

SENATE BILL No. 252

April 14, 2015, Introduced by Senators HERTEL, WARREN, GREGORY, ANANICH, KNEZEK, SMITH and BIEDA and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 17 and 29 (MCL 421.17 and 421.29), section 17 as amended by 2011 PA 269 and section 29 as amended by 2013 PA 146, and by adding section 29a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) The unemployment agency shall maintain in the
2 unemployment compensation fund a nonchargeable benefits account and
3 a separate experience account for each employer as provided in this
4 section. This act does not give an employer or individuals in the
5 employer's service prior claims or rights to the amount paid by the
6 employer to the unemployment compensation fund. All contributions
7 to that fund shall be pooled and available to pay benefits to any
8 individual entitled to the benefits under this act, irrespective of
9 the source of the contributions.

1 (2) The nonchargeable benefits account shall be credited with
2 the following:

3 (a) All net earnings received on money, property, or
4 securities in the fund.

5 (b) Any positive balance remaining in the employer's
6 experience account as of the second June 30 computation date
7 occurring after the employer has ceased to be subject to this act
8 or after the employer has elected to change from a contributing
9 employer to a reimbursing employer.

10 (c) The proceeds of the nonchargeable benefits component of
11 employers' contribution rates determined as provided in section
12 19(a)(5).

13 (d) All reimbursements received under section 11(c).

14 (e) All amounts that may be paid or advanced by the federal
15 government under section 903 or section 1201 of the social security
16 act, 42 USC 1103 and 1321, to the account of the state in the
17 federal unemployment trust fund.

18 (f) All benefits improperly paid to claimants that have been
19 recovered and that were previously charged to an employer's
20 account.

21 (g) Any benefits forfeited by an individual by application of
22 section 62(b).

23 (h) The amount of any benefit check, any employer refund
24 check, any claimant restitution refund check, or other payment duly
25 issued that has not been presented for payment within 1 year after
26 the date of issue.

27 (i) Any other unemployment fund income not creditable to the

1 experience account of any employer.

2 (j) Any negative balance transferred to an employer's new
3 experience account pursuant to this section.

4 (k) Amounts transferred from the contingent fund under section
5 10.

6 (3) The nonchargeable benefits account shall be charged with
7 the following:

8 (a) Any negative balance remaining in an employer's experience
9 account as of the second June 30 computation date occurring after
10 the employer has ceased to be subject to this act or has elected to
11 change from a contributing employer to a reimbursing employer.

12 (b) Refunds of amounts erroneously collected due to the
13 nonchargeable benefits component of an employer's contribution
14 rate.

15 (c) All training benefits paid under section 27(g) not
16 reimbursable by the federal government and based on service with a
17 contributing employer.

18 (d) Any positive balance credited or transferred to an
19 employer's new experience account under this subsection.

20 (e) Repayments to the federal government of amounts advanced
21 by it under section 1201 of the social security act, 42 USC 1321,
22 to the unemployment compensation fund established by this act.

23 (f) The amounts received by the unemployment compensation fund
24 under section 903 of the social security act, 42 USC 1103, that may
25 be appropriated to the unemployment agency in accordance with
26 subsection (8).

27 (g) All benefits determined to have been improperly paid to

1 claimants that have been credited to employers' accounts in
2 accordance with section 20(a).

3 (h) The amount of any substitute check or other payment issued
4 to replace an uncashed benefit check, employer refund check,
5 claimant restitution refund check, or other payment previously
6 credited to this account.

7 (i) The amount of any benefit check or other payment issued
8 that would be chargeable to the experience account of an employer
9 who has ceased to be subject to this act, and who has had a balance
10 transferred from the employer's experience account to the solvency
11 or nonchargeable benefits account.

12 (j) All benefits that become nonchargeable to an employer
13 under section 19(b) or (c), 29(1)(a)(ii) ~~or (iii)~~ **TO (iv)** or (3), or
14 42a.

15 (k) For ~~benefit years beginning before October 1, 2000, with~~
16 ~~benefits allocated under section 20(e)(2) for a week of~~
17 ~~unemployment in which a claimant earns remuneration with a~~
18 ~~contributing employer that equals or exceeds the amount of benefits~~
19 ~~allocated to that contributing employer, and for benefit years~~
20 beginning on or after October 1, 2000, with benefits allocated
21 under section 20(f) for a week of unemployment in which a claimant
22 earns remuneration with a contributing employer that equals or
23 exceeds the amount of benefits allocated to that contributing
24 employer.

