 3, pp. 411-430. See, also, Connie R. Wanberg, "The Individual Experience of Unemployment", *Annual Review of Psychology*, Vol. 63 (January 2012), posted on-line in advance of final publication.

[38] See, Ruth Kanfer, Connie R. Wanberg, and Tracy M. Kantrowitz, "Job Search and Employment: A Personality-Motivational Analysis and Meta-Analytic Review", *Journal of Applied Psychology*, Vol. 86, No. 5 (October 2001), pp. 837-855. The authors further note that, "we found theory and research on job search and employment outcomes in both the psychology and labor economics literature. In contrast to psychological approaches, economic research has focused on labor market demand (including national, regional, occupational, and industry unemployment rates), job training – employability skills, level of unemployment insurance, reservation wage, advance notice of layoff, and biographical or demographic variables in examinations of job search and unemployment duration. Despite calls for greater integration of the psychological and economic literatures on job search and unemployment…our perusal of the research indicates that this integration is happening only in rare instances. For example, in unemployment research psychologists recognize and measure perceived financial need but rarely ask job seekers about their reservation wage or if they are receiving unemployment or severance benefits. In contrast, because economists often rely on already collected data...these studies are limited to inclusion of only a narrow realm of economic and biographical variables."

results in the MESA's failure to conform to federal law, the long term consequence is the withholding of federal administrative funding for the UIA and an increase in federal UI taxes for Michigan contributing employers.

***Suitable Work*:** Expanding the definition of suitable work beginning after a claimant receives at least half of their maximum duration of benefits, to include work that is outside of the training or experience of the claimant or work that is at least 120% of the claimant's weekly benefit amount would tend to reduce benefit outlays as more individuals are disqualified for benefits for failing to apply for, or accept offers of, suitable work, or as more claimants are reemployed sooner than they otherwise would under current law. Although, the extent to which that would incur isn't known.

A January 2003 study prepared for the U.S. Department of Labor noted, "[o]verall, given the multitude and complexity of factors considered in rendering determinations on suitability issues and the considerable room for discretion on the part of adjudicators, it is difficult to distinguish between more stringent and less stringent states with regard to suitability. Of the main factors, suitability of wages – whether a state uses prevailing wages or wages the claimant earned in prior work as the standard – offers the possibility of distinguishing between states with more stringent and less stringent requirements. However, even in this area, it is difficult because as unemployment spells lengthen, most states require workers to gradually dampen wages they are willing to consider…"Even further, the relatively low level of determinations relating to suitable work (a much smaller portion of determinations than able and available issues) also suggest that such requirements have at most very modest effects on duration of benefit receipt. In our interviews, while state administrators indicated that there was considerable complexity and adjudicator discretion related to suitability determinations, no interviewees identified suitability requirements (or difference across states) as having any tangible effect on duration."[39]

With respect to the duration of the receipt of UI benefits, there is a body of research on the reservation wage – or "asking wage" – of UI claimants in their search for reemployment. The general theory is that "claimants will end their unemployment spell when they receive a wage offer that exceeds their minimum acceptable wage."[40] By defining suitable work after an extended period of unemployment to include wages that pay 120% of a claimant's weekly benefit amount could serve to dampen

[39] Michael Fishman, Mary Farrell, Karen N. Gardiner, Burt Barnow, and John Trutko, *Unemployment Insurance Non-Monetary Policies and Practices: How Do They Affect Program Participation? – A Study of 8 States*, Unemployment Insurance Occasional Paper 2003-01, U.S. Department of Labor, Employment and Training Administration, 2003, http://www.doleta.gov/reports/searcheta/occ/papers/DOL-UI_Final_Report3.pdf.

[40] See, Paul T. Decker, "Work Incentives and Disincentives" in Unemployment Insurance in the United States: Analysis of Policy Issues, 1997, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI. Decker further notes that under this theory "UI lowers the cost of unemployment and therefore encourages claimants to reduce the intensity of their search or to raise their minimum acceptable wage. Either response tends to prolong unemployment spells" but notes that "prolonged unemployment spells can have a positive impact. Because UI provides financial assistance to claimants, they can presumably be more selective in take a new job than they would be in the absence of UI. That is, because of UI, claimants can spend more time searching for the best possible job opening. If, as a result, claimants obtain more stable or higher-paying jobs than they would in the absence of UI, the prolonged unemployment spell has been productive."

claimant's reservation wages, which would, at least, increase the probability of claimant's applying for jobs, which would increase the likelihood of finding another job. Over the years, many researchers have noted that as the duration of the unemployment spell marches on, claimants often reduce their reservation wage, thus expanding (at least in terms of wages) what work they consider to be suitable, a trend which diminishes the effect of this change.[41] Other research has focused on worker prejudices against certain types of work (e.g. in the service sector) that generally dissuades them from seeking that type of work,[42] while other research has focused on the "stigma" of unemployment (especially long-term unemployment) and the added barriers ("discrimination" in the view of some) the unemployed face in obtaining employment.[43]

