

HOUSE BILL No. 5303

October 22, 1997, Introduced by Reps. Bogardus, Freeman, Callahan, Hale, Martinez, LaForge, Schauer, Owen, Thomas, Murphy, Rison, Gire, Kilpatrick, Hanley, Price, Mans, Wojno, Schermesser, Brewer, Kelly, Scott, Dobronski, Olshove, Baade, Baird, Willard, Vaughn, Cherry, Harder, Gubow, Anthony, Prusi, Mathieu, Hood, Brater, Tesanovich, Agee, Profit, Wallace and Palamara and referred to the Committee on Labor and Occupational Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 27, 29, and 50 (MCL 421.27, 421.29, and 421.50), section 27 as amended by 1995 PA 181 and sections 29 and 50 as amended by 1995 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (a)(1) When a determination, redetermination, or
2 decision is made that benefits are due an unemployed individual,
3 the benefits shall immediately become payable from the fund and
4 continue to be payable to the unemployed individual, subject to
5 the limitations imposed by the individual's monetary entitlement,
6 ~~as long as~~ IF the individual continues to be unemployed and to
7 file claims for benefits, until the determination,
8 redetermination, or decision is reversed, a determination,
9 redetermination, or decision on a new issue holding the

1 individual disqualified or ineligible is made, or, for benefit
2 years beginning before the conversion date prescribed in
3 section 75, a new separation issue arises resulting from subse-
4 quent work.

5 (2) Benefits shall be paid in person or by mail through
6 employment offices in accordance with rules promulgated by the
7 commission.

8 (b)(1) Subject to subsection (f), the weekly benefit rate
9 for an individual, with respect to benefit years beginning before
10 the conversion date prescribed in section 75, shall be ~~67%~~ 70%
11 of the individual's average after tax weekly wage, except that
12 the individual's maximum weekly benefit rate shall not exceed
13 ~~-\$300.00~~ 58% OF THE STATE AVERAGE WEEKLY WAGE. However, with
14 respect to benefit years beginning after the conversion date as
15 prescribed in section 75, the individual's weekly benefit rate
16 shall be ~~4.1%~~ 4.2% of the individual's wages paid in the calen-
17 dar quarter of the base period in which the individual was paid
18 the highest total wages, plus \$6.00 for each dependent as defined
19 in subdivision (3), up to a maximum of 5 dependents, claimed by
20 the individual at the time the individual files a new claim for
21 benefits, except that the individual's maximum weekly benefit
22 rate shall not exceed ~~-\$300.00~~ 58% OF THE STATE AVERAGE WEEKLY
23 WAGE. With respect to benefit years beginning on or after
24 October 2, 1983, the weekly benefit rate shall be adjusted to the
25 next lower multiple of \$1.00.

26 (2) For benefit years beginning before the conversion date
27 prescribed in section 75, the state average weekly wage for a

1 calendar year shall be computed on the basis of the 12 months
2 ending the June 30 immediately preceding that calendar year. The
3 commission shall prepare a table of weekly benefit rates based on
4 an "average after tax weekly wage" calculated by subtracting,
5 from an individual's average weekly wage as determined in accord-
6 ance with section 51, a reasonable approximation of the weekly
7 amount required to be withheld by the employer from the remunera-
8 tion of the individual based on dependents and exemptions for
9 income taxes under chapter 24 of subtitle C of the internal reve-
10 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
11 of the income tax act of 1967, ~~Act No. 281 of the Public Acts of~~
12 ~~1967, being section 206.351 of the Michigan Compiled Laws~~ 1967
13 PA 281, MCL 206.531, and for old age and survivor's disability
14 insurance taxes under the federal insurance contributions act,
15 chapter 21 of subtitle C of the internal revenue code of 1986, 26
16 U.S.C. 3128. For purposes of applying the table to an
17 individual's claim, a dependent shall be as defined in
18 subdivision (3). The table applicable to an individual's claim
19 shall be the table reflecting the number of dependents claimed by
20 the individual under subdivision (3). The commission shall
21 adjust the tables based on changes in withholding schedules pub-
22 lished by the United States department of treasury, internal rev-
23 enue service, and by the department of treasury. The number of
24 dependents allowed shall be determined with respect to each week
25 of unemployment for which an individual is claiming benefits.

26 (3) For benefit years beginning before the conversion date
27 prescribed in section 75, a dependent means any of the following

1 persons who is receiving and for at least 90 consecutive days
2 immediately preceding the week for which benefits are claimed,
3 or, in the case of a dependent husband, wife, or child, for the
4 duration of the marital or parental relationship, if the rela-
5 tionship has existed less than 90 days, has received more than
6 half the cost of his or her support from the individual claiming
7 benefits:

8 (a) A child, including stepchild, adopted child, or grand-
9 child of the individual who is under 18 years of age, or 18 years
10 of age or over if, because of physical or mental infirmity, the
11 child is unable to engage in a gainful occupation, or is a
12 full-time student as defined by the particular educational insti-
13 tution, at a high school, vocational school, community or junior
14 college, or college or university and has not attained the age of
15 22.

16 (b) The husband or wife of the individual.

17 (c) The legal father or mother of the individual if that
18 parent is either more than 65 years of age or is permanently dis-
19 abled from engaging in a gainful occupation.

20 (d) A brother or sister of the individual if the brother or
21 sister is orphaned or the living parents are dependent parents of
22 an individual, and the brother or sister is under 18 years of
23 age, or 18 years of age or over if, because of physical or mental
24 infirmity, the brother or sister is unable to engage in a gainful
25 occupation, or is a full-time student as defined by the particu-
26 lar educational institution, at a high school, vocational school,

1 community or junior college, or college or university and is less
2 than 22 years of age.

3 (4) For benefit years beginning after the conversion date
4 prescribed in section 75, a dependent means any of the following
5 persons who received for at least 90 consecutive days immediately
6 preceding the first week of the benefit year or, in the case of a
7 dependent husband, wife, or child, for the duration of the mari-
8 tal or parental relationship if the relationship existed less
9 than 90 days before the beginning of the benefit year, has
10 received more than 1/2 the cost of his or her support from the
11 individual claiming the benefits:

12 (a) A child, including stepchild, adopted child, or grand-
13 child of the individual who is under 18 years of age, or 18 years
14 of age and over if, because of physical or mental infirmity, the
15 child is unable to engage in a gainful occupation, or is a
16 full-time student as defined by the particular educational insti-
17 tution, at a high school, vocational school, community or junior
18 college, or college or university and has not attained the age of
19 22.

20 (b) The husband or wife of the individual.

21 (c) The legal father or mother of the individual if that
22 parent is either more than 65 years of age or is permanently dis-
23 abled from engaging in a gainful occupation.

24 (d) A brother or sister of the individual if the brother or
25 sister is orphaned or the living parents are dependent parents of
26 an individual, and the brother or sister is under 18 years of
27 age, or 18 years of age and over if, because of physical or

1 mental infirmity, the brother or sister is unable to engage in a
2 gainful occupation, or is a full-time student as defined by the
3 particular educational institution, at a high school, vocational
4 school, community or junior college, or college or university and
5 is less than 22 years of age.

6 (5) For benefit years beginning before the conversion date
7 prescribed in section 75, dependency status of a dependent, child
8 or otherwise, once established or fixed in favor of an individual
9 continues during the individual's benefit year until terminated.
10 Dependency status of a dependent terminates at the end of the
11 week in which the dependent ceases to be an individual described
12 in subdivision (3)(a), (b), (c), or (d) because of age, death, or
13 divorce. For benefit years beginning after the conversion date
14 prescribed in section 75, the number of dependents established
15 for an individual at the beginning of the benefit year shall
16 remain in effect during the entire benefit year.

17 (6) For benefit years beginning before the conversion date
18 prescribed in section 75, failure on the part of an individual,
19 due to misinformation or lack of information, to furnish all
20 information material for determination of the number of the
21 individual's dependents when the individual files a claim for
22 benefits with respect to a week shall be considered good cause
23 for the issuance of a redetermination as to the amount of bene-
24 fits based on the number of the individual's dependents as of the
25 beginning date of that week. Dependency status of a dependent,
26 child or otherwise, once established or fixed in favor of a

1 person is not transferable to or usable by another person with
2 respect to the same week.

3 For benefit years beginning after the conversion date as
4 prescribed in section 75, failure on the part of an individual,
5 due to misinformation or lack of information, to furnish all
6 information material for determination of the number of the
7 individual's dependents shall be considered good cause for the
8 issuance of a redetermination as to the amount of benefits based
9 on the number of the individual's dependents as of the beginning
10 of the benefit year.