25 (l) Benefits that are nonchargeable to an employer's account in
26 accordance with section 20(i) or (j).

27 (m) Benefits otherwise chargeable to the account of an

1 employer when the benefits are payable solely on the basis of
2 combining wages paid by a Michigan employer with wages paid by a
3 non-Michigan employer under the interstate arrangement for
4 combining employment and wages under 20 CFR 616.1 to 616.11.

5 (4) All contributions paid by an employer shall be credited to
6 the unemployment compensation fund, and, except as otherwise
7 provided with respect to the proceeds of the nonchargeable benefits
8 component of employers' contribution rates by section 19(a)(5), to
9 the employer's experience account, as of the date when paid.
10 However, those contributions paid during any July shall be credited
11 as of the immediately preceding June 30. Additional contributions
12 paid by an employer as the result of a retroactive contribution
13 rate adjustment, solely for the purpose of this subsection, shall
14 be credited to the employer's experience account as if paid when
15 due, if the payment is received within 30 days after the issuance
16 of the initial assessment that results from the contribution rate
17 adjustment and a written request for the application is filed by
18 the employer during this period.

19 (5) If an employer who has ceased to be subject to this act,
20 and who has had a positive or negative balance transferred as
21 provided in subsection (2) or (3) from the employer's experience
22 account to the solvency or nonchargeable benefits account as of the
23 second computation date after the employer has ceased to be subject
24 to this act, becomes subject to this act again within 6 years after
25 that computation date, the unemployment agency shall transfer the
26 positive or negative balance, adjusted by the debits and credits
27 that are made after the date of transfer, to the employer's new

1 experience account.

2 (6) If an employer's status as a reimbursing employer is
3 terminated within 6 years after the date the employer's experience
4 account as a prior contributing employer was transferred to the
5 solvency or nonchargeable benefits account as provided in
6 subsection (2) or (3) and the employer continues to be subject to
7 this act as a contributing employer, any positive or negative
8 balance in the employer's experience account as a prior
9 contributing employer ~~—which~~**THAT** was transferred to the solvency
10 or nonchargeable benefits account ~~—~~shall be transferred to the
11 employer's new experience account. However, an employer who is
12 delinquent with respect to any reimbursement payments in lieu of
13 contributions for which the employer may be liable shall not have a
14 positive balance transferred during the delinquency.

15 (7) If a balance is transferred to an employer's new account
16 under subsection (5) or (6), the employer shall not be considered a
17 "qualified employer" until the employer has again been subject to
18 this act for the period set forth in section 19(a)(1).

19 (8) All money credited under section 903 of the social
20 security act, 42 USC 1103, to the account of the state in the
21 federal unemployment trust fund shall immediately be credited by
22 the unemployment agency to the fund's nonchargeable benefits
23 account. There is authorized to be appropriated to the unemployment
24 agency from the money credited to the nonchargeable benefits
25 account under this subsection, an amount determined to be necessary
26 for the proper and efficient administration by the unemployment
27 agency of this act for purposes for which federal grants under

1 title 3 of the social security act, 42 USC 501 to 504, and the
2 Wagner-Peyser act, 29 USC 49 to 49/-2, are not available or are
3 insufficient. The appropriation shall expire not more than 2 years
4 after the date of enactment and shall provide that any unexpended
5 balance shall then be credited to the nonchargeable benefits
6 account. An appropriation shall not be made under this subsection
7 for an amount that exceeds the "adjusted balance" of the
8 nonchargeable benefits account on the most recent computation date.
9 Appropriations made under this subsection shall limit the total
10 amount that may be obligated by the unemployment agency during a
11 fiscal year to an amount that does not exceed the amount by which
12 the aggregate of the amounts credited to the nonchargeable benefits
13 account under this subsection during the fiscal year and the 24
14 preceding fiscal years, exceeds the aggregate of the amounts
15 obligated by the unemployment agency by appropriation under this
16 subsection and charged against the amounts thus credited to the
17 nonchargeable benefits account during any of the 25 fiscal years
18 and any amounts credited to the nonchargeable benefits account that
19 have been used for the payment of benefits.

