

HOUSE BILL No. 4408

(As amended March 23, 2011)

March 9, 2011, Introduced by Rep. Stamas and referred to the Committee on Commerce.

<<A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 10, 15, 27, 54, 62, and 64 (MCL 421.10, 421.15, 421.27, 421.54, 421.62, and 421.64), section 10 as amended by 2003 PA 84, section 15 as amended by 1996 PA 498, section 27 as amended by 2010 PA 322, section 54 as amended by 2002 PA 192, section 62 as amended by 1995 PA 125, and section 64 as amended by 2009 PA 19.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) There is created in the department of treasury a
2 special fund to be known and designated as the administration fund
3 (Michigan employment security act). Any balances in the
4 administration fund at the end of any fiscal year of this state
5 shall be carried over as a part of the administration fund and

1 shall not revert to the general fund of this state. Except as
2 otherwise provided in subsection (3), all money deposited into the
3 administration fund under this act shall be appropriated by the
4 legislature to the unemployment agency to pay the expenses of the
5 administration of this act.

6 (2) The administration fund shall be credited with all money
7 appropriated to the fund by the legislature, all money received
8 from the United States or any agency of the United States for that
9 purpose, and all money received by this state for the fund. All
10 money in the administration fund that is received from the federal
11 government or any agency of the federal government or that is
12 appropriated by this state for the purposes of this act, except
13 money requisitioned from the account of this state in the
14 unemployment trust fund pursuant to a specific appropriation made
15 by the legislature in accordance with section 903(c)(2) of title IX
16 of the social security act, ~~42 U.S.C. 1103~~ **USC 1103(C)(2)**, and with
17 section 17(3)(f), shall be expended solely for the purposes and in
18 the amounts found necessary by the appropriate agency of the United
19 States and the legislature for the proper and efficient
20 administration of this act.

21 (3) All money requisitioned from the account of this state in
22 the unemployment trust fund pursuant to a specific appropriation
23 made by the legislature in accordance with section 903(c)(2) of
24 title IX of the social security act, ~~42 U.S.C. 1103~~ **USC 1103(C)(2)**,
25 and with section 17(3)(f), shall be deposited in the administration
26 fund. Any money that remains unexpended at the close of the 2-year
27 period beginning on the date of enactment of a specific

1 appropriation shall be immediately redeposited with the secretary
2 of the treasury of the United States to the credit of this state's
3 account in the unemployment trust fund; or any money that for any
4 reason cannot be expended or is not to be expended for the purpose
5 for which appropriated before the close of this 2-year period shall
6 be redeposited at the earliest practicable date.

7 (4) If any money received after June 30, 1941, from the
8 appropriate agency of the United States under title III of the
9 social security act, ~~chapter 531, 49 Stat. 620, 42 U.S.C. USC~~ 501
10 to 504, or any unencumbered balances in the administration fund
11 (Michigan employment security act) as of that date, or any money
12 granted after that date to this state under the Wagner-Peyser act,
13 ~~chapter 49, 48 Stat. 113~~ **AS DEFINED IN SECTION 12**, or any money
14 made available by this state or its political subdivisions and
15 matched by money granted to this state under the Wagner-Peyser act,
16 ~~chapter 49, 48 Stat. 113~~, is found by the appropriate agency of the
17 United States, because of any action or contingency, to have been
18 lost or been expended for purposes other than, or in amounts in
19 excess of, those found necessary by that agency of the United
20 States for the proper administration of this act, the money shall
21 be replaced by money appropriated for that purpose from the general
22 funds of this state to the administration fund (Michigan employment
23 security act) for expenditure as provided in this act. Upon receipt
24 of notice of such a finding by the appropriate agency of the United
25 States, the commission shall promptly report the amount required
26 for replacement to the governor and the governor shall, at the
27 earliest opportunity, submit to the legislature a request for the

1 appropriation of that amount. This subsection shall not be
2 construed to relieve this state of its obligation with respect to
3 funds received prior to July 1, 1941, under the provisions of ~~title~~
4 ~~III of the social security act, chapter 531, 49 Stat. 620, 42~~
5 ~~U.S.C.—USC~~ 501 to 504.

6 (5) If any funds expended or disbursed by the commission are
7 found by the appropriate agency of the United States to have been
8 lost or expended for purposes other than, or in amounts in excess
9 of, those found necessary by that agency of the United States for
10 the proper administration of this act, and if these funds are
11 replaced as provided in subsection (4) by money appropriated for
12 that purpose from the general fund of this state, then the director
13 who approved the expenditure or disbursement of those funds for
14 those purposes or in those amounts, ~~shall be~~ **IS** liable to this
15 state in an amount equal to the sum of money appropriated to
16 replace those funds. The director shall be required by the governor
17 to post a proper bond in a sum not less than \$25,000.00 to cover
18 his or her liability as prescribed in this section, the cost of the
19 bond to be paid from the general fund of this state.

20 (6) There is created in the department of treasury a separate
21 fund to be known as the contingent fund (Michigan employment
22 security act) into which shall be deposited all solvency taxes
23 collected under section 19a and all interest on contributions,
24 penalties, and damages collected under this act. Except as
25 otherwise provided in subsections ~~(7),~~ (8) ~~,~~ and (9), all amounts
26 in the contingent fund (Michigan employment security act) and all
27 earnings on those amounts are continuously appropriated without

1 regard to fiscal year for the administration of the unemployment
2 agency and for the payment of interest on advances from the federal
3 government to the unemployment compensation fund under ~~section 1201~~
4 ~~of title XII of the social security act, 42 U.S.C. USC 1321~~, to be
5 expended only if authorized by the unemployment agency. Money
6 deposited from the solvency taxes collected under section 19a shall
7 not be used for the administration of the unemployment agency,
8 except for the repayment of loans from the state treasury and
9 interest on loans made under section 19a(3). However, an
10 authorization or expenditure shall not be made as a substitution
11 for a grant of federal funds or for any portion of a grant that, in
12 the absence of an authorization, would be available to the
13 ~~commission~~ **UNEMPLOYMENT AGENCY**. Immediately upon receipt of
14 administrative grants from the appropriate agency of the United
15 States to cover administrative costs for which the ~~commission~~
16 **UNEMPLOYMENT AGENCY** has authorized and made expenditures from the
17 contingent fund, those grants shall be transferred to the
18 contingent fund to the extent necessary to reimburse the contingent
19 fund for the amount of those expenditures. Amounts needed to refund
20 interest, damages, and penalties erroneously collected shall be
21 withdrawn and expended for those purposes from the contingent fund
22 upon order of the unemployment agency. Any amount authorized to be
23 expended for administration under this section may be transferred
24 to the administration fund. An amount not needed for the purpose
25 for which authorized shall, upon order of the unemployment agency,
26 be returned to the contingent fund. Amounts needed to refund
27 erroneously collected solvency taxes shall be withdrawn and

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1 expended for that purpose upon order of the unemployment agency.

2 (7) THERE IS CREATED IN THE DEPARTMENT OF TREASURY CONTINGENT
3 FUND A SEPARATE FUND TO BE KNOWN AS THE SPECIAL FRAUD CONTROL FUND
4 (MICHIGAN EMPLOYMENT SECURITY ACT). THE SPECIAL FRAUD CONTROL FUND
5 SHALL CONSIST OF MONEY COLLECTED OR RECEIVED BY THE UNEMPLOYMENT
6 AGENCY AS FOLLOWS:

7 (A) ALL INTEREST AND PENALTIES COLLECTED UNDER SECTION 62.