11 (c) Subject to subsection (f), ~~all of the following apply~~
12 ~~to eligible individuals:~~ (1) ~~Each~~ EACH eligible individual
13 shall be paid a weekly benefit rate with respect to the week for
14 which the individual earns or receives no remuneration OR REMU-
15 NERATION EQUAL TO LESS THAN 1/2 THE INDIVIDUAL'S WEEKLY BENEFIT
16 RATE, OR SHALL BE PAID 1/2 HIS OR HER WEEKLY BENEFIT RATE WITH
17 RESPECT TO THE WEEK FOR WHICH THE INDIVIDUAL EARNS OR RECEIVES
18 REMUNERATION EQUAL TO AT LEAST 1/2 BUT LESS THAN THE INDIVIDUAL'S
19 WEEKLY BENEFIT RATE. Notwithstanding the definition of week as
20 contained in section 50, if within 2 consecutive weeks in which
21 an individual was not unemployed within the meaning of section 48
22 there was a period of 7 or more consecutive days for which the
23 individual did not earn or receive remuneration, that period
24 shall be considered a week for benefit purposes under this act if
25 a claim for benefits for that period is filed not later than 30
26 days subsequent to the end of the period.

1 ~~(2) Each eligible individual shall have his or her weekly~~
2 ~~benefit rate reduced with respect to each week in which the~~
3 ~~individual earns or receives remuneration at the rate of 50 cents~~
4 ~~for each whole \$1.00 of remuneration earned or received during~~
5 ~~that week.~~

6 ~~(3) An individual who receives or earns partial remuneration~~
7 ~~may not receive a total of benefits and earnings that exceeds~~
8 ~~1-1/2 times his or her weekly benefit amount. For each dollar of~~
9 ~~total benefits and earnings that exceeds 1-1/2 times the~~
10 ~~individual's weekly benefit amount, benefits shall be reduced by~~
11 ~~\$1.00.~~

12 ~~(4) If the reduction in a claimant's benefit rate for a week~~
13 ~~in accordance with subparagraph (2) or (3) results in a benefit~~
14 ~~rate greater than zero for that week, the claimant's balance of~~
15 ~~weeks of benefit payments will be reduced by 1 week.~~

16 ~~(5) All remuneration for work performed during a shift that~~
17 ~~terminates on 1 day but that began on the preceding day shall be~~
18 ~~considered to have been earned by the eligible individual on the~~
19 ~~preceding day.~~

20 (d) For benefit years beginning before the conversion date
21 prescribed in section 75, and subject to subsection (f) and this
22 subsection, the amount of benefits to which an individual who is
23 otherwise eligible is entitled during a benefit year from an
24 employer with respect to employment during the base period is the
25 amount obtained by multiplying the weekly benefit rate with
26 respect to that employment by 3/4 of the number of credit weeks
27 earned in the employment. For the purpose of this subsection and

1 section 20(c), if the resultant product is not an even multiple
2 of 1/2 the weekly benefit rate, the product shall be raised to an
3 amount equal to the next higher multiple of 1/2 the weekly bene-
4 fit rate, and, for an individual who was employed by only 1
5 employer in the individual's base period and earned 34 credit
6 weeks with that employer, the product shall be raised to the next
7 higher multiple of the weekly benefit rate. The maximum amount
8 of benefits payable to an individual within a benefit year, with
9 respect to employment by an employer, shall not exceed 26 times
10 the weekly benefit rate with respect to that employment. The
11 maximum amount of benefits payable to an individual within a ben-
12 efit year shall not exceed the amount to which the individual
13 would be entitled for 26 weeks of unemployment in which remunera-
14 tion was not earned or received. The limitation of total bene-
15 fits set forth in this subsection does not apply to claimants
16 declared eligible for training benefits in accordance with sub-
17 section (g). For benefit years beginning after the conversion
18 date prescribed in section 75, and subject to subsection (f) and
19 this subsection, the maximum benefit amount payable to an indi-
20 vidual in a benefit year for purposes of this section and
21 section 20(c) is the number of weeks of benefits payable to an
22 individual during the benefit year, multiplied by the
23 individual's weekly benefit rate. The number of weeks of bene-
24 fits payable to an individual shall be calculated by taking 40%
25 of the individual's base period wages and dividing the result by
26 the individual's weekly benefit rate. If the quotient is not a
27 whole or half number, the result shall be rounded down to the

1 nearest half number. However, not more than 26 weeks of benefits
2 or less than 14 weeks of benefits shall be payable to an individ-
3 ual in a benefit year. The limitation of total benefits set
4 forth in this subsection shall not apply to claimants declared
5 eligible for training benefits in accordance with
6 subsection (g).

7 (e) When a claimant dies or is judicially declared insane or
8 mentally incompetent, unemployment compensation benefits accrued
9 and payable to that person for weeks of unemployment before
10 death, insanity, or incompetency, but not paid, shall become due
11 and payable to the person who is the legal heir or guardian of
12 the claimant or to any other person found by the commission to be
13 equitably entitled to the benefits by reason of having incurred
14 expense in behalf of the claimant for the claimant's burial or
15 other necessary expenses.

16 (f)(1) For benefit years beginning before the conversion
17 date prescribed in section 75, and notwithstanding any inconsis-
18 tent provisions of this act, the weekly benefit rate of each
19 individual who is receiving or will receive a "retirement
20 benefit", as defined in subdivision (4), shall be adjusted as
21 provided in subparagraphs (a), (b), and (c). However, an
22 individual's extended benefit account and an individual's weekly
23 extended benefit rate under section 64 shall be established with-
24 out reduction under this subsection unless subdivision (5) is in
25 effect. Except as otherwise provided in this subsection, all
26 other provisions of this act continue to apply in connection with
27 the benefit claims of those retired persons.

1 (a) If and to the extent that unemployment benefits payable
2 under this act would be chargeable to an employer who has con-
3 tributed to the financing of a retirement plan under which the
4 claimant is receiving or will receive a retirement benefit yield-
5 ing a pro rata weekly amount equal to or larger than the
6 claimant's weekly benefit rate as otherwise established under
7 this act, the claimant shall not receive unemployment benefits
8 that would be chargeable to the employer under this act. THE
9 TRANSFER OF MONEY FROM AN INDIVIDUAL'S IRA OR OTHER TAX QUALIFIED
10 RETIREMENT ACCOUNT TO ANOTHER IRA OR OTHER TAX QUALIFIED RETIRE-
11 MENT ACCOUNT IN ACCORDANCE WITH THE INTERNAL REVENUE CODE OF 1986
12 IS NOT REMUNERATION TO THAT INDIVIDUAL FOR PURPOSES OF DETERMIN-
13 ING THE INDIVIDUAL'S ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION,
14 OR IN THE CALCULATION OF UNEMPLOYMENT COMPENSATION TO WHICH THAT
15 INDIVIDUAL IS ENTITLED. AS USED IN THIS SUBSECTION, "IRA OR
16 OTHER TAX QUALIFIED RETIREMENT ACCOUNT" MEANS AN INDIVIDUAL
17 RETIREMENT ACCOUNT AS THAT TERM IS DEFINED IN THE INTERNAL REVE-
18 NUE CODE OF 1986, OR ANY OTHER RETIREMENT ACCOUNT QUALIFIED FOR
19 TAX DEFERRAL UNTIL ACCOUNT MONEY BECOMES TAXABLE INCOME TO THE
20 ACCOUNT BENEFICIARY UNDER THE INTERNAL REVENUE CODE OF 1986.

21 (b) If and to the extent that unemployment benefits payable
22 under this act would be chargeable to an employer who has con-
23 tributed to the financing of a retirement plan under which the
24 claimant is receiving or will receive a retirement benefit yield-
25 ing a pro rata weekly amount less than the claimant's weekly ben-
26 efit rate as otherwise established under this act, then the
27 weekly benefit rate otherwise payable to the claimant and

1 chargeable to the employer under this act shall be reduced by an
2 amount equal to the pro rata weekly amount, adjusted to the next
3 lower multiple of \$1.00, which the claimant is receiving or will
4 receive as a retirement benefit.

5 (c) If the unemployment benefit payable under this act would
6 be chargeable to an employer who has not contributed to the
7 financing of a retirement plan under which the claimant is
8 receiving or will receive a retirement benefit, then the weekly
9 benefit rate of the claimant as otherwise established under this
10 act shall not be reduced due to receipt of a retirement benefit.

11 (d) If the unemployment benefit payable under this act is
12 computed on the basis of multiemployer credit weeks and a portion
13 of the benefit is allocable under section 20(e) to an employer
14 who has contributed to the financing of a retirement plan under
15 which the claimant is receiving or will receive a retirement ben-
16 efit, the adjustments required by subparagraph (a) or (b) apply
17 only to that portion of the weekly benefit rate that would other-
18 wise be allocable and chargeable to the employer.

19 (2) If an individual's weekly benefit rate under this act
20 was established before the period for which the individual first
21 receives a retirement benefit, any benefits received after a
22 retirement benefit becomes payable shall be determined in accord-
23 ance with the formula stated in this subsection.