20 Sec. 29. (1) Except as provided in subsection (5), an
21 individual is disqualified from receiving benefits if he or she:

22 (a) Left work voluntarily without good cause attributable to
23 the employer or employing unit. An individual who left work is
24 presumed to have left work voluntarily without good cause
25 attributable to the employer or employing unit. An individual who
26 is absent from work for a period of 3 consecutive work days or more
27 without contacting the employer in a manner acceptable to the

1 employer and of which the individual was informed at the time of
2 hire shall be considered to have voluntarily left work without good
3 cause attributable to the employer. An individual who becomes
4 unemployed as a result of negligently losing a requirement for the
5 job of which he or she was informed at the time of hire shall be
6 considered to have voluntarily left work without good cause
7 attributable to the employer. An individual claiming benefits under
8 this act has the burden of proof to establish that he or she left
9 work involuntarily or for good cause that was attributable to the
10 employer or employing unit. An individual claiming to have left
11 work involuntarily for medical reasons must have done all of the
12 following before the leaving: secured a statement from a medical
13 professional that continuing in the individual's current job would
14 be harmful to the individual's physical or mental health;
15 unsuccessfully attempted to secure alternative work with the
16 employer; and unsuccessfully attempted to be placed on a leave of
17 absence with the employer to last until the individual's mental or
18 physical health would no longer be harmed by the current job.
19 However, if any of the following conditions is met, the leaving
20 does not disqualify the individual:

21 (i) The individual has an established benefit year in effect
22 and during that benefit year leaves unsuitable work within 60 days
23 after the beginning of that work. Benefits paid after a leaving
24 under this subparagraph shall not be charged to the experience
25 account of the employer the individual left, but shall be charged
26 instead to the nonchargeable benefits account.

27 (ii) The individual is the spouse of a full-time member of the

1 United States armed forces, and the leaving is due to the military
2 duty reassignment of that member of the United States armed forces
3 to a different geographic location. Benefits paid after a leaving
4 under this subparagraph shall not be charged to the experience
5 account of the employer the individual left, but shall be charged
6 instead to the nonchargeable benefits account.

7 (iii) The individual is concurrently working part-time for an
8 employer or employing unit and for another employer or employing
9 unit and voluntarily leaves the part-time work while continuing
10 work with the other employer. The portion of the benefits paid in
11 accordance with this subparagraph that would otherwise be charged
12 to the experience account of the part-time employer that the
13 individual left shall not be charged to the account of that
14 employer, but shall be charged instead to the nonchargeable
15 benefits account.

16 (iv) **THE INDIVIDUAL IS A VICTIM OF DOMESTIC VIOLENCE WHO MEETS**
17 **THE REQUIREMENTS IN SECTION 29A. BENEFITS PAID AFTER A LEAVING**
18 **UNDER THIS SUBPARAGRAPH SHALL NOT BE CHARGED TO THE EXPERIENCE**
19 **ACCOUNT OF THE EMPLOYER THE INDIVIDUAL LEFT, BUT SHALL BE CHARGED**
20 **INSTEAD TO THE NONCHARGEABLE BENEFITS ACCOUNT.**

21 (b) Was suspended or discharged for misconduct connected with
22 the individual's work or for intoxication while at work.

23 (c) Failed without good cause to apply diligently for
24 available suitable work after receiving notice from the
25 unemployment agency of the availability of that work or failed to
26 apply for work with employers that could reasonably be expected to
27 have suitable work available.

1 (d) Failed without good cause while unemployed to report to
2 the individual's former employer or employing unit within a
3 reasonable time after that employer or employing unit provided
4 notice of the availability of an interview concerning available
5 suitable work with the former employer or employing unit.

6 (e) Failed without good cause to accept suitable work offered
7 to the individual or to return to the individual's customary self-
8 employment, if any, when directed by the employment office or the
9 unemployment agency. An employer that receives a monetary
10 determination under section 32 may notify the unemployment agency
11 regarding the availability of suitable work with the employer on
12 the monetary determination or other form provided by the
13 unemployment agency. Upon receipt of the notice of the availability
14 of suitable work, the unemployment agency shall notify the claimant
15 of the availability of suitable work. Until 1 year after the
16 effective date of the amendatory act that added this sentence, an
17 individual is considered to have refused an offer of suitable work
18 if the prospective employer requires as a condition of the offer a
19 drug test that is subject to the same terms and conditions as a
20 drug test administered under subdivision (m), and the employer
21 withdraws the conditional offer after either of the following:

22 (i) The individual tests positive for a controlled substance
23 and lacks a valid, documented prescription, as defined in section
24 17708 of the public health code, 1978 PA 368, MCL 333.17708, for
25 the controlled substance issued to the individual by his or her
26 treating physician.

27 (ii) The individual refuses without good cause to submit to the

1 drug test.