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[41] See, for example, Hirshel Kasper, "The Asking Price of Labor and the Duration of Unemployment", *The Review of Economics and Statistics*, Vol. 49, No. 2 (May 1967), pp. 165-171. See, also, Robert L. Crosslin and David W. Stevens, "The Asking Wage-Duration of Unemployment Relation Revisited", *Southern Economic Journal*, Vol. 43, No. 3 (January 1977), pp. 1298-1302. See, also, Raymond P.H. Fishe, "Unemployment Insurance and the Reservation Wage of the Unemployed", *The Review of Economics and Statistics*, Vol. 64, No. 1 (February 1982), pp. 12-17.

[42] See, for example, Collin Lindsay and Ronald W. McQuaid, "Avoiding the McJobs: Unemployed Job Seekers and Attitudes to Service Work", *Work, Employment, and Society*, Vol. 18, No. 2 (June 2004), pp. 297-299. Following a survey of 300 unemployed British workers, the authors observed, "[i]t is unsurprising that job seekers who had formerly worked in so-called 'traditional' sectors were continuing to target jobs in those areas. It is perhaps of greater concern that many of these and other job seekers were determined to categorically rule out certain forms of service work, which account for a substantial and increasing proportion of job opportunities in local labour markets. Older male job seekers, those seeking relatively high weekly wages and those without experience of service work (and those who perceived themselves to lack the necessary skills) were particularly reluctant to consider service jobs in sectors such as retail and hospitality...[t]he exclusion of service jobs by job seekers is far from trivial. There is evidence to suggest that building and maintaining a strong work record can be crucial in facilitating sustainable labour market inclusion for groups who might otherwise be vulnerable to long-term unemployment...Job seekers who rule out whole areas of the service economy risk eliminating a large and growing number of job opportunities from their search strategies, increasing the chance that they will experience multiple or prolonged periods of unemployment."

[43] See, for example, David M. Blau and Philip K. Robins, "Job Search Outcomes for the Employed and Unemployed", *The Journal of Political Economy*, Vol. 98, No. 3 (June 1990), pp. 637-655. Here the authors found the job search behavior between employed and unemployed workers to be similar, but noted that employed workers are likely to generate more job offers and find new employed than unemployed workers. They posit that this is a result of more effective search based on the resources available to employed workers (e.g. better contacts and access to internal career ladders) or the stigma associated with unemployment. In a 2011 study, the Bureau of Labor Statistics noted, "the length of time it took for the jobless to be successful in their job search increased sharply during the recent recession and its aftermath. The median number of weeks unemployed doubled – from 5 to 10 weeks – and a far greater share of successful jobseekers spent in excess of a year in their search for employment…Moreover, once unemployed, the likelihood that one would be successful in one's job search decreased as the length of time spent searching for work increased." See, *How long before the unemployed find jobs or quit looking?*, Issues in Labor Statistics, Summary 11-1, May 2011, U.S. Department of Labor, Bureau of Labor Statistics, http://www.bls.gov/opub/ils/pdf/opbils89.pdf. With regard to the stigma effect, Kollmann (1994) notes, "[f]requently firms are unable to accurately determine whether job applicants meet their skill requirements without incurring considerable costs. Firms thus have an incentive to use any signal which can help them in their recruitment decisions. In this respect, information on the length of the job applicants' unemployment spells is useful, because this information is easily available, and because workers with long unemployment spells are typically less employable than workers with shorter spells, as workers who meet the job requirements of a high proportion of firms are likely to leave unemployment relatively quickly." See, Robert Kollmann, *Economic Letters*, Vol. 45, Issue 3 (1994), pp. 373-377. Vishwanath (1989) notes, "[t]he stigma effect generally means that a firm is less inclined to hire a worker with longer unemployment duration. For example, a firm may use the worker's

On the topic of reservation wages, Krueger and Mueller (2011) noted that workers with a lower reservation wage relative to their previous wage were more likely to exit UI early, and estimated that a 20% lower reservation wage is associated with a 6% increase in the likelihood of exiting UI early. However, the researchers noted, "[i]nterventions that encourage more search effect and more moderate reservation wages could help speed the return to work, although the magnitude of the effect of the reservation wage on exiting UI is relatively small because receipt of job offers is relatively rare in our sample."[44]

***Seasonal Employers*:** Revising the determination of seasonal employment from one based on the seasonal nature of the employer and its industry, to one based just on the seasonal nature of the employer would tend to reduce benefit outlays from the trust fund as more workers of these seasonal employers are denied benefits during the interim period between seasons. Accordingly, the bill would also serve to reduce state UI taxes on these employers designated as being seasonal.