24 (3) When necessary to assure prompt payment of benefits, the
25 commission shall determine the pro rata weekly amount yielded by
26 an individual's retirement benefit based on the best information
27 currently available to it. In the absence of fraud, a

1 determination shall not be reconsidered unless it is established
2 that the individual's actual retirement benefit in fact differs
3 from the amount determined by \$2.00 or more per week. The recon-
4 sideration shall apply only to benefits as may be claimed after
5 the information on which the reconsideration is based was
6 received by the commission.

7 (4)(a) As used in this subdivision, "retirement benefit"
8 means a benefit, annuity, or pension of any type or that part
9 thereof that is described in subparagraph (b) that is:

10 (i) Provided as an incident of employment under an estab-
11 lished retirement plan, policy, or agreement, including federal
12 social security if subdivision (5) is in effect.

13 (ii) Payable to an individual because the individual has
14 qualified on the basis of attained age, length of service, or
15 disability, whether or not the individual retired or was retired
16 from employment. Amounts paid to individuals in the course of
17 liquidation of a private pension or retirement fund because of
18 termination of the business or of a plant or department of the
19 business of the employer involved shall not be considered to be
20 retirement benefits.

21 (b) If a benefit as described in subparagraph (a) is payable
22 or paid to the individual under a plan to which the individual
23 has contributed:

24 (i) Less than half of the cost of the benefit, then only
25 half of the benefit shall be treated as a retirement benefit.

26 (ii) Half or more of the cost of the benefit, then none of
27 the benefit shall be treated as a retirement benefit.

1 (c) The burden of establishing the extent of an individual's
2 contribution to the cost of his or her retirement benefit for the
3 purpose of subparagraph (b) is upon the employer who has contrib-
4 uted to the plan under which a benefit is provided.

5 (5) Notwithstanding any other provision of this subsection,
6 for any week that begins after March 31, 1980, and with respect
7 to which an individual is receiving a governmental or other pen-
8 sion and claiming unemployment compensation, the weekly benefit
9 amount payable to the individual for those weeks shall be
10 reduced, but not below zero, by the entire prorated weekly amount
11 of any governmental or other pension, retirement or retired pay,
12 annuity, or any other similar payment that is based on any previ-
13 ous work of the individual. This reduction shall be made only if
14 it is required as a condition for full tax credit against the tax
15 imposed by the federal unemployment tax act, chapter 23 of
16 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
17 to 3311.

18 (6) For benefit years beginning after the conversion date
19 prescribed in section 75, notwithstanding any inconsistent provi-
20 sions of this act, the weekly benefit rate of each individual who
21 is receiving or will receive a retirement benefit, as defined in
22 subdivision (4), shall be adjusted as provided in
23 subparagraphs (a), (b), and (c). However, an individual's
24 extended benefit account and an individual's weekly extended ben-
25 efit rate under section 64 shall be established without reduction
26 under this subsection, unless subdivision (5) is in effect.
27 Except as otherwise provided in this subsection, all the other

1 provisions of this act shall continue to be applicable in
2 connection with the benefit claims of those retired persons.

3 (a) If any base period or chargeable employer has contrib-
4 uted to the financing of a retirement plan under which the claim-
5 ant is receiving or will receive a retirement benefit yielding a
6 pro rata weekly amount equal to or larger than the claimant's
7 weekly benefit rate as otherwise established under this act, the
8 claimant shall not receive unemployment benefits.

9 (b) If any base period employer or chargeable employer has
10 contributed to the financing of a retirement plan under which the
11 claimant is receiving or will receive a retirement benefit yield-
12 ing a pro rata weekly amount less than the claimant's weekly ben-
13 efit rate as otherwise established under this act, then the
14 weekly benefit rate otherwise payable to the claimant shall be
15 reduced by an amount equal to the pro rata weekly amount,
16 adjusted to the next lower multiple of \$1.00, which the claimant
17 is receiving or will receive as a retirement benefit.

18 (c) If no base period or separating employer has contributed
19 to the financing of a retirement plan under which the claimant is
20 receiving or will receive a retirement benefit, then the weekly
21 benefit rate of the claimant as otherwise established under this
22 act shall not be reduced due to receipt of a retirement benefit.

23 (g) Notwithstanding any other provision of this act, an
24 individual pursuing vocational training or retraining pursuant to
25 section 28(2) who has exhausted all benefits available under sub-
26 section (d) may be paid for each week of approved vocational
27 training pursued beyond the date of exhaustion a benefit amount

1 in accordance with subsection (c), but not in excess of the
2 individual's most recent weekly benefit rate. However, an indi-
3 vidual shall not be paid training benefits totaling more than 18
4 times the individual's most recent weekly benefit rate. The
5 expiration or termination of a benefit year shall not stop or
6 interrupt payment of training benefits if the training for which
7 the benefits were granted began before expiration or termination
8 of the benefit year.

9 (h) A payment of accrued unemployment benefits shall not be
10 made to an eligible individual or in behalf of that individual as
11 provided in subsection (e) more than 6 years after the ending
12 date of the benefit year covering the payment or 2 calendar years
13 after the calendar year in which there is final disposition of a
14 contested case, whichever is later.

15 (i) Benefits based on service in employment described in
16 section 42(8), (9), and (10) are payable in the same amount, on
17 the same terms, and subject to the same conditions as compensa-
18 tion payable on the basis of other service subject to this act,
19 except that:

20 (1) With respect to service performed in an instructional,
21 research, or principal administrative capacity for an institution
22 of higher education as defined in section 53(2), or for an educa-
23 tional institution other than an institution of higher education
24 as defined in section 53(3), benefits shall not be paid to an
25 individual based on those services for any week of unemployment
26 beginning after December 31, 1977 that commences during the
27 period between 2 successive academic years or during a similar

1 period between 2 regular terms, whether or not successive, or
2 during a period of paid sabbatical leave provided for in the
3 individual's contract, to an individual if the individual per-
4 forms the service in the first of the academic years or terms and
5 if there is a contract or a reasonable assurance that the indi-
6 vidual will perform service in an instructional, research, or
7 principal administrative capacity for an institution of higher
8 education or an educational institution other than an institution
9 of higher education in the second of the academic years or terms,
10 whether or not the terms are successive.

11 (2) With respect to service performed in other than an
12 instructional, research, or principal administrative capacity for
13 an institution of higher education as defined in section 53(2) or
14 for an educational institution other than an institution of
15 higher education as defined in section 53(3), benefits shall not
16 be paid based on those services for any week of unemployment
17 beginning after December 31, 1977 that commences during the
18 period between 2 successive academic years or terms to any indi-
19 vidual if that individual performs the service in the first of
20 the academic years or terms and if there is a reasonable assur-
21 ance that the individual will perform the service for an institu-
22 tion of higher education or an educational institution other than
23 an institution of higher education in the second of the academic
24 years or terms.

25 (3) With respect to any service described in subdivision (1)
26 or (2), benefits shall not be paid to an individual based upon
27 service for any week of unemployment that commences during an

1 established and customary vacation period or holiday recess if
2 the individual performs the service in the period immediately
3 before the vacation period or holiday recess and there is a con-
4 tract or reasonable assurance that the individual will perform
5 the service in the period immediately following the vacation
6 period or holiday recess.

7 (4) If benefits are denied to an individual for any week
8 solely as a result of subdivision (2) and the individual was not
9 offered an opportunity to perform in the second academic year or
10 term the service for which reasonable assurance had been given,
11 the individual is entitled to a retroactive payment of benefits
12 for each week for which the individual had previously filed a
13 timely claim for benefits. An individual entitled to benefits
14 under this subdivision may apply for those benefits by mail in
15 accordance with R 421.210 as promulgated by the commission. AN
16 INDIVIDUAL WHO RECEIVED A REASONABLE ASSURANCE THAT HE OR SHE
17 WOULD PERFORM SERVICES IN A SECOND ACADEMIC YEAR OR TERM UNDER
18 SUBDIVISION (1) OR (2) AND WHO IS NOT PROVIDED THE OPPORTUNITY TO
19 PERFORM THOSE SERVICES IN THE SECOND ACADEMIC YEAR OR TERM HAS
20 GOOD CAUSE FOR LATE FILING. IF THE INDIVIDUAL OTHERWISE QUALI-
21 FIES TO RECEIVE BENEFITS FOR A WEEK IN WHICH A REASONABLE ASSUR-
22 ANCE WAS RECEIVED, HE OR SHE SHALL BE PAID BENEFITS FOR THAT WEEK
23 AFTER FILING A RETROACTIVE CLAIM AND ADDITIONALLY FILING A CERTI-
24 FICATION VERIFYING THAT HE OR SHE HAD BEEN ABLE AND AVAILABLE FOR
25 WORK THAT WEEK. THE INDIVIDUAL IS NOT REQUIRED TO HAVE SOUGHT
26 WORK DURING ANY WEEK FOR WHICH HE OR SHE RECEIVED THE REASONABLE
27 ASSURANCE DESCRIBED IN SUBDIVISION (1) OR (2).