8 (B) ALL GIFTS TO, INTEREST ON, OR PROFITS EARNED BY THE
9 SPECIAL FRAUD CONTROL FUND.

10 (C) AMOUNTS CREDITED UNDER SECTION 54(K) (ii) .

11 (8) THE MONEY IN THE SPECIAL FRAUD CONTROL FUND IS
12 CONTINUOUSLY APPROPRIATED ONLY TO THE UNEMPLOYMENT AGENCY AND MAY
13 NOT BE TRANSFERRED OR OTHERWISE MADE AVAILABLE TO ANY OTHER STATE
14 AGENCY.

15 (9) ALL AMOUNTS IN THE SPECIAL FRAUD CONTROL FUND ARE TO BE
16 USED FIRST FOR THE ACQUISITION OF PACKAGED SOFTWARE THAT HAS A
17 PROVEN RECORD OF SUCCESS WITH THE DETECTION AND COLLECTION OF
18 UNEMPLOYMENT BENEFIT OVERPAYMENTS AND THEN FOR ADMINISTRATIVE COSTS
19 ASSOCIATED WITH THE PREVENTION, DISCOVERY, AND COLLECTION OF
20 UNEMPLOYMENT BENEFIT OVERPAYMENTS, AS INCLUDED IN THE BIENNIAL
21 BUDGET OF THE UNEMPLOYMENT AGENCY AND APPROVED BY THE LEGISLATURE.
22 THE UNEMPLOYMENT AGENCY SHALL SUBMIT A REPORT TO THE CLERK OF THE
23 HOUSE OF REPRESENTATIVES AND THE SECRETARY OF THE SENATE AT THE
24 CLOSE OF THE 2-YEAR PERIOD THAT BEGINS ON THE EFFECTIVE DATE OF THE
25 AMENDATORY ACT THAT ADDED THIS SUBSECTION, TO SHOW HOW THE MONEY
26 FROM THE SPECIAL FRAUD CONTROL FUND WAS USED AND THE RESULTS
27 OBTAINED FROM THE SPECIAL FRAUD CONTROL FUND. <<THE DEPARTMENT SHALL
IMPLEMENT THE INITIAL DETECTION AND COLLECTION SOFTWARE PACKAGE BY
SEPTEMBER 1, 2011.>>

1 ~~—— (7) On June 30, 2002, the unemployment agency shall authorize~~
2 ~~the withdrawal of \$79,500,000.00 from the contingent fund (Michigan~~
3 ~~employment security act) for deposit into the general fund.~~

4 (10) ~~(8)~~ At the close of the state fiscal year in 2002 and
5 each year after 2002, all funds in the contingent fund (Michigan
6 employment security act) in excess of \$15,000,000.00 shall lapse to
7 the unemployment trust fund.

8 ~~—— (9) The unemployment agency shall authorize the withdrawal of~~
9 ~~\$10,000,000.00 from the contingent fund (Michigan employment~~
10 ~~security act) for deposit into the general fund for the fiscal year~~
11 ~~ending September 30, 2004.~~

12 Sec. 15. (a) Contributions unpaid on the date on which they
13 are due and payable, as prescribed by the commission, shall bear
14 interest at the rate of 1% per month, computed on a ~~day to day~~ **DAY-**
15 **TO-DAY** basis for each day the delinquency is unpaid, from and after
16 that date until payment plus accrued interest is received by the
17 commission. Amounts illegally obtained or previously withheld from
18 payment and damages that are recovered by the commission under
19 section 54(a) and (b) and sections 54a to 54c ~~of this act~~ shall
20 bear interest at the rate of 1% per month, computed on a day-to-day
21 basis for each day the amounts remain unpaid until payment plus
22 accrued interest is received by the commission. The interest on
23 unpaid contributions, exclusive of penalties, shall not exceed 50%
24 of the amount of contributions due at due date. Interest and
25 penalties collected pursuant to this section shall be paid into the
26 contingent fund, **EXCEPT THAT INTEREST AND PENALTIES COLLECTED UNDER**
27 **SECTION 62 SHALL BE PAID INTO THE SPECIAL FRAUD CONTROL FUND.** The

1 commission may cancel any interest and any penalty when it is shown
2 that the failure to pay on or before the last day on which the tax
3 could have been paid without interest and penalty was not the
4 result of negligence, intentional disregard of the rules of the
5 commission, or fraud.

6 (b) The commission may make assessments against an employer,
7 claimant, employee of the commission, or third party who fails to
8 pay contributions, reimbursement payments in lieu of contributions,
9 penalties, forfeitures, or interest as required by this act. The
10 commission shall immediately notify the employer, claimant,
11 employee of the commission, or third party of the assessment in
12 writing by first-class mail. An assessment by the commission
13 against a claimant, an employee of the commission, or a third party
14 under this subsection shall be made only for penalties and interest
15 on those penalties for violations of section 54(a) or (b) or
16 sections 54a to 54c. The assessment ~~, which shall constitute a~~
17 ~~determination, shall be~~ **IS A final DETERMINATION** unless the
18 employer, claimant, employee of the commission, or third party
19 files with the commission an application for a redetermination of
20 the assessment in accordance with section 32a. A review by the
21 commission or an appeal to a referee or the appeal board on the
22 assessment ~~shall~~ **DOES** not reopen a question concerning an
23 employer's liability for contributions or reimbursement payments in
24 lieu of contributions, unless the employer was not a party to the
25 proceeding or decision where the basis for the assessment was
26 determined. An employer may pay an assessment under protest and
27 file an action to recover the amount paid as provided under

1 subsection (d). Unless an assessment is paid within 15 days after
2 it becomes final the commission may issue a warrant under its
3 official seal for the collection of ~~an~~**THE ASSESSED** amount.
4 ~~required to be paid pursuant to the assessment.~~ The commission
5 through its authorized employees, under a warrant issued, may levy
6 upon and sell the property of the employer that is used in
7 connection with the employer's business, or that is subject to a
8 notice to withhold, found within the state, for the payment of the
9 amount of the contributions including penalties, interests, and the
10 cost of executing the warrant. Property of the employer used in
11 connection with the employer's business ~~shall~~**IS** not ~~be~~ exempt from
12 levy under the warrant. Wages subject to a notice to withhold ~~shall~~
13 ~~be~~**ARE** exempt to the extent the wages are exempt from garnishment
14 under the laws of this state. The warrant shall be returned to the
15 commission together with the money collected ~~by virtue of~~**UNDER** the
16 warrant within the time specified in the warrant which shall not be
17 less than 20 or more than 90 days after the date of the warrant.
18 The commission shall proceed upon the warrant ~~in all respects and~~
19 ~~with like effect and in the same manner~~ as prescribed by law in
20 respect to executions issued against property upon judgments by a
21 court of record. The state, through the commission or some other
22 officer or agent designated by it, may bid for and purchase
23 property sold under the provisions of this subsection. If an
24 employer, claimant, employee of the commission, or third party, as
25 applicable, is delinquent in the payment of a contribution,
26 reimbursement payment in lieu of contribution, penalty, forfeiture,
27 or interest provided for in this act, the commission may give