2 (f) Lost his or her job due to absence from work resulting
3 from a violation of law for which the individual was convicted and
4 sentenced to jail or prison. This subdivision does not apply if
5 conviction of an individual results in a sentence to county jail
6 under conditions of day parole as provided in 1962 PA 60, MCL
7 801.251 to 801.258, or if the conviction was for a traffic
8 violation that resulted in an absence of less than 10 consecutive
9 work days from the individual's place of employment.

10 (g) Is discharged, whether or not the discharge is
11 subsequently reduced to a disciplinary layoff or suspension, for
12 participation in either of the following:

13 (i) A strike or other concerted action in violation of an
14 applicable collective bargaining agreement that results in
15 curtailment of work or restriction of or interference with
16 production.

17 (ii) A wildcat strike or other concerted action not authorized
18 by the individual's recognized bargaining representative.

19 (h) Was discharged for an act of assault and battery connected
20 with the individual's work.

21 (i) Was discharged for theft connected with the individual's
22 work.

23 (j) Was discharged for willful destruction of property
24 connected with the individual's work.

25 (k) Committed a theft after receiving notice of a layoff or
26 discharge, but before the effective date of the layoff or
27 discharge, resulting in loss or damage to the employer who would

1 otherwise be chargeable for the benefits, regardless of whether the
2 individual qualified for the benefits before the theft.

3 (l) Was employed by a temporary help firm, which as used in
4 this section means an employer whose primary business is to provide
5 a client with the temporary services of 1 or more individuals under
6 contract with the employer, to perform services for a client of
7 that firm if each of the following conditions is met:

8 (i) The temporary help firm provided the employee with a
9 written notice before the employee began performing services for
10 the client stating in substance both of the following:

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

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

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

24 (m) Was discharged for illegally ingesting, injecting,
25 inhaling, or possessing a controlled substance on the premises of
26 the employer; refusing to submit to a drug test that was required
27 to be administered in a nondiscriminatory manner; or testing

1 positive on a drug test, if the test was administered in a
2 nondiscriminatory manner. If the worker disputes the result of the
3 testing, and if a generally accepted confirmatory test has not been
4 administered on the same sample previously tested, then a generally
5 accepted confirmatory test shall be administered on that sample. If
6 the confirmatory test also indicates a positive result for the
7 presence of a controlled substance, the worker who is discharged as
8 a result of the test result will be disqualified under this
9 subdivision. A report by a drug testing facility showing a positive
10 result for the presence of a controlled substance is conclusive
11 unless there is substantial evidence to the contrary. As used in
12 this subdivision and subdivision (e):

13 (i) "Controlled substance" means that term as defined in
14 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

15 (ii) "Drug test" means a test designed to detect the illegal
16 use of a controlled substance.

17 (iii) "Nondiscriminatory manner" means administered impartially
18 and objectively in accordance with a collective bargaining
19 agreement, rule, policy, a verbal or written notice, or a labor-
20 management contract.

21 (n) Theft from the employer that resulted in the employee's
22 conviction, within 2 years of the date of the discharge, of theft
23 or a lesser included offense.

24 (2) A disqualification under subsection (1) begins the week in
25 which the act or discharge that caused the disqualification occurs
26 and continues until the disqualified individual requalifies under
27 subsection (3).

1 (3) After the week in which the disqualifying act or discharge
2 described in subsection (1) occurs, an individual who seeks to
3 requalify for benefits is subject to all of the following:

4 (a) For benefit years established before October 1, 2000, the
5 individual shall complete 6 requalifying weeks if he or she was
6 disqualified under subsection (1)(c), (d), (e), (f), (g), or (l), or
7 13 requalifying weeks if he or she was disqualified under
8 subsection (1)(h), (i), (j), (k), or (m). A requalifying week
9 required under this subdivision is each week in which the
10 individual does any of the following:

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

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

17 (iii) Receives a benefit payment based on credit weeks
18 subsequent to the disqualifying act or discharge.

19 (b) For benefit years established before October 1, 2000, if
20 the individual is disqualified under subsection (1)(a) or (b), he
21 or she shall requalify, after the week in which the disqualifying
22 discharge occurred by earning in employment for an employer liable
23 under this act or the unemployment compensation act of another
24 state an amount equal to, or in excess of, 7 times the individual's
25 potential weekly benefit rate, calculated on the basis of
26 employment with the employer involved in the disqualification, or
27 by earning in employment for an employer liable under this act or

1 the unemployment compensation act of another state an amount equal
2 to, or in excess of, 40 times the state minimum hourly wage times
3 7, whichever is the lesser amount.