1 ~~(5) The amendments to subdivision (2) made by Act No. 219~~
2 ~~of the Public Acts of 1983 apply to all claims for unemployment~~
3 ~~compensation that are filed on and after October 31, 1983.~~
4 ~~However, the amendments are retroactive to September 5, 1982 only~~
5 ~~if, as a condition for full tax credit against the tax imposed by~~
6 ~~the federal unemployment tax act, chapter 23 of subtitle C of the~~
7 ~~internal revenue code of 1986, 26 U.S.C. 3301 to 3311, the United~~
8 ~~States secretary of labor determines that retroactivity is~~
9 ~~required by federal law.~~

10 (5) ~~(6) Notwithstanding subdivision (2), on and after April~~
11 ~~1, 1984 benefits~~ BENEFITS based upon services in other than an
12 instructional, research, or principal administrative capacity for
13 an institution of higher education shall not be denied for any
14 week of unemployment commencing during the period between 2 suc-
15 cessive academic years or terms solely because the individual had
16 performed the service in the first of the academic years or terms
17 and there is reasonable assurance that the individual will per-
18 form the service for an institution of higher education or an
19 educational institution other than an institution of higher edu-
20 cation in the second of the academic years or terms, unless a
21 denial is required as a condition for full tax credit against the
22 tax imposed by the federal unemployment tax act, chapter 23 of
23 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
24 to 3311. AN INDIVIDUAL WHO WAS GIVEN REASONABLE ASSURANCE THAT
25 HE OR SHE WOULD PERFORM THE SERVICE IN THE SECOND OF THE ACADEMIC
26 YEARS OR TERMS AND WHO IS SUBSEQUENTLY NOT OFFERED THE
27 OPPORTUNITY TO PERFORM THE SERVICE IN THAT SECOND OF THE ACADEMIC

1 YEARS OR TERMS HAS GOOD CAUSE FOR LATE FILING. IF THE INDIVIDUAL
2 OTHERWISE QUALIFIES TO RECEIVE BENEFITS FOR A WEEK IN WHICH A
3 REASONABLE ASSURANCE WAS RECEIVED, HE OR SHE SHALL BE PAID BENE-
4 FITS FOR THAT WEEK AFTER FILING A RETROACTIVE CLAIM AND ADDITION-
5 ALLY FILING A CERTIFICATION VERIFYING THAT HE OR SHE HAD BEEN
6 ABLE AND AVAILABLE FOR WORK THAT WEEK. THE INDIVIDUAL IS NOT
7 REQUIRED TO HAVE SOUGHT WORK DURING ANY WEEK FOR WHICH HE OR SHE
8 RECEIVED THE REASONABLE ASSURANCE.

9 (6) ~~-(7)-~~ For benefit years established before the conver-
10 sion date prescribed in section 75, and notwithstanding subdivi-
11 sions (1), (2), and (3), the denial of benefits does not prevent
12 an individual from completing requalifying weeks in accordance
13 with section 29(3) nor does the denial prevent an individual from
14 receiving benefits based on service with an employer other than
15 an educational institution for any week of unemployment occurring
16 between academic years or terms, whether or not successive, or
17 during an established and customary vacation period or holiday
18 recess, even though the employer is not the most recent charge-
19 able employer in the individual's base period. However, in that
20 case section 20(b) applies to the sequence of benefit charging,
21 except for the employment with the educational institution, and
22 section 50(b) applies to the calculation of credit weeks. When a
23 denial of benefits under subdivision (1) no longer applies, bene-
24 fits shall be charged in accordance with the normal sequence of
25 charging as provided in section 20(b).

26 (7) ~~-(8)-~~ For benefit years beginning after the conversion
27 date prescribed in section 75, and notwithstanding subdivisions

1 (1), (2), and (3), the denial of benefits shall not prevent an
2 individual from completing requalifying weeks in accordance with
3 section 29(3) nor shall the denial prevent an individual from
4 receiving benefits based on service with another base period
5 employer other than an educational institution for any week of
6 unemployment occurring between academic years or terms, whether
7 or not successive, or during an established and customary vaca-
8 tion period or holiday recess. However, when benefits are paid
9 based on service with 1 or more base period employers other than
10 an educational institution, the individual's weekly benefit rate
11 shall be calculated in accordance with subsection (b)(1) but
12 during the denial period the individual's weekly benefit payment
13 shall be reduced by the portion of the payment attributable to
14 base period wages paid by an educational institution and the
15 account or experience account of the educational institution
16 shall not be charged for benefits payable to the individual.
17 When a denial of benefits under subdivision (1) is no longer
18 applicable, benefits shall be paid and charged on the basis of
19 base period wages with each of the base period employers includ-
20 ing the educational institution.

21 (8) ~~-(9)-~~ For the purposes of this subsection, "academic
22 year" means that period, as defined by the educational institu-
23 tion, when classes are in session for that length of time
24 required for students to receive sufficient instruction or earn
25 sufficient credit to complete academic requirements for a partic-
26 ular grade level or to complete instruction in a noncredit
27 course.

1 (9) ~~(10) Benefits~~ IN ACCORDANCE WITH SUBDIVISIONS (1),
2 (2), AND (3), BENEFITS FOR ANY WEEK OF UNEMPLOYMENT shall be
3 denied ~~, as provided in subdivisions (1), (2), and (3), for any~~
4 ~~week of unemployment beginning on and after April 1, 1984,~~ to an
5 individual who performed ~~those~~ services DESCRIBED IN
6 SUBDIVISION (1), (2), OR (3) in an educational institution while
7 in the employ of an educational service agency. For the purpose
8 of this subdivision, "educational service agency" means a govern-
9 mental agency or governmental entity that is established and
10 operated exclusively for the purpose of providing the services to
11 1 or more educational institutions.

12 (j) For weeks of unemployment beginning after December 31,
13 1977, benefits shall not be paid to an individual on the basis of
14 any base period services, substantially all of which consist of
15 participating in sports or athletic events or training or prepar-
16 ing to so participate, for a week that commences during the
17 period between 2 successive sport seasons or similar periods if
18 the individual performed the services in the first of the seasons
19 or similar periods and there is a reasonable assurance that the
20 individual will perform the services in the later of the seasons
21 or similar periods.

22 (k)(1) For weeks of unemployment beginning after
23 December 31, 1977, benefits shall not be payable on the basis of
24 services performed by an alien unless the alien is an individual
25 who was lawfully admitted for permanent residence at the time the
26 services were performed, was lawfully present for the purpose of
27 performing the services, or was permanently residing in the

1 United States under color of law at the time the services were
2 performed, including an alien who was lawfully present in the
3 United States under ~~section 203(a)(7) or~~ section 212(d)(5) of
4 the immigration and nationality act, 8 U.S.C. ~~1153 and~~ 1182.

5 (2) Any data or information required of individuals applying
6 for benefits to determine whether benefits are payable because of
7 their alien status are uniformly required from all applicants for
8 benefits.

9 (3) Where an individual whose application for benefits would
10 otherwise be approved, a determination that benefits to that
11 individual are not payable because of the individual's alien
12 status shall not be made except upon a preponderance of the
13 evidence.

14 (m)(1) An individual filing a new claim for unemployment
15 compensation under this act after September 30, 1982, at the time
16 of filing the claim, shall disclose whether the individual owes
17 child support obligations as defined in this subsection. If an
18 individual discloses that he or she owes child support obliga-
19 tions and is determined to be eligible for unemployment compensa-
20 tion, the commission shall notify the state or local child sup-
21 port enforcement agency enforcing the obligation that the indi-
22 vidual has been determined to be eligible for unemployment
23 compensation.

24 (2) Notwithstanding section 30, the commission shall deduct
25 and withhold from any unemployment compensation payable to an
26 individual who owes child support obligations by using whichever
27 of the following methods results in the greatest amount:

1 (a) The amount, if any, specified by the individual to be
2 deducted and withheld under this subdivision.

3 (b) The amount, if any, determined pursuant to an agreement
4 submitted to the commission under section 454(19)(B)(i) of part D
5 of title IV of the social security act, ~~chapter 531, 49~~
6 ~~Stat. 620,~~ 42 U.S.C. 654, by the state or local child support
7 enforcement agency.

8 (c) Any amount otherwise required to be so deducted and
9 withheld from unemployment compensation pursuant to legal pro-
10 cess, as that term is defined in section 462(e) of part D of
11 title IV of the social security act, chapter 531, 49 Stat. 620,
12 42 U.S.C. 662, properly served upon the commission.

13 (3) The amount of unemployment compensation subject to
14 deduction under subdivision (2) is that portion that remains pay-
15 able to the individual after application of the recoupment provi-
16 sions of section 62(a) and the reduction provisions of
17 subsections (c) and (f).

18 (4) Any amount deducted and withheld under subdivision (2)
19 shall be paid by the commission to the appropriate state or local
20 child support enforcement agency.