1 notice of the amount of the delinquency served either personally or
2 by mail, to a person or legal entity, including the state and its
3 subdivisions, that has in **ITS** possession or under **ITS** control a
4 credit or other intangible property belonging to the employer,
5 claimant, employee of the commission, or third party, or who owes a
6 debt to the employer, claimant, employee of the commission, or
7 third party at the time of the receipt of the notice. A person or
8 legal entity so notified shall not transfer or ~~make a disposition~~
9 **DISPOSE** of the credit, other intangible property, or debt without
10 retaining an amount sufficient to pay the amount specified in the
11 notice unless the ~~commission~~**UNEMPLOYMENT AGENCY** consents to a
12 transfer or disposition or 45 days have elapsed from the receipt of
13 the notice. A person or legal entity so notified shall advise the
14 ~~commission~~**UNEMPLOYMENT AGENCY** within 5 days after receipt of the
15 notice of a credit, other intangible property, or debt, which is in
16 its possession, under its control, or owed by it. A person or legal
17 entity that is notified and that transfers or disposes of credits
18 or personal property in violation of this section is liable to the
19 ~~commission~~**UNEMPLOYMENT AGENCY** for the value of the property or the
20 amount of the debts thus transferred or paid, but not more than the
21 amount specified in the notice. An amount due a delinquent
22 employer, claimant, employee of the ~~commission~~**UNEMPLOYMENT AGENCY**,
23 or third party subject to a notice to withhold shall be paid to the
24 ~~commission~~**UNEMPLOYMENT AGENCY** upon service upon the debtor of a
25 warrant issued under this section.

26 (c) In addition to the mode of collection provided in
27 subsection (b), if, after due notice, an employer defaults in

1 payment of contributions or interest on the contributions, or a
2 claimant, employee of the ~~commission~~-**UNEMPLOYMENT AGENCY**, or third
3 party defaults in the payment of a penalty or interest on a
4 penalty, the ~~commission~~-**UNEMPLOYMENT AGENCY** may bring an action at
5 law in a court of competent jurisdiction to collect and recover the
6 amount of a contribution, and any interest on the contribution, or
7 the penalty or interest on the penalty, and in addition 10% of the
8 amount of contributions or penalties found to be due, as damages.
9 An employer, claimant, employee of the ~~commission~~-**UNEMPLOYMENT**
10 **AGENCY**, or third party adjudged in default shall pay costs of the
11 action. An action by the ~~commission~~-**UNEMPLOYMENT AGENCY** against a
12 claimant, employee of the ~~commission~~-**UNEMPLOYMENT AGENCY**, or third
13 party under this subsection shall be brought only to recover
14 penalties and interest on those penalties for violations of section
15 54(a) or (b) or sections 54a to 54c. Civil actions brought under
16 this section shall be heard by the court at the earliest possible
17 date. If a judgment is obtained against an employer for
18 contributions and an execution on that judgment is returned
19 unsatisfied, the employer may be enjoined from operating and doing
20 business in this state until the judgment is satisfied. The circuit
21 court of the county in which the judgment is docketed or the
22 circuit court for the county of Ingham may grant an injunction upon
23 the petition of the ~~commission~~-**UNEMPLOYMENT AGENCY**. A copy of the
24 petition for injunction and a notice of when and where the court
25 shall act on the petition shall be served on the employer at least
26 21 days before the court may grant the injunction.

27 (d) An employer or employing unit improperly charged or

1 assessed contributions provided for under this act, or a claimant,
2 employee of the ~~commission~~ **UNEMPLOYMENT AGENCY**, or third party
3 improperly assessed a penalty under this act and who paid the
4 contributions or penalty under protest within 30 days after the
5 mailing of the notice of determination of assessment, may recover
6 the amount improperly collected or paid, together with interest, in
7 any proper action against the ~~commission~~ **UNEMPLOYMENT AGENCY**. The
8 circuit court of the county in which the employer or employing unit
9 or claimant, employee of the ~~commission~~ **UNEMPLOYMENT AGENCY**, or
10 third party resides, or, in the case of an employer or employing
11 unit, in which is located the principal office or place of business
12 of the employer or employing unit, ~~shall have~~ **HAS** original
13 jurisdiction of an action to recover contributions improperly paid
14 or collected or a penalty improperly assessed whether or not the
15 charge or assessment has been reviewed by the ~~commission~~
16 **UNEMPLOYMENT AGENCY** or heard or reviewed by a referee or the appeal
17 board. The court ~~shall not have~~ **HAS NO** jurisdiction of the action
18 unless written notice of claim is given to the ~~commission~~
19 **UNEMPLOYMENT AGENCY** at least 30 days before the institution of the
20 action. In an action to recover contributions paid or collected or
21 penalties assessed, the court shall allow costs ~~to such an extent~~
22 ~~and in a manner as it may consider~~ **IT CONSIDERS** proper. Either
23 party to the action ~~shall have~~ **HAS** the right of appeal, ~~as is now~~
24 provided by law, ~~in other civil actions~~. An action by a claimant,
25 employee of the ~~commission~~ **UNEMPLOYMENT AGENCY**, or third party
26 against the ~~commission~~ **UNEMPLOYMENT AGENCY** under this subsection
27 shall be brought only to recover penalties and interest on those

1 penalties improperly assessed by the ~~commission~~ **UNEMPLOYMENT AGENCY**
2 under section 54(a) or (b) or sections 54a to 54c. If a final
3 judgment is rendered in favor of the plaintiff in an action to
4 recover the amount of contributions illegally collected or charged,
5 the treasurer of the ~~commission~~ **UNEMPLOYMENT AGENCY**, upon receipt
6 of a certified copy of the final judgment, shall pay the amount of
7 contributions illegally collected or charged or penalties assessed
8 from the clearing account, and pay interest as ~~may be~~ allowed by
9 the court, in an amount not to exceed the actual earnings of the
10 contributions as ~~may have been~~ found to have been illegally
11 collected or charged, from the contingent fund.

12 (e) Except for liens and encumbrances recorded before the
13 filing of the notice provided for in this section, all
14 contributions, interest, and penalties payable under this act to
15 the ~~commission~~ **UNEMPLOYMENT AGENCY** from an employer, claimant,
16 employee of the ~~commission~~ **UNEMPLOYMENT AGENCY**, or third party that
17 neglects to pay the same when due ~~shall be~~ **ARE** a first and prior
18 lien upon all property and rights to property, real and personal,
19 belonging to the employer, claimant, employee of the ~~commission~~
20 **UNEMPLOYMENT AGENCY**, or third party. The lien ~~shall continue~~
21 **CONTINUES** until the liability for that amount or a judgment arising
22 out of the liability is satisfied or becomes unenforceable by
23 reason of lapse of time. The lien ~~shall attach~~ **ATTACHES** to the
24 property and rights to property of the employer, claimant, employee
25 of the ~~commission~~ **UNEMPLOYMENT AGENCY**, or third party, whether real
26 or personal, from and after the **REQUIRED FILING** date ~~that a~~ **OF THE**
27 report upon which the specific tax is computed. ~~is required by this~~

1 ~~act to be filed.~~ Notice of the lien shall be recorded in the office
2 of the register of deeds of the county in which the property
3 subject to the lien is situated, and the register of deeds shall
4 receive the notice for recording. This subsection ~~shall apply~~
5 **APPLIES** only to penalties and interest on those penalties assessed
6 by the ~~commission~~**UNEMPLOYMENT AGENCY** against a claimant, employee
7 of the ~~commission~~**UNEMPLOYMENT AGENCY**, or third party for
8 violations of section 54(a) or (b) or sections 54a to 54c.