4 (c) For benefit years established before October 1, 2000, a
5 benefit payable to an individual disqualified under subsection
6 (1)(a) or (b) shall be charged to the nonchargeable benefits
7 account, and not to the account of the employer with whom the
8 individual was involved in the disqualification.

9 (d) For benefit years beginning on or after October 1, 2000,
10 after the week in which the disqualifying act or discharge
11 occurred, an individual shall complete 13 requalifying weeks if he
12 or she was disqualified under subsection (1)(c), (d), (e), (f),
13 (g), or (l), or 26 requalifying weeks if he or she was disqualified
14 under subsection (1)(h), (i), (j), (k), (m), or (n). A requalifying
15 week required under this subdivision is each week in which the
16 individual does any of the following:

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

21 (ii) Otherwise meets all of the requirements of this act to
22 receive a benefit payment if the individual was not disqualified
23 under subsection (1).

24 (e) For benefit years beginning on or after October 1, 2000
25 and beginning before April 26, 2002, if the individual is
26 disqualified under subsection (1)(a) or (b), he or she shall
27 requalify, after the week in which the disqualifying act or

1 discharge occurred by earning in employment for an employer liable
2 under this act or the unemployment compensation law of another
3 state at least the lesser of the following:

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

5 (ii) Forty times the state minimum hourly wage times 7.

6 (f) For benefit years beginning on or after April 26, 2002, if
7 the individual is disqualified under subsection (1)(a), he or she
8 shall requalify, after the week in which the disqualifying act or
9 discharge occurred by earning in employment for an employer liable
10 under this act or the unemployment compensation law of another
11 state at least 12 times the individual's weekly benefit rate.

12 (g) For benefit years beginning on or after April 26, 2002, if
13 the individual is disqualified under subsection (1)(b), he or she
14 shall requalify, after the week in which the disqualifying act or
15 discharge occurred by earning in employment for an employer liable
16 under this act or the unemployment compensation law of another
17 state at least 17 times the individual's weekly benefit rate.

18 (h) A benefit payable to the individual disqualified or
19 separated under disqualifying circumstances under subsection (1)(a)
20 or (b), shall be charged to the nonchargeable benefits account, and
21 not to the account of the employer with whom the individual was
22 involved in the separation. Benefits payable to an individual
23 determined by the unemployment agency to be separated under
24 disqualifying circumstances shall not be charged to the account of
25 the employer involved in the disqualification for any period after
26 the employer notifies the unemployment agency of the claimant's
27 possible ineligibility or disqualification. However, an individual

1 filing a new claim for benefits who reports the reason for
2 separation from a base period employer as a voluntary leaving shall
3 be presumed to have voluntarily left without good cause
4 attributable to the employer and shall be disqualified unless the
5 individual provides substantial evidence to rebut the presumption.
6 If a disqualifying act or discharge occurs during the individual's
7 benefit year, any benefits that may become payable to the
8 individual in a later benefit year based on employment with the
9 employer involved in the disqualification shall be charged to the
10 nonchargeable benefits account.

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

14 (a) For benefit years established before October 1, 2000, if
15 the individual is disqualified under subsection (1)(c), (d), (e),
16 (f), (g), or (l) and the maximum amount of benefits is based on
17 wages and credit weeks earned from an employer before an act or
18 discharge involving that employer, the amount shall be reduced by
19 an amount equal to the individual's weekly benefit rate as to that
20 employer multiplied by the lesser of either of the following:

21 (i) The number of requalifying weeks required of the individual
22 under this section.

23 (ii) The number of weeks of benefit entitlement remaining with
24 that employer.

25 (b) If the individual has insufficient or no potential benefit
26 entitlement remaining with the employer involved in the
27 disqualification in the benefit year in existence on the date of

1 the disqualifying determination, a reduction of benefits described
2 in this subsection applies in a succeeding benefit year with
3 respect to any benefit entitlement based upon credit weeks earned
4 with the employer before the disqualifying act or discharge.

5 (c) For benefit years established before October 1, 2000, an
6 individual disqualified under subsection (1)(h), (i), (j), (k), or
7 (m) is not entitled to benefits based on wages and credit weeks
8 earned before the disqualifying act or discharge with the employer
9 involved in the disqualification.

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

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

15 (f) For benefit years established on or after October 1, 2000,
16 if the individual is disqualified under subsection (1)(c), (d),
17 (e), (f), (g), or (l), the maximum number of weeks otherwise
18 applicable in calculating benefits for the individual under section
19 27(d) shall be reduced by the lesser of the following:

20 (i) The number of requalifying weeks required of the individual
21 under this section.