21 (5) Any amount deducted and withheld under subdivision (2)
22 shall be treated for all purposes as if it were paid to the indi-
23 vidual as unemployment compensation and paid by the individual to
24 the state or local child support enforcement agency in satisfac-
25 tion of the individual's child support obligations.

26 (6) This subsection applies only if the state or local child
27 support enforcement agency agrees in writing to reimburse and

1 does reimburse the commission for the administrative costs
2 incurred by the commission under this subsection that are attrib-
3 utable to child support obligations being enforced by the state
4 or local child support enforcement agency. The administrative
5 costs incurred shall be determined by the commission. The com-
6 mission, in its discretion, may require payment of administrative
7 costs in advance.

8 (7) As used in this subsection:

9 (a) "Unemployment compensation", for purposes of
10 subdivisions (1) through (5), means any compensation payable
11 under this act, including amounts payable by the commission pur-
12 suant to an agreement under any federal law providing for compen-
13 sation, assistance, or allowances with respect to unemployment.

14 (b) "Child support obligations" includes only obligations
15 that are being enforced pursuant to a plan described in
16 section 454 of part D of title IV of the social security act,
17 ~~chapter 531, 49 Stat. 620,~~ 42 U.S.C. 654, that has been
18 approved by the secretary of health and human services under
19 part D of title IV of the social security act, chapter 531, 49
20 Stat. 620, 42 U.S.C. 651 to ~~669~~ 669b.

21 (c) "State or local child support enforcement agency" means
22 any agency of this state or a political subdivision of this state
23 operating pursuant to a plan described in subparagraph (b).

24 ~~(n) Subsection (i)(2) applies to services performed by~~
25 ~~school bus drivers employed by a private contributing employer~~
26 ~~holding a contractual relationship with an educational~~
27 ~~institution, but only if at least 75% of the individual's base~~

~~1 period wages with that employer are attributable to services
2 performed as a school bus driver.~~

~~3 (o)(1) For weeks of unemployment beginning after July 1,
4 1996, unemployment benefits based on services by a seasonal
5 worker performed in seasonal employment shall be payable only for
6 weeks of unemployment that occur during the normal seasonal work
7 period. Benefits shall not be paid based on services performed
8 in seasonal employment for any week of unemployment beginning
9 after the effective date of this subdivision that begins during
10 the period between 2 successive normal seasonal work periods to
11 any individual if that individual performs the service in the
12 first of the normal seasonal work periods and if there is a rea-
13 sonable assurance that the individual will perform the service
14 for a seasonal employer in the second of the normal seasonal work
15 periods. If benefits are denied to an individual for any week
16 solely as a result of this subsection and the individual is not
17 offered an opportunity to perform in the second normal seasonal
18 work period for which reasonable assurance of employment had been
19 given, the individual is entitled to a retroactive payment of
20 benefits under this subsection for each week that the individual
21 previously filed a timely claim for benefits. An individual may
22 apply for any retroactive benefits under this subsection in
23 accordance with R 421.210 of the Michigan administrative code.~~

~~24 (2) Not less than 20 days before the estimated beginning
25 date of a normal seasonal work period, an employer may apply to
26 the commission in writing for designation as a seasonal
27 employer. At the time of application, the employer shall~~

~~1 conspicuously display a copy of the application on the employer's
2 premises. Within 90 days after receipt of the application, the
3 commission shall determine if the employer is a seasonal
4 employer. A determination or redetermination of the commission
5 concerning the status of an employer as a seasonal employer, or a
6 decision of a referee or the board of review, or of the courts of
7 this state concerning the status of an employer as a seasonal
8 employer, which has become final, together with the record there-
9 of, may be introduced in any proceeding involving a claim for
10 benefits, and the facts found and decision issued in the determi-
11 nation, redetermination, or decision shall be conclusive unless
12 substantial evidence to the contrary is introduced by or on
13 behalf of the claimant.~~

~~14 (3) If the employer is determined to be a seasonal employer,
15 the employer shall conspicuously display on its premises a notice
16 of the determination and the beginning and ending dates of the
17 employer's normal seasonal work periods. The notice shall be
18 furnished by the commission. The notice shall additionally spec-
19 ify that an employee must timely apply for unemployment benefits
20 at the end of a first seasonal work period to preserve his or her
21 right to receive retroactive unemployment benefits in the event
22 that he or she is not reemployed by the seasonal employer in the
23 second of the normal seasonal work periods.~~

~~24 (4) The commission may issue a determination terminating an
25 employer's status as a seasonal employer on the commission's own
26 motion for good cause, or upon the written request of the
27 employer. A termination determination under this subdivision~~

~~1 terminates an employer's status as a seasonal employer, and shall
2 become effective on the beginning date of the normal seasonal
3 work period that would have immediately followed the date the
4 commission issues the determination. A determination under this
5 subdivision is subject to review in the same manner and to the
6 same extent as any other determination under this act.~~

~~7 (5) An employer whose status as a seasonal employer is ter-
8 minated under subdivision (4) may not reapply for a seasonal
9 employer status determination until after a regularly recurring
10 normal seasonal work period has begun and ended.~~

~~11 (6) If a seasonal employer informs an employee who received
12 assurance of being rehired that, despite the assurance, the
13 employee will not be rehired at the beginning of the employer's
14 next normal seasonal work period, this subsection shall not pre-
15 vent the employee from receiving unemployment benefits in the
16 same manner and to the same extent he or she would receive bene-
17 fits under this act from an employer who has not been determined
18 to be a seasonal employer.~~

~~19 (7) A successor of a seasonal employer is considered to be a
20 seasonal employer unless the successor provides the commission,
21 within 120 days after the transfer, with a written request for
22 termination of its status as a seasonal employer in accordance
23 with subdivision (4).~~

~~24 (8) At the time an employee is hired by a seasonal employer,
25 the employer shall notify the employee in writing whether the
26 employee will be a seasonal worker. The employer shall provide
27 the worker with written notice of any subsequent change in the~~

~~1 employee's status as a seasonal worker. If an employee of a
2 seasonal employer is denied benefits because that employee is a
3 seasonal worker, the employee may contest that designation in
4 accordance with section 32a.~~

~~5 (9) As used in this subsection:~~

~~6 (a) "Construction industry" means the work activity desig-
7 nated in major groups 15, 16, and 17 of the standard industrial
8 classification manual, United States office of management and
9 budget, 1987 edition.~~

~~10 (b) "Normal seasonal work period" means that period or those
11 periods of time determined pursuant to rules promulgated by the
12 commission during which an individual is employed in seasonal
13 employment.~~

~~14 (c) "Seasonal employment" means the employment of 1 or more
15 individuals primarily hired to perform services in an industry,
16 other than the construction industry, that does either of the
17 following:~~

~~18 (1) Customarily operates during regularly recurring periods
19 of 26 weeks or less in any 52 consecutive week period.~~

~~20 (2) Customarily employs at least 50% of its employees for
21 regularly recurring periods of 26 weeks or less within a period
22 of 52 consecutive weeks.~~

~~23 (d) "Seasonal employer" means an employer, other than an
24 employer in the construction industry, who applies to the commis-
25 sion for designation as a seasonal employer and who the commis-
26 sion determines to be an employer whose operations and business
27 are substantially engaged in seasonal employment.~~

1 ~~(e) "Seasonal worker" means a worker who has been paid wages~~
2 ~~by a seasonal employer for work performed only during the normal~~
3 ~~seasonal work period.~~

4 ~~(10) If this subsection is found by the United States~~
5 ~~department of labor to be contrary to the federal unemployment~~
6 ~~tax act, chapter 23 of the internal revenue code of 1986, 26~~
7 ~~U.S.C. 3301 to 3311, or the social security act, chapter 531, 49~~
8 ~~Stat. 620, and if conformity with the federal law is required as~~
9 ~~a condition for full tax credit against the tax imposed under the~~
10 ~~federal unemployment tax act or as a condition for receipt by the~~
11 ~~commission of federal administrative grant funds under the social~~
12 ~~security act, this subsection shall be invalid.~~

13 ~~(p) Benefits shall not be paid to an individual based upon~~
14 ~~his or her services as a school crossing guard for any week of~~
15 ~~unemployment that begins between 2 successive academic years or~~
16 ~~terms, if that individual performs the services of a school~~
17 ~~crossing guard in the first of the academic years or terms and~~
18 ~~has a reasonable assurance that he or she will perform those~~
19 ~~services in the second of the academic years or terms.~~

20 Sec. 29. (1) An individual is disqualified from receiving
21 benefits if he or she:

22 (a) Left work voluntarily without good cause attributable to
23 the employer or employing unit. However, if ~~the~~ EITHER OF THE
24 FOLLOWING CONDITIONS ARE MET, THE LEAVING DOES NOT DISQUALIFY THE
25 INDIVIDUAL:

26 (i) THE INDIVIDUAL LEAVING IS THE SPOUSE OF A FULL-TIME
27 EMPLOYEE WHO IS REQUIRED TO PERMANENTLY MOVE TO A GEOGRAPHIC

1 LOCATION DIFFERENT FROM THE GEOGRAPHIC LOCATION IN WHICH THAT
2 EMPLOYEE WAS ORIGINALLY EMPLOYED.

3 (ii) THE individual has an established benefit year in
4 effect and during that benefit year leaves unsuitable work within
5 60 days after the beginning of that work, the leaving does not
6 disqualify the individual.