9 If there is a distribution of an employer's assets pursuant to
10 an order of a court under the laws of this state, including a
11 receivership, assignment for benefit of creditors, adjudicated
12 insolvency, composition, or similar proceedings, contributions then
13 or thereafter due shall be paid in full before all other claims
14 except for wages and compensation under the worker's disability
15 compensation act of 1969, ~~Act No. 317 of the Public Acts of 1969,~~
16 ~~being sections 418.101 to 418.941 of the Michigan Compiled Laws~~
17 **1969 PA 317, MCL 418.101 TO 418.941**. In the distribution of estates
18 of decedents, claims for funeral expenses and expenses of last
19 sickness shall also be entitled to priority.

20 (f) An injunction shall not issue to stay proceedings for
21 assessment or collection of contributions, or interest or penalty
22 on contributions, levied and required by this act.

23 (g) A person or employing unit, that acquires the
24 organization, trade, business, or 75% or more of the assets from an
25 employing unit, as a successor ~~defined~~**DESCRIBED** in section 41(2),
26 is liable for contributions and interest due to the ~~commission~~
27 **UNEMPLOYMENT AGENCY** from the transferor at the time of the

1 acquisition in an amount not to exceed the reasonable value of the
2 organization, trade, business, or assets acquired, less the amount
3 of a secured interest in the assets owned by the transferee that
4 are entitled to priority. The transferor or transferee who has, not
5 less than 10 days before the acquisition, requested from the
6 ~~commission~~**UNEMPLOYMENT AGENCY** in writing a statement certifying
7 the status of contribution liability of the transferor shall be
8 provided with that statement and the transferee is not liable for
9 any amount due from the transferor in excess of the amount of
10 liability computed as prescribed in this subsection and certified
11 by the ~~commission~~**UNEMPLOYMENT AGENCY**. At least 2 calendar days not
12 including a Saturday, Sunday, or legal holiday before the
13 acceptance of an offer, the transferor, or the transferor's real
14 estate broker or other agent representing the transferor, shall
15 disclose to the transferee on a form provided by the ~~commission~~
16 **UNEMPLOYMENT AGENCY**, the amounts of the transferor's outstanding
17 unemployment tax liability, unreported unemployment tax liability,
18 and the tax payments, tax rates, and cumulative benefit charges for
19 the most recent 5 years, a listing of all individuals currently
20 employed by the transferor, and a listing of all employees
21 separated from employment with the transferor in the most recent 12
22 months. This form shall specify ~~such~~**ANY** other information ~~as~~
23 ~~determined by the commission, as would be~~**THE UNEMPLOYMENT AGENCY**
24 **DETERMINES IS** required for a transferee to estimate future
25 unemployment compensation costs based on the transferor's benefit
26 charge and **UNEMPLOYMENT** tax reporting and payment experience. ~~with~~
27 ~~the commission~~. Failure of the transferor, or the transferor's real

1 estate broker or other agent representing the transferor, to
2 provide accurate information required by this subsection is a
3 misdemeanor punishable by imprisonment for not more than 90 days,
4 or a fine of not more than \$2,500.00, or both. In addition, the
5 transferor, or the transferor's real estate broker or other agent
6 representing the transferor, is liable to the transferee for any
7 consequential damages resulting from the failure to comply with
8 this subsection. However, the real estate broker or other agent is
9 not liable for consequential damages if he or she exercised good
10 faith in compliance with the disclosure of information. The remedy
11 provided the transferee is not exclusive, and ~~is not to be~~
12 ~~construed to~~ **DOES NOT** reduce any other right or remedy against any
13 party provided for in this or any other act. Nothing in this
14 subsection ~~shall be construed to decrease~~ **DECREASES** the liability
15 of the transferee as a successor in interest, or ~~to prevent~~
16 **PREVENTS** the transfer of a rating account balance as provided in
17 this act. The foregoing provisions are in addition to the remedies
18 the ~~commission~~ **UNEMPLOYMENT AGENCY** has against the transferor.

19 (h) If a part of a deficiency in payment of the employer's
20 contribution to the fund is due to negligence or intentional
21 disregard of ~~the rules of the commission~~ **UNEMPLOYMENT AGENCY RULES**,
22 but without intention to defraud, 5% of the total amount of the
23 deficiency, in addition to the deficiency and ~~in addition to all~~
24 other interest charges and penalties provided herein, shall be
25 assessed, collected, and paid in the same manner as ~~if it were a~~
26 deficiency. If a part of a deficiency is determined in an action at
27 law to be due to fraud with intent to avoid payment of

1 contributions to the fund, then the judgment rendered shall include
2 an amount equal to 50% of the total amount of the deficiency, in
3 addition to the deficiency and ~~in addition to all other interest~~
4 charges and penalties provided herein.

5 (i) If an employing unit fails to make a report as reasonably
6 required by the rules of the ~~commission~~ **UNEMPLOYMENT AGENCY**
7 pursuant to this act, the ~~commission~~ **UNEMPLOYMENT AGENCY** may make
8 an estimate of the liability of that employing unit from
9 information it ~~may obtain~~ **OBTAINS** and, according to that estimate,
10 ~~so made,~~ assess the employing unit for the contributions,
11 penalties, and interest due. The ~~commission shall have the power~~
12 **UNEMPLOYMENT AGENCY MAY ACT UNDER THIS SUBSECTION** only after a
13 default continues for 30 days and after the ~~commission~~ **UNEMPLOYMENT**
14 **AGENCY** has determined that the default of the employing unit is
15 willful.

16 (j) An assessment or penalty with respect to contributions
17 unpaid is not effective for any period before the 3 calendar years
18 preceding the date of the assessment.

19 (k) The rights respecting the collection of contributions and
20 the levy of interest and penalties and damages made available to
21 the ~~commission~~ **UNEMPLOYMENT AGENCY** by this section ~~is~~ **ARE**
22 additional to other powers and rights vested in the ~~commission~~ **in**
23 ~~pursuance of the~~ **UNEMPLOYMENT AGENCY UNDER** other provisions of this
24 act. The ~~commission is not precluded from exercising~~ **UNEMPLOYMENT**
25 **AGENCY MAY EXERCISE** any of the collection remedies ~~provided for by~~
26 **UNDER** this act even though an application for a redetermination or
27 an appeal is pending final disposition.

1 (l) A person recording a lien ~~provided for in~~ **UNDER** this
 2 section shall pay a fee of \$2.00 for recording a lien and a fee of
 3 \$2.00 for recording a discharge of a lien.

<<Sec. 27. (a) (1) When a determination, redetermination, or decision is made that benefits are due an unemployed individual, the benefits shall become payable from the fund and continue to be payable to the unemployed individual, subject to the limitations imposed by the individual's monetary entitlement, if the individual continues to be unemployed and to file claims for benefits, until the determination, redetermination, or decision is reversed, a determination, redetermination, or decision on a new issue holding the individual disqualified or ineligible is made, or, for benefit years beginning before October 1, 2000, a new separation issue arises resulting from subsequent work.

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

(b) (1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before October 1, 2000, shall be 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate shall not exceed \$300.00. However, with respect to benefit years beginning on or after October 1, 2000, the individual's weekly benefit rate is 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus \$6.00 for each dependent as defined in subdivision (4), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate shall not exceed \$300.00 before April 26, 2002 and \$362.00 for claims filed on and after April 26, 2002. The weekly benefit rate for an individual claiming benefits on and after April 26, 2002 shall be recalculated subject to the \$362.00 maximum weekly benefit rate. The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. For benefit years beginning on or after October 2, 1983, the weekly benefit rate shall be adjusted to the next lower multiple of \$1.00.