22 (ii) The number of weeks of benefit entitlement remaining on
23 the claim.

24 (g) For benefit years beginning on or after October 1, 2000,
25 the benefits of an individual disqualified under subsection (1)(h),
26 (i), (j), (k), (m), or (n) shall be reduced by 13 weeks and any
27 weekly benefit payments made to the claimant thereafter shall be

1 reduced by the portion of the payment attributable to base period
2 wages paid by the base period employer involved in a
3 disqualification under subsection (1)(h), (i), (j), (k), (m), or
4 (n).

5 (5) If an individual leaves work to accept permanent full-time
6 work with another employer or to accept a referral to another
7 employer from the individual's union hiring hall and performs
8 services for that employer, or if an individual leaves work to
9 accept a recall from a former employer, all of the following apply:

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

11 (b) Wages earned with the employer whom the individual last
12 left, including wages previously transferred under this subsection
13 to the last employer, for the purpose of computing and charging
14 benefits, are wages earned from the employer with whom the
15 individual accepted work or recall, and benefits paid based upon
16 those wages shall be charged to that employer.

17 (c) When issuing a determination covering the period of
18 employment with a new or former employer described in this
19 subsection, the unemployment agency shall advise the chargeable
20 employer of the name and address of the other employer, the period
21 covered by the employment, and the extent of the benefits that may
22 be charged to the account of the chargeable employer.

23 (6) In determining whether work is suitable for an individual,
24 the unemployment agency shall consider the degree of risk involved
25 to the individual's health, safety, and morals, the individual's
26 physical fitness and prior training, the individual's length of
27 unemployment and prospects for securing local work in the

1 individual's customary occupation, and the distance of the
2 available work from the individual's residence. Additionally, the
3 unemployment agency shall consider the individual's experience and
4 prior earnings, but an unemployed individual who refuses an offer
5 of work determined to be suitable under this section shall be
6 denied benefits if the pay rate for that work is at least 70% of
7 the gross pay rate he or she received immediately before becoming
8 unemployed. Beginning January 15, 2012, after an individual has
9 received benefits for 50% of the benefit weeks in the individual's
10 benefit year, work shall not be considered unsuitable because it is
11 outside of the individual's training or experience or unsuitable as
12 to pay rate if the pay rate for that work meets or exceeds the
13 minimum wage; is at least the prevailing mean wage for similar work
14 in the locality for the most recent full calendar year for which
15 data are available as published by the department of technology,
16 management, and budget as "wages by job title", by standard
17 metropolitan statistical area; and is 120% or more of the
18 individual's weekly benefit amount.

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

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

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

27 (c) If as a condition of being employed, the individual would

1 be required to join a company union or to resign from or refrain
2 from joining a bona fide labor organization.

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

5 (a) An individual is disqualified from receiving benefits for
6 a week in which the individual's total or partial unemployment is
7 due to either of the following:

8 (i) A labor dispute in active progress at the place at which
9 the individual is or was last employed, or a shutdown or start-up
10 operation caused by that labor dispute.

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

16 (b) An individual's disqualification imposed or imposable
17 under this subsection is terminated if the individual performs
18 services in employment with an employer in at least 2 consecutive
19 weeks falling wholly within the period of the individual's total or
20 partial unemployment due to the labor dispute, and in addition
21 earns wages in each of those weeks in an amount equal to or greater
22 than the individual's actual or potential weekly benefit rate.

23 (c) An individual is not disqualified under this subsection if
24 the individual is not directly involved in the labor dispute. An
25 individual is not directly involved in a labor dispute unless any
26 of the following are established:

27 (i) At the time or in the course of a labor dispute in the

1 establishment in which the individual was then employed, the
2 individual in concert with 1 or more other employees voluntarily
3 stopped working other than at the direction of the individual's
4 employing unit.

5 (ii) The individual is participating in, financing, or directly
6 interested in the labor dispute that causes the individual's total
7 or partial unemployment. The payment of regular union dues, in
8 amounts and for purposes established before the inception of the
9 labor dispute, is not financing a labor dispute within the meaning
10 of this subparagraph.

11 (iii) At any time a labor dispute in the establishment or
12 department in which the individual was employed does not exist, and
13 the individual voluntarily stops working, other than at the
14 direction of the individual's employing unit, in sympathy with
15 employees in some other establishment or department in which a
16 labor dispute is in progress.