7 (b) Was discharged for misconduct connected with the
8 individual's work or for intoxication while at work unless the
9 discharge was subsequently reduced to a disciplinary layoff or
10 suspension.

11 (c) Failed without good cause to apply for available suit-
12 able work after receiving from the employment office or the com-
13 mission notice of the availability of that work.

14 (d) Failed without good cause while unemployed to report to
15 the individual's former employer or employing unit within a rea-
16 sonable time after that employer or employing unit provided
17 notice of the availability of an interview concerning available
18 suitable work with the former employer or employing unit.

19 (e) Failed without good cause to accept suitable work
20 offered to the individual or to return to the individual's cus-
21 tomary self-employment, if any, when directed by the employment
22 office or the commission.

23 (f) Lost his or her job due to absence from work resulting
24 from a violation of law for which the individual was convicted
25 and sentenced to jail or prison. This subdivision does not apply
26 if conviction of an individual results in a sentence to county
27 jail under conditions of day parole as provided in ~~Act No. 60 of~~

1 ~~the Public Acts of 1962, being sections 801.251 to 801.258 of the~~
2 ~~Michigan Compiled Laws~~ 1962 PA 60, MCL 801.251 TO 801.258, or if
3 the conviction was for a traffic violation that resulted in an
4 absence of less than 10 consecutive work days from the
5 individual's place of employment.

6 (g) Is discharged, whether or not the discharge is subse-
7 quently reduced to a disciplinary layoff or suspension, for par-
8 ticipation in either of the following:

9 (i) A strike or other concerted action in violation of an
10 applicable collective bargaining agreement that results in cur-
11 tailment of work or restriction of or interference with
12 production.

13 (ii) A wildcat strike or other concerted action not autho-
14 rized by the individual's recognized bargaining representative.

15 (h) Was discharged for an act of assault and battery con-
16 nected with the individual's work.

17 (i) Was discharged for theft connected with the individual's
18 work.

19 (j) Was discharged for willful destruction of property con-
20 nected with the individual's work.

21 (k) Committed a theft after receiving notice of a layoff or
22 discharge, but before the effective date of the layoff or dis-
23 charge, resulting in loss or damage to the employer who would
24 otherwise be chargeable for the benefits, regardless of whether
25 the individual qualified for the benefits before the theft.

26 ~~(l) Was employed by a temporary help firm, which as used in~~
27 ~~this section means an employer whose primary business is to~~

1 ~~provide a client with the temporary services of 1 or more~~
2 ~~individuals under contract with the employer, to perform services~~
3 ~~for a client of that firm if each of the following conditions is~~
4 ~~met:~~

5 ~~(i) The temporary help firm provided the employee with a~~
6 ~~written notice before the employee began performing services for~~
7 ~~the client stating in substance both of the following:~~

8 ~~(A) That within 7 days after completing services for a~~
9 ~~client of the temporary help firm, the employee is under a duty~~
10 ~~to notify the temporary help firm of the completion of those~~
11 ~~services.~~

12 ~~(B) That a failure to provide the temporary help firm with~~
13 ~~notice of the employee's completion of services pursuant to~~
14 ~~sub-subparagraph (A) constitutes a voluntary quit that will~~
15 ~~affect the employee's eligibility for unemployment compensation~~
16 ~~should the employee seek unemployment compensation following com-~~
17 ~~pletion of those services.~~

18 ~~(ii) The employee did not provide the temporary help firm~~
19 ~~with notice that the employee had completed his or her services~~
20 ~~for the client within 7 days after completion of his or her serv-~~
21 ~~ices for the client.~~

22 ~~(l) —(m) Was discharged for (i) Illegally ingesting,~~
23 ~~injecting, inhaling, or possessing a controlled substance on the~~
24 ~~premises of the employer, (ii) Refusing to submit to a drug test~~
25 ~~that was required to be administered in a nondiscriminatory~~
26 ~~manner, or (iii) Testing positive on a drug test, if the test was~~
27 ~~administered in a nondiscriminatory manner. If the worker~~

1 disputes the result of the testing, a generally accepted
2 confirmatory test shall be administered and shall also indicate a
3 positive result for the presence of a controlled substance before
4 a disqualification of the worker under this subdivision. As used
5 in this subdivision:

6 (A) "Controlled substance" means that term as defined in
7 section 7104 of the public health code, ~~Act No. 368 of the~~
8 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
9 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

10 (B) "Drug test" means a test designed to detect the illegal
11 use of a controlled substance.

12 (C) "Nondiscriminatory manner" means administered impar-
13 tially and objectively in accordance with a collective bargaining
14 agreement, rule, policy, a verbal or written notice, or a
15 labor-management contract.

16 (M) ~~(n)~~ Has an income exceeding \$100,000.00 for the calen-
17 dar year in which he or she applies for benefits. This subdivi-
18 sion shall not take effect unless both of the following occur:

19 (i) Within 30 days ~~of the effective date of the act that~~
20 ~~added subdivision (i)~~ AFTER MARCH 26, 1996, the governor
21 requests from the United States department of labor a determina-
22 tion confirming whether this subdivision is in conformity with
23 the federal unemployment tax act, chapter 23 ~~,~~ of SUBTITLE C OF
24 the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, and
25 the social security act, CHAPTER 531, 49 Stat. 620, and whether
26 conformity with those federal acts is a condition for a full tax
27 credit against the tax imposed under the federal unemployment tax

1 act (FUTA), CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE CODE
2 OF 1986, 26 U.S.C. 3301 TO 3311, or is a condition for state
3 receipt of federal administrative grant funds under the social
4 security act, CHAPTER 531, 49 STAT. 620.

5 (ii) The United States department of labor determines that
6 this subdivision is in conformity with the acts described in sub-
7 paragraph (i), or verifies that conformity with those federal
8 acts is not a condition for a tax credit or a grant described in
9 subparagraph (i).

10 (2) A disqualification under subsection (1) begins the week
11 in which the act or discharge that caused the disqualification
12 occurs and continues until the disqualified individual requali-
13 fies under subsection (3), except that for benefit years begin-
14 ning before the conversion date prescribed in section 75, the
15 disqualification does not prevent the payment of benefits if
16 there are credit weeks, other than multiemployer credit weeks,
17 after the most recent disqualifying act or discharge.

18 (3) After the week in which the disqualifying act or dis-
19 charge described in subsection (1) occurs, an individual who
20 seeks to requalify for benefits is subject to all of the
21 following:

22 (a) For benefit years established before the conversion date
23 described in section 75, the individual shall complete 6 requali-
24 fying weeks if he or she was disqualified under
25 subsection (1)(c), (d), (e), (f), OR (g), ~~or (l),~~ or 13 requali-
26 fying weeks if he or she was disqualified under subsection
27 (1)(h), (i), (j), (k), or ~~(m)~~ (l). A requalifying week

1 required under this subsection shall be each week in which the
2 individual does any of the following:

3 (i) Earns or receives remuneration in an amount at least
4 equal to an amount needed to earn a credit week, as that term is
5 defined in section 50.

6 (ii) Otherwise meets all of the requirements of this act to
7 receive a benefit payment if the individual were not disqualified
8 under subsection (1).

9 (iii) Receives a benefit payment based on credit weeks sub-
10 sequent to the disqualifying act or discharge.

11 (b) For benefit years established before the conversion date
12 prescribed in section 75, if the individual is disqualified under
13 subsection (1)(a) or (b), he or she shall requalify, after the
14 week in which the disqualifying discharge occurred by earning in
15 employment for an employer liable under this act or the unemploy-
16 ment compensation act of another state an amount equal to, or in
17 excess of, 7 times the individual's potential weekly benefit
18 rate, calculated on the basis of employment with the employer
19 involved in the disqualification, or by earning in employment for
20 an employer liable under this act or the unemployment compensa-
21 tion act of another state an amount equal to, or in excess of, 40
22 times the state minimum hourly wage times 7, whichever is the
23 lesser amount.

24 (c) For benefit years established before the conversion date
25 prescribed in section 75, a benefit payable to an individual dis-
26 qualified under subsection (1)(a) or (b), shall be charged to the
27 nonchargeable benefits account, and not to the account of the

1 employer with whom the individual was involved in the
2 disqualification.