(2) For benefit years beginning before October 1, 2000, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 immediately before that calendar year. The commission shall prepare a table of weekly benefit rates based on an "average after tax weekly wage" calculated by subtracting, from an individual's average weekly wage as determined in accordance with section 51, a reasonable approximation of the weekly amount required to be withheld by the employer from the remuneration of the individual based on dependents and exemptions for income taxes under 26 USC 3401 to 3406, and under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's disability insurance taxes under the federal insurance contributions act, 26 USC 3101 to 3128. For purposes of applying the table to an individual's claim, a dependent shall be as defined in subdivision (3). The table applicable to an individual's claim shall be the table reflecting the number of dependents claimed by the individual under subdivision (3). The commission shall adjust the

tables based on changes in withholding schedules published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

(3) For benefit years beginning before October 1, 2000, a dependent means any of the following persons who ~~is~~**ARE** receiving and for at least 90 consecutive days immediately before the week for which benefits are claimed, or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship, if the relationship has existed less than 90 days, has received more than ~~half~~**1/2** the cost of his or her support from the individual claiming benefits:

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

(b) The husband or wife of the individual.

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

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less than 22 years of age.

(4) For benefit years beginning on or after October 1, 2000, a dependent means any of the following persons who received for at least 90 consecutive days immediately before the first week of the benefit year or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship if the relationship existed less than 90 days before the beginning of the benefit year, has received more than 1/2 the cost of his or her support from the individual claiming the benefits:

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

(b) The husband or wife of the individual.

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

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age and over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less

than 22 years of age.

(5) For benefit years beginning before October 1, 2000, dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual continues during the individual's benefit year until terminated. Dependency status of a dependent terminates at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce. For benefit years beginning on or after October 1, 2000, the number of dependents established for an individual at the beginning of the benefit year shall remain in effect during the entire benefit year.

(6) For benefit years beginning before October 1, 2000, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents when the individual files a claim for benefits with respect to a week is good cause to issue a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning date of that week. Dependency status of a dependent, child or otherwise, once established or fixed in favor of a person is not transferable to or usable by another person with respect to the same week.

For benefit years beginning on or after October 1, 2000, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents is good cause to issue a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning of the benefit year.

(c) Subject to subsection (f), all of the following apply to eligible individuals:

(1) Each eligible individual shall be paid a weekly benefit rate with respect to the week for which the individual earns or receives no remuneration. Notwithstanding the definition of week in section 50, if within 2 consecutive weeks in which an individual was not unemployed within the meaning of section 48 there was a period of 7 or more consecutive days for which the individual did not earn or receive remuneration, that period shall be considered a week for benefit purposes under this act if a claim for benefits for that period is filed not later than 30 days after the end of the period.

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

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

(4) If the reduction in a claimant's benefit rate for a week in accordance with subdivision (2) or (3) results in a benefit rate greater than zero for that week, the claimant's balance of weeks of benefit payments shall be reduced by 1 week.

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

(d) For benefit years beginning before October 1, 2000, and subject to subsection (f) and this subsection, the amount of benefits to which an individual who is otherwise eligible is entitled during a benefit year from an employer with respect to employment during the base period is the amount obtained by multiplying the weekly benefit rate with respect to that employment by $\frac{3}{4}$ of the number of credit weeks earned in the employment. For the purpose of this subsection and section 20(c), if the resultant product is not an even multiple of $\frac{1}{2}$ the weekly benefit rate, the product shall be raised to an amount equal to the next higher multiple of $\frac{1}{2}$ the weekly benefit rate, and, for an individual who was employed by only 1 employer in the individual's base period and earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate. The maximum amount of benefits payable to an individual within a benefit year, with respect to employment by an employer, shall not exceed 26 times the weekly benefit rate with respect to that employment. The maximum amount of benefits payable to an individual within a benefit year shall not exceed the amount to which the individual would be entitled for 26 weeks of unemployment in which remuneration was not earned or received. The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with subsection (g). For benefit years beginning on or after October 1, 2000, and subject to subsection (f) and this subsection, the maximum benefit amount payable to an individual in a benefit year for purposes of this section and section 20(d) is the number of weeks of benefits payable to an individual during the benefit year, multiplied by the individual's weekly benefit rate. The number of weeks of benefits payable to an individual shall be calculated by taking 43% of the individual's base period wages and dividing the result by the individual's weekly benefit rate. If the quotient is not a whole or half number, the result shall be rounded down to the nearest half number. However, **FOR EACH ELIGIBLE INDIVIDUAL FILING AN INITIAL CLAIM BEFORE JANUARY 15, 2012**, not more than 26 weeks of benefits or less than 14 weeks of benefits shall be payable to an individual in a benefit year. **FOR EACH ELIGIBLE INDIVIDUAL FILING AN INITIAL CLAIM ON OR AFTER JANUARY 15, 2012, NOT MORE THAN 20 WEEKS OF BENEFITS OR LESS THAN 14 WEEKS OF BENEFITS SHALL BE PAYABLE TO AN INDIVIDUAL IN A BENEFIT YEAR.** The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with subsection (g).

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

(f)(1) For benefit years beginning before October 1, 2000, and notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a "retirement benefit", as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without

reduction under this subsection unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all other provisions of this act continue to apply in connection with the benefit claims of those retired persons.

(a) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits that would be chargeable to the employer under this act.

(b) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant and chargeable to the employer under this act shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of \$1.00, which the claimant is receiving or will receive as a retirement benefit.

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

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

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

(3) When necessary to assure prompt payment of benefits, the commission shall determine the pro rata weekly amount yielded by an individual's retirement benefit based on the best information currently available to it. In the absence of fraud, a determination shall not be reconsidered unless it is established that the individual's actual retirement benefit in fact differs from the amount determined by \$2.00 or more per week. The reconsideration shall apply only to benefits as may be claimed after the information on which the reconsideration is based was received by the commission.

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

(i) Provided as an incident of employment under an established retirement plan, policy, or agreement, including federal social security if subdivision (5) is in effect.

(ii) Payable to an individual because the individual has qualified on the basis of attained age, length of service, or

disability, whether or not the individual retired or was retired from employment. Amounts paid to individuals in the course of liquidation of a private pension or retirement fund because of termination of the business or of a plant or department of the business of the employer involved are not retirement benefits.

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

(i) Less than ~~half~~- $1/2$ of the cost of the benefit, then only ~~half~~- $1/2$ of the benefit is treated as a retirement benefit.

(ii) ~~Half~~-**ONE-HALF** or more of the cost of the benefit, then none of the benefit is treated as a retirement benefit.

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

(5) Notwithstanding any other provision of this subsection, for any week that begins after March 31, 1980, and with respect to which an individual is receiving a governmental or other pension and claiming unemployment compensation, the weekly benefit amount payable to the individual for those weeks shall be reduced, but not below zero, by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar payment that is based on any previous work of the individual. This reduction shall be made only if it is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, 26 USC 3301 to 3311.