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

20 (d) As used in this subsection, "directly interested" shall be
21 construed and applied so as not to disqualify individuals
22 unemployed as a result of a labor dispute the resolution of which
23 may not reasonably be expected to affect their wages, hours, or
24 other conditions of employment, and to disqualify individuals whose
25 wages, hours, or conditions of employment may reasonably be
26 expected to be affected by the resolution of the labor dispute. A
27 "reasonable expectation" of an effect on an individual's wages,

1 hours, or other conditions of employment exists, in the absence of
2 a substantial preponderance of evidence to the contrary, in any of
3 the following situations:

4 (i) If it is established that there is in the particular
5 establishment or employing unit a practice, custom, or contractual
6 obligation to extend within a reasonable period to members of the
7 individual's grade or class of workers in the establishment in
8 which the individual is or was last employed changes in terms and
9 conditions of employment that are substantially similar or related
10 to some or all of the changes in terms and conditions of employment
11 that are made for the workers among whom there exists the labor
12 dispute that has caused the individual's total or partial
13 unemployment.

14 (ii) If it is established that 1 of the issues in or purposes
15 of the labor dispute is to obtain a change in the terms and
16 conditions of employment for members of the individual's grade or
17 class of workers in the establishment in which the individual is or
18 was last employed.

19 (iii) If a collective bargaining agreement covers both the
20 individual's grade or class of workers in the establishment in
21 which the individual is or was last employed and the workers in
22 another establishment of the same employing unit who are actively
23 participating in the labor dispute, and that collective bargaining
24 agreement is subject by its terms to modification, supplementation,
25 or replacement, or has expired or been opened by mutual consent at
26 the time of the labor dispute.

27 (e) In determining the scope of the grade or class of workers,

1 evidence of the following is relevant:

2 (i) Representation of the workers by the same national or
3 international organization or by local affiliates of that national
4 or international organization.

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

7 (iii) Whether the workers are or within the past 6 months have
8 been covered by a common master collective bargaining agreement
9 that sets forth all or any part of the terms and conditions of the
10 workers' employment, or by separate agreements that are or have
11 been bargained as a part of the same negotiations.

12 (iv) Any functional integration of the work performed by those
13 workers.

14 (v) Whether the resolution of those issues involved in the
15 labor dispute as to some of the workers could directly or
16 indirectly affect the advancement, negotiation, or settlement of
17 the same or similar issues in respect to the remaining workers.

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

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

26 (9) Notwithstanding subsections (1) to (8), if the employing
27 unit submits notice to the unemployment agency of possible

1 ineligibility or disqualification beyond the time limits prescribed
2 by unemployment agency rule and the unemployment agency concludes
3 that benefits should not have been paid, the claimant shall repay
4 the benefits paid during the entire period of ineligibility or
5 disqualification. The unemployment agency shall not charge interest
6 on repayments required under this subsection.

7 (10) An individual is disqualified from receiving benefits for
8 any week or part of a week in which the individual has received, is
9 receiving, or is seeking unemployment benefits under an
10 unemployment compensation law of another state or of the United
11 States. If the appropriate agency of the other state or of the
12 United States finally determines that the individual is not
13 entitled to unemployment benefits, the disqualification described
14 in this subsection does not apply.

15 **SEC. 29A. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,**
16 **AN OTHERWISE ELIGIBLE INDIVIDUAL, AS DESCRIBED IN SECTION**
17 **29(1)(A)(iv), IS NOT DISQUALIFIED FROM RECEIVING BENEFITS IF THE**
18 **INDIVIDUAL DEMONSTRATES TO THE COMMISSION THAT THE REASON FOR THE**
19 **INDIVIDUAL'S LEAVING WORK IS DUE TO DOMESTIC VIOLENCE, INCLUDING 1**
20 **OR MORE OF THE FOLLOWING:**

21 (A) THE INDIVIDUAL'S REASONABLE FEAR OF FUTURE DOMESTIC
22 VIOLENCE AT OR EN ROUTE TO OR FROM THE INDIVIDUAL'S PLACE OF
23 EMPLOYMENT.

24 (B) THE INDIVIDUAL'S NEED TO RELOCATE TO ANOTHER GEOGRAPHIC
25 AREA TO AVOID FUTURE DOMESTIC VIOLENCE.

26 (C) THE INDIVIDUAL'S NEED TO ADDRESS THE PHYSICAL,
27 PSYCHOLOGICAL, OR LEGAL EFFECTS OF DOMESTIC VIOLENCE.

1 (D) THE INDIVIDUAL'S NEED TO LEAVE EMPLOYMENT AS A CONDITION
2 OF RECEIVING SERVICES OR SHELTER FROM AN AGENCY THAT PROVIDES
3 SUPPORT SERVICES OR SHELTER TO VICTIMS OF DOMESTIC VIOLENCE.