3 (d) For benefit years beginning after the conversion date
4 prescribed in section 75, subsequent to the week in which the
5 disqualifying act or discharge occurred, an individual shall com-
6 plete 6 requalifying weeks if he or she was disqualified under
7 subsection (1)(c), (d), (e), (f), OR (g), ~~or (l),~~ or 13 requal-
8 ifying weeks if he or she was disqualified under
9 subsection (1)(h), (i), (j), (k), or ~~(m)~~ (l). A requalifying
10 week required under this subsection shall be each week in which
11 the individual does any of the following:

12 (i) Earns or receives remuneration in an amount equal to at
13 least 1/13 of the minimum amount needed in a calendar quarter of
14 the base period for an individual to qualify for benefits,
15 rounded down to the nearest whole dollar.

16 (ii) Otherwise meets all of the requirements of this act to
17 receive a benefit payment if the individual were not disqualified
18 under subsection (1).

19 (e) For benefit years beginning after the conversion date
20 prescribed in section 75, if the individual is disqualified under
21 subsection (1)(a) or (b), he or she shall requalify, after the
22 week in which the disqualifying act or discharge occurred by
23 earning in employment for an employer liable under this act or
24 the unemployment compensation law of another state at least the
25 lesser of the following:

26 (i) Seven times the individual's weekly benefit rate.

1 (ii) Forty times the state minimum hourly wage times 7.
2 (f) A benefit payable to the individual disqualified or
3 separated under disqualifying circumstances under
4 subsection (1)(a) or (b), shall be charged to the nonchargeable
5 benefits account, and not to the account of the employer with
6 whom the individual was involved in the separation. Benefits
7 payable to an individual determined by the commission to be sepa-
8 rated under disqualifying circumstances shall not be charged to
9 the account of the employer involved in the disqualification for
10 any period after the employer notifies the commission of the
11 claimant's possible ineligibility or disqualification. If a dis-
12 qualifying act or discharge occurs during the individual's bene-
13 fit year, any benefits that may become payable to the individual
14 in a later benefit year based on employment with the employer
15 involved in the disqualification shall be charged to the non-
16 chargeable benefits account.

17 (4) The maximum amount of benefits otherwise available under
18 section 27(d) to an individual disqualified under subsection (1)
19 is subject to all of the following conditions:

20 (a) For benefit years established before the conversion date
21 prescribed in section 75, if the individual is disqualified under
22 subsection (1)(c), (d), (e), (f), OR (g) ~~, or (1)~~ and the maxi-
23 mum amount of benefits is based on wages and credit weeks earned
24 from an employer before an act or discharge involving that
25 employer, the amount shall be reduced by an amount equal to the
26 individual's weekly benefit rate as to that employer multiplied
27 by the lesser of either of the following:

1 (i) The number of requalifying weeks required of the
2 individual under this section.

3 (ii) The number of weeks of benefit entitlement remaining
4 with that employer.

5 (b) If the individual has insufficient or no potential bene-
6 fit entitlement remaining with the employer involved in the dis-
7 qualification in the benefit year in existence on the date of the
8 disqualifying determination, a reduction of benefits described in
9 this subsection shall apply in a succeeding benefit year with
10 respect to any benefit entitlement based upon credit weeks earned
11 with the employer before the disqualifying act or discharge.

12 (c) For benefit years established before the conversion date
13 prescribed in section 75, an individual disqualified under sub-
14 section (1)(h), (i), (j), (k), or ~~(m)~~ (l) is not entitled to
15 benefits based on wages and credit weeks earned before the dis-
16 qualifying act or discharge with the employer involved in the
17 disqualification.

18 (d) The benefit entitlement of an individual disqualified
19 under subsection (1)(a) or (b) is not subject to reduction as a
20 result of that disqualification.

21 (e) A denial or reduction of benefits under this subsection
22 does not apply to benefits based upon multiemployer credit
23 weeks.

24 (f) For benefit years established after the conversion date
25 prescribed in section 75, if the individual is disqualified under
26 subsection (1)(c), (d), (e), (f), OR (g), ~~or (l)~~, the maximum
27 number of weeks otherwise applicable in calculating benefits for

1 the individual under section 27(d) shall be reduced by the lesser
2 of the following:

3 (i) The number of requalifying weeks required of the indi-
4 vidual under this subsection.

5 (ii) The number of weeks of benefit entitlement remaining on
6 the claim.

7 (g) For benefit years beginning after the conversion date
8 prescribed in section 75, the benefits of an individual disquali-
9 fied under subsection (1)(h), (i), (j), (k), or ~~(m)~~ (l) shall
10 be reduced by 13 weeks and any weekly benefit payments made to
11 the claimant thereafter shall be reduced by the portion of the
12 payment attributable to base period wages paid by the base period
13 employer involved in a disqualification under subsection (1)(h),
14 (i), (j), (k), or ~~(m)~~ (l).

15 (5) If an individual leaves work to accept permanent
16 full-time work with another employer and performs services for
17 that employer, or if an individual leaves work to accept a recall
18 from a former employer:

19 (a) Subsection (1) does not apply.

20 (b) Wages earned with the employer whom the individual last
21 left, including wages previously transferred under this subsec-
22 tion to the last employer, for the purpose of computing and
23 charging benefits, are wages earned from the employer with whom
24 the individual accepted work or recall, and benefits paid based
25 upon those wages shall be charged to that employer.

26 (c) When issuing a determination covering the period of
27 employment with a new or former employer described in this

1 subsection, the commission shall advise the chargeable employer
2 of the name and address of the other employer, the period covered
3 by the employment, and the extent of the benefits that may be
4 charged to the account of the chargeable employer.

5 (6) In determining whether work is suitable for an individu-
6 al, the commission shall consider the degree of risk involved to
7 the individual's health, safety, and morals, the individual's
8 physical fitness and prior training, THE INDIVIDUAL'S EXPERIENCE
9 AND PRIOR EARNINGS, the individual's length of unemployment and
10 prospects for securing local work in the individual's customary
11 occupation, and the distance of the available work from the
12 individual's residence. ~~Additionally, the commission shall con-~~
13 ~~sider the individual's experience and prior earnings, subject to~~
14 ~~the following limitation:~~

15 (a) ~~An individual unemployed for 1 to 12 weeks who refuses~~
16 ~~an offer of work determined to be suitable under this section~~
17 ~~shall be denied benefits if the pay rate for that work is at~~
18 ~~least 80% of the gross pay rate he or she received immediately~~
19 ~~before becoming unemployed.~~

20 (b) ~~An individual unemployed for 13 to 20 weeks who refuses~~
21 ~~an offer of work determined to be suitable under this section~~
22 ~~shall be denied benefits if the pay rate for that work is at~~
23 ~~least 75% of the gross pay rate he or she received immediately~~
24 ~~before becoming unemployed.~~

25 (c) ~~An individual unemployed for more than 20 weeks who~~
26 ~~refuses an offer of work determined to be suitable under this~~
27 ~~section shall be denied benefits if the pay rate for that work is~~

1 ~~at least 70% of the gross pay rate he or she received immediately~~
2 ~~before becoming unemployed.~~

3 (7) Work is not suitable and benefits shall not be denied
4 under this act to an otherwise eligible individual for refusing
5 to accept new work under any of the following conditions:

6 (a) If the position offered is vacant due directly to a
7 strike, lockout, or other labor dispute.

8 (b) If the remuneration, hours, or other conditions of the
9 work offered are substantially less favorable to the individual
10 than those prevailing for similar work in the locality.

11 (c) If as a condition of being employed, the individual
12 would be required to join a company union or to resign from or
13 refrain from joining a bona fide labor organization.

14 (8) All of the following apply to an individual who seeks
15 benefits under this act:

16 (a) An individual is disqualified from receiving benefits
17 for a week in which the individual's total or partial unemploy-
18 ment is due to either of the following:

19 (i) A labor dispute in active progress OTHER THAN A LOCKOUT
20 at the place at which the individual is or was last employed, or
21 a shutdown or start-up operation caused by that labor dispute.

22 (ii) A labor dispute, other than a lockout, in active
23 progress or a shutdown or start-up operation caused by that labor
24 dispute in any other establishment within the United States that
25 is both functionally integrated with the establishment described
26 in subparagraph (i) and operated by the same employing unit.

1 (b) An individual's disqualification imposed or imposable
2 under this subsection is terminated if the individual performs
3 services in employment with an employer in at least 2 consecutive
4 weeks falling wholly within the period of the individual's total
5 or partial unemployment due to the labor dispute, and in addition
6 earns wages in each of those weeks in an amount equal to or
7 greater than the individual's actual or potential weekly benefit
8 rate with respect to those weeks based on the individual's
9 employment with the employer involved in the labor dispute.

10 (c) An individual is not disqualified under this subsection
11 if the individual is not directly involved in the labor dispute.
12 An individual is not directly involved in a labor dispute unless
13 any of the following are established:

14 (i) At the time or in the course of a labor dispute in the
15 establishment in which the individual was then employed, the
16 individual in concert with 1 or more other employees voluntarily
17 stopped working other than at the direction of the individual's
18 employing unit.