Administrative Impacts: The bill would increase the costs of the UIA, although the agency has not provided an estimate. Revising the calculation of the weekly benefit amount would require the agency to re-program its existing Cobol-based computer system at a substantial cost. This change would be made concurrently with the agency's development of a new integrated IT system. The agency also notes that it is required to adjudicate all separations for misconduct to determine whether misconduct actually occurred. Including separations due to poor performance and attendance issues as disqualifying misconduct would add to the agency's responsibilities.

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unemployment history as a basis for statistical discrimination if it thinks that unemployment duration provides a signal about otherwise unobservable components of the worker's productivity (e.g., high ability workers may have shorter spells). In such an environment, it is progressively harder for a worker to obtain a job as his unemployment duration increases." This stigma effect serves to prolong the unemployment spell, lower the escape rate from unemployment, and lower the worker's reservation wage. See, Tara Vishwanath, "Job Search, Stigma Effect, and Escape Rate from Unemployment", *Journal of Labor Economics*, Vol. 7, No. 4 (October 1989), pp. 487-502. Advocates of worker interests in UI programs have noted that many employment ads explicitly state that only workers currently employed will be considered for employment. See, *Hiring Discrimination Against the Unemployed: Federal Bill Outlaws Excluding the Unemployed from Job Opportunities, as Discriminatory Ads Persist*, National Employment Law Project, 12 July 2011, http://www.nelp.org/page/-/UI/2011/unemployed.discrimination.7.12.2011.pdf?nocdn=1 See, also the February 16, 2011 meeting of the Equal Employment Opportunity Commission (EEOC) examining the treatment of unemployed job seekers, http://www.eeoc.gov/eeoc/meetings/2-16-11/index.cfm.

[44] See, Alan B. Krueger and Andreas Mueller, "Job Search, Emotional Well-Being and Job Finding in a Period of Mass Unemployment: Evidence from High-Frequency Longitudinal Data", presented at the Spring 2011 Conference of the Brookings Papers on Economic Activity, Brookings Institution, March 2011, http://www.brookings.edu/~/media/Files/Programs/ES/BPEA/2011_spring_bpea_papers/2011_spring_bpea_conference_krueger.pdf. Reservation wages serve simultaneously a function of duration of unemployment (i.e. falling over the course of the unemployment spell) and as a predictor of duration of unemployment (i.e. extending the duration of unemployment as the claimants holds out for jobs that offer wages at least equal to the reservation wage.) See, for example, John T. Addison, José A.F. Machado, and Pedro Portugal, "The Reservation Wage Unemployment Duration Nexus", Banco de Portugal, Estudos e Documentos de Trabalho, Working Paper 26-2010 (December 2010), http://www.bportugal.pt/en-US/BdP%20Publications%20Research/wp201026.pdf.

The UIA has also expressed some concern as to how the added work search requirements and the expanded definition of suitable work would be administered, given that the employment service functions are now administered by the Workforce Development Agency and the Michigan Works! system. The UIA wouldn't know which employers would "reasonably be expected to have suitable work available" and wouldn't necessarily be in a better position to monitor how "diligently" claimants search for work. The agency currently requires claimants to self-report their work search activities when they file a claim for benefits through MARVIN.[45] To administer the revised suitable work provision, the agency would at least have to continue to rely on claimants self-reported work search activities, but otherwise wouldn't know what jobs meet the expanded definition of suitable work.

Other State Impacts: The state, as an employer, would tend to see reduced benefit charges, given the changes made by the bills, as described above. Under the MESA, the state is a "reimbursing employer" that reimburses the UIA, on a dollar-for-dollar basis, the amount of benefits received by former employees. As those benefits are reduced, reimbursement payments are also reduced. The act provides that unemployment reimbursement payments are payable from the same source of funding as salaries and wages, meaning about half the any resulting savings would be realized by the General Fund, with the other half being realized by the various other funding sources (restricted, federal, etc.).

Local Government Impacts: Local governments and school districts would tend to see reduced benefit charges, given the changes made by the bills, as described above. Like the state, local governments and school districts are "reimbursing employers" that reimburse the UIA, on a dollar-for-dollar basis, the amount of benefits received by former employees. As those benefits are reduced, reimbursement payments made to the UIA would also be reduced.

Fiscal Analyst: Mark Wolf

■ this analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

[45] Claimants are asked, among other things, whether they were able and available for full-time work, whether they were seeking work, and whether they refused any job offers.