(6) For benefit years beginning on or after October 1, 2000, notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a retirement benefit, as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without reduction under this subsection, unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all the other provisions of this act apply to the benefit claims of those retired persons. However, if the reduction would impair the full tax credit against the tax imposed by the federal unemployment tax act, 26 USC 3301 to 3311, unemployment benefits shall not be reduced as provided in subparagraphs (a), (b), and (c) for receipt of any governmental or other pension, retirement or retired pay, annuity, or other similar payment that was not includable in the gross income of the individual for the taxable year in which it was received because it was a part of a rollover distribution.

(a) If any base period or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits.

(b) If any base period employer or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of \$1.00, which the claimant is receiving or will

receive as a retirement benefit.

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

(g) Notwithstanding any other provision of this act, an individual pursuing vocational training or retraining pursuant to section 28(2) who has exhausted all benefits available under subsection (d) may be paid for each week of approved vocational training pursued beyond the date of exhaustion a benefit amount in accordance with subsection (c), but not in excess of the individual's most recent weekly benefit rate. However, an individual shall not be paid training benefits totaling more than 18 times the individual's most recent weekly benefit rate. The expiration or termination of a benefit year shall not stop or interrupt payment of training benefits if the training for which the benefits were granted began before expiration or termination of the benefit year.

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

(i) Benefits based on service in employment described in section 42(8), (9), and (10) are payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this act, except that:

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2), or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid to an individual based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to an individual if the individual performs the service in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform service in an instructional, research, or principal administrative capacity for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, whether or not the terms are successive.

(2) With respect to service performed in other than an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2) or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or terms to any individual if that individual performs the service in the first of the academic years or terms and if there is a reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms.

(3) With respect to any service described in subdivision (1)

or (2), benefits shall not be paid to an individual based upon service for any week of unemployment that commences during an established and customary vacation period or holiday recess if the individual performs the service in the period immediately before the vacation period or holiday recess and there is a contract or reasonable assurance that the individual will perform the service in the period immediately following the vacation period or holiday recess.

(4) If benefits are denied to an individual for any week solely as a result of subdivision (2) and the individual was not offered an opportunity to perform in the second academic year or term the service for which reasonable assurance had been given, the individual is entitled to a retroactive payment of benefits for each week for which the individual had previously filed a timely claim for benefits. An individual entitled to benefits under this subdivision may apply for those benefits by mail in accordance with R 421.210 of the Michigan administrative code as promulgated by the commission.

(5) Benefits based upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education shall not be denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, unless a denial is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, 26 USC 3301 to 3311.

(6) For benefit years established before October 1, 2000, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits does not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor does the denial prevent an individual from receiving benefits based on service with an employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess, even though the employer is not the most recent chargeable employer in the individual's base period. However, in that case section 20(b) applies to the sequence of benefit charging, except for the employment with the educational institution, and section 50(b) applies to the calculation of credit weeks. When a denial of benefits under subdivision (1) no longer applies, benefits shall be charged in accordance with the normal sequence of charging as provided in section 20(b).

(7) For benefit years beginning on or after October 1, 2000, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits shall not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor shall the denial prevent an individual from receiving benefits based on service with another base period employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess. However, when benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly benefit rate shall be calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment shall be reduced by the portion of the payment attributable to base period wages paid by an

educational institution and the account or experience account of the educational institution shall not be charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits shall be paid and charged on the basis of base period wages with each of the base period employers including the educational institution.

(8) For the purposes of this subsection, "academic year" means that period, as defined by the educational institution, when classes are in session for that length of time required for students to receive sufficient instruction or earn sufficient credit to complete academic requirements for a particular grade level or to complete instruction in a noncredit course.

(9) In accordance with subdivisions (1), (2), and (3), benefits for any week of unemployment shall be denied to an individual who performed services described in subdivision (1), (2), or (3) in an educational institution while in the employ of an educational service agency. For the purpose of this subdivision, "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing the services to 1 or more educational institutions.

(j) Benefits shall not be paid to an individual on the basis of any base period services, substantially all of which consist of participating in sports or athletic events or training or preparing to participate, for a week that commences during the period between 2 successive sport seasons or similar periods if the individual performed the services in the first of the seasons or similar periods and there is a reasonable assurance that the individual will perform the services in the later of the seasons or similar periods.

(k) (1) Benefits are not payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for the purpose of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States under section 212(d) (5) of the immigration and nationality act, 8 USC 1182.

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

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

(m) (1) An individual filing a new claim for unemployment compensation under this act, at the time of filing the claim, shall disclose whether the individual owes child support obligations as defined in this subsection. If an individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commission shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

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

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

(b) The amount, if any, determined pursuant to an agreement submitted to the commission under 42 USC 654(19)(b)(i), by the state or local child support enforcement agency.

(c) Any amount otherwise required to be deducted and withheld from unemployment compensation by legal process, as that term is defined in 42 USC 659(i)(5), properly served upon the commission.

(3) The amount of unemployment compensation subject to deduction under subdivision (2) is that portion that remains payable to the individual after application of the recoupment provisions of section 62(a) and the reduction provisions of subsections (c) and (f).

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

(5) Any amount deducted and withheld under subdivision (2) shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(6) Provisions concerning deductions under this subsection apply only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission under this subsection that are attributable to child support obligations being enforced by the state or local child support enforcement agency. The administrative costs incurred shall be determined by the commission. The commission, in its discretion, may require payment of administrative costs in advance.

(7) As used in this subsection:

(a) "Unemployment compensation", for purposes of subdivisions (1) to (5), means any compensation payable under this act, including amounts payable by the commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(b) "Child support obligations" includes only obligations that are being enforced pursuant to a plan described in 42 USC 654 that has been approved by the secretary of health and human services under 42 USC 651 to 669b.

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

(n) Subsection (i)(2) applies to services performed by school bus drivers employed by a private contributing employer holding a contractual relationship with an educational institution, but only if at least 75% of the individual's base period wages with that employer are attributable to services performed as a school bus driver.

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment are payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment beginning after March 28, 1996 that begins during the period between 2 successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual

is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this subsection for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this subsection in accordance with R 421.210 of the Michigan administrative code.

(2) Not less than 20 days before the estimated beginning date of a normal seasonal work period, an employer may apply to the commission in writing for designation as a seasonal employer. At the time of application, the employer shall conspicuously display a copy of the application on the employer's premises. Within 90 days after receipt of the application, the commission shall determine if the employer is a seasonal employer. A determination or redetermination of the commission concerning the status of an employer as a seasonal employer, or a decision of a referee or the board of review, or of the courts of this state concerning the status of an employer as a seasonal employer, which has become final, together with the record thereof, may be introduced in any proceeding involving a claim for benefits, and the facts found and decision issued in the determination, redetermination, or decision shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

(3) If the employer is determined to be a seasonal employer, the employer shall conspicuously display on its premises a notice of the determination and the beginning and ending dates of the employer's normal seasonal work periods. The notice shall be furnished by the commission. The notice shall additionally specify that an employee must timely apply for unemployment benefits at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment benefits if he or she is not reemployed by the seasonal employer in the second of the normal seasonal work periods.

(4) The commission may issue a determination terminating an employer's status as a seasonal employer on the commission's own motion for good cause, or upon the written request of the employer. A termination determination under this subdivision terminates an employer's status as a seasonal employer, and becomes effective on the beginning date of the normal seasonal work period that would have immediately followed the date the commission issues the determination. A determination under this subdivision is subject to review in the same manner and to the same extent as any other determination under this act.