19 (ii) The individual is participating in, financing, or
20 directly interested in the labor dispute that causes the
21 individual's total or partial unemployment. The payment of regu-
22 lar union dues, in amounts and for purposes established before
23 the inception of the labor dispute, is not financing a labor dis-
24 pute within the meaning of this subparagraph.

25 (iii) At any time a labor dispute in the establishment or
26 department in which the individual was employed does not exist,
27 and the individual voluntarily stops working, other than at the

1 direction of the individual's employing unit, in sympathy with
2 employees in some other establishment or department in which a
3 labor dispute is in progress.

4 (iv) The individual's total or partial unemployment is due
5 to a labor dispute that was or is in progress in a department,
6 unit, or group of workers in the same establishment.

7 (d) As used in this subsection, "directly interested" shall
8 be construed and applied so as not to disqualify individuals
9 unemployed as a result of a labor dispute the resolution of which
10 may not reasonably be expected to affect their wages, hours, or
11 other conditions of employment, and to disqualify individuals
12 whose wages, hours, or conditions of employment may reasonably be
13 expected to be affected by the resolution of the labor dispute.
14 A "reasonable expectation" of an effect on an individual's wages,
15 hours, or other conditions of employment exists, in the absence
16 of a substantial preponderance of evidence to the contrary, in
17 any of the following situations:

18 (i) If it is established that there is in the particular
19 establishment or employing unit a practice, custom, or contrac-
20 tual obligation to extend within a reasonable period to members
21 of the individual's grade or class of workers in the establish-
22 ment in which the individual is or was last employed changes in
23 terms and conditions of employment that are substantially similar
24 or related to some or all of the changes in terms and conditions
25 of employment that are made for the workers among whom there
26 exists the labor dispute that has caused the individual's total
27 or partial unemployment.

1 (ii) If it is established that 1 of the issues in or
2 purposes of the labor dispute is to obtain a change in the terms
3 and conditions of employment for members of the individual's
4 grade or class of workers in the establishment in which the indi-
5 vidual is or was last employed.

6 (iii) If a collective bargaining agreement covers both the
7 individual's grade or class of workers in the establishment in
8 which the individual is or was last employed and the workers in
9 another establishment of the same employing unit who are actively
10 participating in the labor dispute, and that collective bargain-
11 ing agreement is subject by its terms to modification, supplemen-
12 tation, or replacement, or has expired or been opened by mutual
13 consent at the time of the labor dispute.

14 (e) In determining the scope of the grade or class of work-
15 ers, evidence of the following is relevant:

16 (i) Representation of the workers by the same national or
17 international organization or by local affiliates of that
18 national or international organization.

19 (ii) Whether the workers are included in a single, legally
20 designated, or negotiated bargaining unit.

21 (iii) Whether the workers are or within the past 6 months
22 have been covered by a common master collective bargaining agree-
23 ment that sets forth all or any part of the terms and conditions
24 of the workers' employment, or by separate agreements that are or
25 have been bargained as a part of the same negotiations.

26 (iv) Any functional integration of the work performed by
27 those workers.

1 (v) Whether the resolution of those issues involved in the
2 labor dispute as to some of the workers could directly or indi-
3 rectly affect the advancement, negotiation, or settlement of the
4 same or similar issues in respect to the remaining workers.

5 (vi) Whether the workers are currently or have been covered
6 by the same or similar demands by their recognized or certified
7 bargaining agent or agents for changes in their wages, hours, or
8 other conditions of employment.

9 (vii) Whether issues on the same subject matter as those
10 involved in the labor dispute have been the subject of proposals
11 or demands made upon the employing unit that would by their terms
12 have applied to those workers.

13 (9) Except for an individual disqualified under subsection
14 (1)(g), or an individual whose disqualifying discharge under
15 subsection (1)(b) is determined or redetermined to be a disci-
16 plinary layoff or suspension, an individual is disqualified from
17 receiving benefits for the duration of the individual's disci-
18 plinary layoff or suspension if the individual becomes unemployed
19 because of a disciplinary layoff or suspension based upon any of
20 the following:

21 (a) Misconduct directly or indirectly connected with work.

22 (b) Participation in a strike or other concerted activity
23 resulting in a curtailment of work or restriction of or interfer-
24 ence with production contrary to an applicable collective bar-
25 gaining agreement.

1 (c) Participation in a wildcat strike or other concerted
2 activity not authorized by the individual's recognized bargaining
3 representative.

4 (10) If a disqualifying discharge under subsection (1)(b) is
5 determined or redetermined to be a suspension, the disqualifica-
6 tion provided under subsection (9) applies from the date of the
7 discharge.

8 (11) Notwithstanding subsections (1) to (10), if the employ-
9 ing unit submits notice to the commission of possible ineligibil-
10 ity or disqualification beyond the time limits prescribed by com-
11 mission rule, the notice shall not form the basis of a determina-
12 tion of ineligibility or disqualification for a claim period com-
13 pensated before the receipt of the notice by the commission.

14 (12) An individual is disqualified from receiving benefits
15 for any week or part of a week in which the individual has
16 received, is receiving, or is seeking unemployment benefits under
17 an unemployment compensation law of another state or of the
18 United States. If the appropriate agency of the other state or
19 of the United States finally determines that the individual is
20 not entitled to unemployment benefits, the disqualification
21 described in this subsection does not apply.

22 (13) BENEFITS PAID TO AN INDIVIDUAL DESCRIBED IN
23 SUBSECTION (1)(A)(i) SHALL BE CHARGED TO THE NONCHARGEABLE BENE-
24 FITS ACCOUNT DESCRIBED IN SECTION 17.

25 Sec. 50. (a) "Week" means calendar week, ending at midnight
26 Saturday, but all work performed and wages earned during a

1 working shift which starts before midnight Saturday shall be
2 included in the week in which that shift begins.

3 (b) Subject to subdivisions (1) and (2), for benefit years
4 established before January 1, 1996, "credit week" means a calen-
5 dar week of an individual's base period during which the individ-
6 ual earned wages equal to or greater than 20 times the state min-
7 imum hourly wage in effect on the first day of the calendar week
8 in which the individual filed an application for benefits.

9 However, for benefit years established on or after January 1,
10 1996 and before the conversion date prescribed in section 75,
11 "credit week" means a calendar week of an individual's base
12 period during which the individual earned wages equal to or
13 greater than ~~30~~ 20 times the state minimum hourly wage in
14 effect on the first day of the calendar week in which the indi-
15 vidual filed an application for benefits. This subsection is
16 subject to the following:

17 (1) If an individual earns wages from more than 1 employer
18 in a credit week, that week shall be counted as 1 multiemployer
19 credit week and shall be governed by the provisions of section
20 20(e), unless the individual has earned sufficient wages in the
21 base period with only 1 of the employers for whom the individual
22 performed services in the week of concurrent employment to enti-
23 tle the individual to a maximum weekly benefit rate, in which
24 case, the week shall be a credit week with respect to that
25 employer only and not a multiemployer credit week.

26 (2) Not more than 35 uncanceled and uncharged credit weeks
27 shall be counted as credit weeks. In determining the 35 credit

1 weeks to be used for computing and paying benefits, credit weeks
2 shall be counted in the following sequence:

3 (a) First, all credit weeks which are not multiemployer
4 credit weeks and which were earned with employers not involved in
5 a disqualifying act or discharge under section 29(1), and all
6 credit weeks earned with an employer involved in such a disquali-
7 fying act or discharge which were earned subsequent to the last
8 act or discharge in which the employer was involved, shall be
9 counted in inverse order of most recent employment with each
10 employer.

11 (b) Second, if the credit weeks counted under subparagraph
12 (a) total less than 35, all credit weeks which are not multiem-
13 ployer credit weeks and which were earned with each employer
14 before a disqualifying act or discharge shall be counted, in
15 inverse order to that in which the most recent disqualifying act
16 or discharge with each employer occurred, to the extent necessary
17 to use all available credit weeks with respect to the employers,
18 or a total of 35 credit weeks, whichever is less.

19 (c) Third, if the credit weeks counted under subparagraphs
20 (a) and (b) total less than 35, all multiemployer credit weeks
21 shall be counted, in inverse chronological order of their occur-
22 rence, to the extent necessary to count all available credit
23 weeks, or a total of 35 credit weeks, whichever is less.

24 (3) As used in this subsection:

25 (a) "Uncharged credit week" means a credit week which has
26 not been used as a basis for a benefit payment, a reduction of

1 benefits under section 29(4), or a penalty disqualification under
2 section 62(b).

3 (b) "Uncanceled credit week" means a credit week which is
4 not canceled in accordance with section 62(b).

5 (4) There shall not be counted toward the wages required to
6 establish a credit week under this subsection payments in the
7 form of termination, separation, severance, or dismissal allow-
8 ances; or any payments for a vacation or a holiday unless the
9 payment has been made, or the right to receive it has irrevocably
10 vested, within 14 days following the vacation or holiday.