4 (E) THE INDIVIDUAL'S REASONABLE BELIEF THAT TERMINATION OF
5 EMPLOYMENT IS NECESSARY FOR THE FUTURE SAFETY OF THE INDIVIDUAL OR
6 THE INDIVIDUAL'S FAMILY BECAUSE OF DOMESTIC VIOLENCE.

7 (2) AN INDIVIDUAL MAY DEMONSTRATE TO THE COMMISSION THE
8 EXISTENCE OF DOMESTIC VIOLENCE BY PROVIDING 1 OR MORE PIECES OF
9 DOCUMENTATION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

10 (A) A RESTRAINING ORDER OR OTHER DOCUMENTATION OF EQUITABLE
11 RELIEF ISSUED BY A COURT OF COMPETENT JURISDICTION IN A DOMESTIC
12 VIOLENCE CASE.

13 (B) A POLICE RECORD DOCUMENTING DOMESTIC VIOLENCE.

14 (C) DOCUMENTATION THAT THE PERPETRATOR OF THE DOMESTIC
15 VIOLENCE AGAINST THE INDIVIDUAL MAKING A CLAIM FOR BENEFITS UNDER
16 THIS ACT HAS BEEN CONVICTED OF A CRIME INVOLVING DOMESTIC VIOLENCE.

17 (D) MEDICAL DOCUMENTATION OF DOMESTIC VIOLENCE.

18 (E) A STATEMENT PROVIDED ON BUSINESS OR ORGANIZATION
19 LETTERHEAD BY A COUNSELOR, SOCIAL WORKER, HEALTH WORKER, MEMBER OF
20 THE CLERGY, SHELTER WORKER, ATTORNEY, OR OTHER PROFESSIONAL WHO HAS
21 ASSISTED THE INDIVIDUAL IN ADDRESSING THE EFFECTS OF THE DOMESTIC
22 VIOLENCE ON THE INDIVIDUAL OR THE INDIVIDUAL'S FAMILY.

23 (3) NO EVIDENCE OF DOMESTIC VIOLENCE EXPERIENCED BY AN
24 INDIVIDUAL, INCLUDING THE INDIVIDUAL'S STATEMENT OR CORROBORATING
25 EVIDENCE, SHALL BE DISCLOSED BY THE EMPLOYMENT SECURITY COMMISSION.

26 (4) AS USED IN THIS SECTION:

27 (A) "DOMESTIC VIOLENCE" MEANS THE OCCURRENCE OF ANY OF THE

1 FOLLOWING ACTS BY A PERSON THAT IS NOT AN ACT OF SELF-DEFENSE:

2 (i) CAUSING OR ATTEMPTING TO CAUSE PHYSICAL OR MENTAL HARM TO A
3 FAMILY OR HOUSEHOLD MEMBER.

4 (ii) PLACING A FAMILY OR HOUSEHOLD MEMBER IN FEAR OF PHYSICAL
5 OR MENTAL HARM.

6 (iii) CAUSING OR ATTEMPTING TO CAUSE A FAMILY OR HOUSEHOLD
7 MEMBER TO ENGAGE IN INVOLUNTARY SEXUAL ACTIVITY BY FORCE, THREAT OF
8 FORCE, OR DURESS.

9 (iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD MEMBER
10 THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED,
11 FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.

12 (B) "FAMILY OR HOUSEHOLD MEMBER" INCLUDES ANY OF THE
13 FOLLOWING:

14 (i) A SPOUSE OR FORMER SPOUSE.

15 (ii) AN INDIVIDUAL WITH WHOM THE PERSON RESIDES OR HAS RESIDED.

16 (iii) AN INDIVIDUAL WITH WHOM THE PERSON HAS OR HAS HAD A DATING
17 RELATIONSHIP.

18 (iv) AN INDIVIDUAL WITH WHOM THE PERSON IS OR HAS ENGAGED IN A
19 SEXUAL RELATIONSHIP.

20 (v) AN INDIVIDUAL TO WHOM THE PERSON IS RELATED OR WAS
21 FORMERLY RELATED BY MARRIAGE.

22 (vi) AN INDIVIDUAL WITH WHOM THE PERSON HAS A CHILD IN COMMON.

23 (vii) THE MINOR CHILD OF AN INDIVIDUAL DESCRIBED IN
24 SUBPARAGRAPHS (i) TO (vi).

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.