(5) An employer whose status as a seasonal employer is terminated under subdivision (4) may not reapply for a seasonal employer status determination until after a regularly recurring normal seasonal work period has begun and ended.

(6) If a seasonal employer informs an employee who received assurance of being rehired that, despite the assurance, the employee will not be rehired at the beginning of the employer's next normal seasonal work period, this subsection does not prevent the employee from receiving unemployment benefits in the same manner and to the same extent he or she would receive benefits under this act from an employer who has not been determined to be a seasonal employer.

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

(8) At the time an employee is hired by a seasonal employer, the employer shall notify the employee in writing if the employee will be a seasonal worker. The employer shall provide the worker with written notice of any subsequent change in the employee's status as a seasonal worker. If an employee of a seasonal employer is denied benefits because that employee is a seasonal worker, the employee may contest that designation in accordance with section 32a.

(9) As used in this subsection:

(a) "Construction industry" means the work activity designated in sector group 23 - construction of the North American classification system - United States office of management and budget, 1997 edition.

(b) "Normal seasonal work period" means that period or those periods of time determined under rules promulgated by the commission during which an individual is employed in seasonal employment.

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

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

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

(d) "Seasonal employer" means an employer, other than an employer in the construction industry, who applies to the commission for designation as a seasonal employer and who the commission determines to be an employer whose operations and business are substantially engaged in seasonal employment.

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

(10) This subsection does not apply if the United States department of labor finds it to be contrary to the federal unemployment tax act, 26 USC 3301 to 3311, or the social security act, chapter 531, 49 Stat. 620, and if conformity with the federal law is required as a condition for full tax credit against the tax imposed under the federal unemployment tax act, 26 USC 3301 to 3311, or as a condition for receipt by the commission of federal administrative grant funds under the social security act, chapter 531, 49 Stat. 620.

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

4 Sec. 54. (a) A person who willfully violates or intentionally
5 fails to comply with any of the provisions of this act, or a
6 regulation of the ~~commission~~ **UNEMPLOYMENT AGENCY** promulgated under
7 the authority of this act for which a penalty is not otherwise
8 provided by this act is ~~punishable as provided in subdivision (i),~~

9 ~~(ii), (iii), or (iv)~~ **SUBJECT TO THE FOLLOWING SANCTIONS,**

10 notwithstanding any other statute of this state or of the United
11 States:

12 (i) If the ~~commission~~ **UNEMPLOYMENT AGENCY** determines that an
13 amount has been obtained or withheld as a result of the intentional
14 failure to comply with this act, the ~~commission~~ **UNEMPLOYMENT AGENCY**
15 may recover the amount obtained as a result of the intentional
16 failure to comply plus damages equal to 3 times that amount.

17 (ii) The ~~commission~~ **UNEMPLOYMENT AGENCY** may refer the matter to
18 the prosecuting attorney of the county in which the alleged
19 violation occurred for prosecution. If the ~~commission~~ **UNEMPLOYMENT**
20 **AGENCY** has not made its own determination under subdivision (i), the
21 ~~penalty~~ **RECOVERY** sought by the prosecutor shall include the amount
22 described in subdivision (i) and shall also include 1 or more of the
23 following penalties:

24 (A) If the amount obtained or withheld from payment as a
25 result of the intentional failure to comply is less than
26 \$25,000.00, then 1 of the following:

27 (I) Imprisonment for not more than 1 year.

1 (II) The performance of community service of not more than 1
2 year but not to exceed 2,080 hours.

3 (III) A combination of (I) and (II) that does not exceed 1
4 year.

5 (B) If the amount obtained or withheld from payment as a
6 result of the intentional failure to comply is \$25,000.00 or more
7 but less than \$100,000.00, then 1 of the following:

8 (I) Imprisonment for not more than 2 years.

9 (II) The performance of community service of not more than 2
10 years but not to exceed 4,160 hours.

11 (III) A combination of (I) and (II) that does not exceed 2
12 years.

13 (C) If the amount obtained or withheld from payment as a
14 result of the intentional failure to comply is more than
15 \$100,000.00, then 1 of the following:

16 (I) Imprisonment for not more than 5 years.

17 (II) The performance of community service of not more than 5
18 years but not to exceed 10,400 hours.

19 (III) A combination of (I) and (II) that does not exceed 5
20 years.

21 (iii) If the ~~commission~~**UNEMPLOYMENT AGENCY** determines that an
22 amount has been obtained or withheld as a result of a knowing
23 violation of this act, the ~~commission~~**UNEMPLOYMENT AGENCY** may
24 recover the amount obtained as a result of the knowing violation
25 and may also recover damages equal to 3 times that amount.

26 (iv) The ~~commission~~**UNEMPLOYMENT AGENCY** may refer a matter
27 under subdivision (iii) to the prosecuting attorney of the county in

1 which the alleged violation occurred for prosecution. If the
2 ~~commission~~-**UNEMPLOYMENT AGENCY** has not made its own determination
3 under subdivision (iii), the ~~penalty~~-**RECOVERY** sought by the
4 prosecutor shall include the amount described in subdivision (iii)
5 and shall also include 1 or more of the following penalties:

6 (A) If the amount obtained or withheld from payment as a
7 result of the knowing violation is \$100,000.00 or less, then 1 of
8 the following:

9 (I) Imprisonment for not more than 1 year.

10 (II) The performance of community service of not more than 1
11 year but not to exceed 2,080 hours.

12 (III) A combination of (I) and (II) that does not exceed 1
13 year.

14 (B) If the amount obtained or withheld from payment as a
15 result of the knowing violation is more than \$100,000.00, then 1 of
16 the following:

17 (I) Imprisonment for not more than 2 years.

18 (II) The performance of community service of not more than 2
19 years but not to exceed 4,160 hours.

20 (III) A combination of (I) and (II) that does not exceed 2
21 years.

22 (b) Any employing unit or an officer or agent of an employing
23 unit, a claimant, an employee of the ~~commission~~-**UNEMPLOYMENT**
24 **AGENCY**, or any other person who makes a false statement or
25 representation knowing it to be false, or knowingly and willfully
26 with intent to defraud fails to disclose a material fact, to obtain
27 or increase a benefit or other payment under this act or under the

1 unemployment compensation law of any state or of the federal
2 government, either for himself or herself or any other person, to
3 prevent or reduce the payment of benefits to an individual entitled
4 thereto or to avoid becoming or remaining a subject employer, or to
5 avoid or reduce a contribution or other payment required from an
6 employing unit under this act or under the unemployment
7 compensation law of any state or of the federal government, as
8 applicable, is **SUBJECT TO ADMINISTRATIVE FINES AND IS** punishable as
9 follows, notwithstanding any other penalties imposed under any
10 other statute of this state or of the United States:

11 (i) If the amount obtained as a result of the knowing false
12 statement or representation or the knowing and willful failure to
13 disclose a material fact is less than \$500.00, the ~~commission~~
14 **UNEMPLOYMENT AGENCY** may recover the amount obtained as a result of
15 the knowing false statement or representation or the knowing and
16 willful failure to disclose a material fact and may also recover
17 damages equal to 2 times that amount. **FOR A SECOND OR SUBSEQUENT**
18 **VIOLATION DESCRIBED IN THIS SUBDIVISION, THE UNEMPLOYMENT AGENCY**
19 **MAY RECOVER DAMAGES EQUAL TO 4 TIMES THE AMOUNT OBTAINED.**

20 (ii) If the amount obtained as a result of the knowing false
21 statement or representation or the knowing and willful failure to
22 disclose a material fact is \$500.00 or more, the ~~commission~~
23 **UNEMPLOYMENT AGENCY** shall attempt to recover the amount obtained as
24 a result of the knowing false statement or representation or the
25 knowing and willful failure to disclose a material fact and may
26 also recover damages equal to 4 times that amount. The ~~commission~~
27 **UNEMPLOYMENT AGENCY** may refer the matter to the prosecuting

1 attorney of the county in which the alleged violation occurred for
2 prosecution. If the ~~commission~~-**UNEMPLOYMENT AGENCY** has not made its
3 own determination under this subdivision, the ~~penalty~~-**RECOVERY**
4 sought by the prosecutor shall include the amount described in this
5 subdivision and shall also include 1 or more of the following
6 penalties if the amount obtained is \$1,000.00 or more:

7 (A) If the amount obtained or withheld from payment as a
8 result of the knowing false statement or representation or the
9 knowing and willful failure to disclose a material fact is
10 \$1,000.00 or more but less than \$25,000.00, then 1 of the
11 following:

12 (I) Imprisonment for not more than 1 year.

13 (II) The performance of community service of not more than 1
14 year but not to exceed 2,080 hours.

15 (III) A combination of (I) and (II) that does not exceed 1
16 year.

17 (B) If the amount obtained or withheld from payment as a
18 result of the knowing false statement or representation or the
19 knowing and willful failure to disclose a material fact is
20 \$25,000.00 or more, then 1 of the following:

21 (I) Imprisonment for not more than 2 years.

22 (II) The performance of community service of not more than 2
23 years but not to exceed 4,160 hours.

24 (III) A combination of (I) and (II) that does not exceed 2
25 years.

26 (C) If the knowing false statement or representation or the
27 knowing and willful failure to disclose a material fact made to

1 obtain or withhold an amount from payment does not result in a loss
2 to the commission, then a ~~penalty~~**RECOVERY** shall be sought equal to
3 3 times the amount that would have been obtained by the knowing
4 false statement or representation or the knowing and willful
5 failure to disclose a material fact, but not less than \$1,000.00,
6 and 1 of the following:

7 (I) Imprisonment for not more than 2 years.

8 (II) The performance of community service of not more than 2
9 years but not to exceed 4,160 hours.

10 (III) A combination of (I) and (II) that does not exceed 2
11 years.

12 (c) (1) Any employing unit or an officer or agent of an
13 employing unit or any other person failing to submit, when due, any
14 contribution report, wage and employment report, or other reports
15 lawfully prescribed and required by the ~~commission~~**UNEMPLOYMENT**
16 **AGENCY** shall be subject to the assessment of a ~~penalty~~**AN**
17 **ADMINISTRATIVE FINE** for each report not submitted within the time
18 prescribed by the ~~commission~~**UNEMPLOYMENT AGENCY**, as follows: In
19 the case of contribution reports not received within 10 days after
20 the end of the reporting month the ~~penalty~~**FINE** shall be 10% of the
21 contributions due on the reports but not less than \$5.00 or more
22 than \$25.00 for a report. However, if the tenth day falls on a
23 Saturday, Sunday, legal holiday, or other ~~commission~~**UNEMPLOYMENT**
24 **AGENCY** nonwork day, the 10-day period shall run until the end of
25 the next day which is not a Saturday, Sunday, legal holiday, or
26 other ~~commission~~**UNEMPLOYMENT AGENCY** nonwork day. In the case of
27 all other reports referred to in this subsection, the ~~penalty~~**FINE**

1 shall be \$10.00 for a report.

2 (2) Notwithstanding subdivision (1), any employer or an
3 officer or agent of an employer or any other person failing to
4 submit, when due, any quarterly wage detail report required by
5 section 13(2) ~~shall be~~ **IS** subject to a ~~penalty~~ **AN ADMINISTRATIVE**
6 **FINE** of \$25.00 for each untimely report.

7 (3) ~~When~~ **IF** a report is filed after the prescribed time and it
8 is shown to the satisfaction of the commission that the failure to
9 submit the report was due to reasonable cause, a ~~penalty~~ **FINE** shall
10 not be imposed. The assessment of a ~~penalty~~ **FINE** as provided in
11 this subsection ~~shall constitute~~ **CONSTITUTES** a **FINAL** determination
12 ~~which shall be final unless the employer files with the commission~~
13 an application **WITH THE UNEMPLOYMENT AGENCY** for a redetermination
14 of the assessment in accordance with section 32a.

15 (d) If any ~~commissioner, employee, or agent of the commission~~
16 **UNEMPLOYMENT AGENCY** or member of the appeal board willfully ~~makes a~~
17 ~~disclosure of~~ **DISCLOSES** confidential information obtained from any
18 employing unit or individual in the administration of this act for
19 any purpose inconsistent with or contrary to the purposes of this
20 act, or a person who ~~having obtained~~ **OBTAINS** a list of applicants
21 for work, ~~or of claimants or recipients of benefits, under this~~
22 act ~~shall use or permit the~~ **USES OR PERMITS** use of that list for a
23 political purpose or for a purpose inconsistent with or contrary to
24 the purposes of this act, he or she is guilty of a misdemeanor ~~and~~
25 ~~upon conviction shall be punished~~ **PUNISHABLE** by imprisonment for
26 not more than 90 days, ~~or by a fine of not more than \$1,000.00, or~~
27 both. Notwithstanding the preceding sentence, if any ~~commissioner,~~

1 ~~commission~~ **UNEMPLOYMENT AGENCY** employee, agent of the ~~commission~~
2 **UNEMPLOYMENT AGENCY**, or member of the board of review knowingly,
3 intentionally, and for financial gain, makes an illegal disclosure
4 of confidential information obtained under section 13(2), he or she
5 is guilty of a felony, punishable by imprisonment for not more than
6 1 year and 1 day.

7 (e) A person who, without proper authority from the ~~commission~~
8 **UNEMPLOYMENT AGENCY**, represents himself or herself to be an
9 employee of the ~~commission to an employing unit or person~~
10 **UNEMPLOYMENT AGENCY** for the purpose of securing information
11 regarding the unemployment or employment record of an individual is
12 guilty of a misdemeanor ~~and upon conviction shall be punished~~
13 **PUNISHABLE** by imprisonment for not more than 90 days ~~or by a fine~~
14 of not more than \$1,000.00, or both.

15 (f) A person associated with a college, university, or public
16 agency of this state who makes use of any information obtained from
17 the ~~commission~~ **UNEMPLOYMENT AGENCY** in connection with a research
18 project of a public service nature, in a manner as to reveal the
19 identity of any individual or employing unit from or concerning
20 whom the information was obtained by the ~~commission~~ **UNEMPLOYMENT**
21 **AGENCY**, or for any purpose other than use in connection with that
22 research project, is guilty of a misdemeanor ~~and upon conviction~~
23 ~~shall be punished~~ **PUNISHABLE** by imprisonment for not more than 90
24 days ~~or by a fine~~ of not more than \$1,000.00, or both.

25 (g) As used in this section, "person" includes an individual,
26 copartnership, joint venture, corporation, receiver, or trustee in
27 bankruptcy.

1 (h) This section ~~shall apply~~ **APPLIES** even if the amount
2 obtained or withheld from payment has been reported or reported and
3 paid by an individual involved in a violation of subsection (a) or
4 (b).

5 (i) If a determination is made that an individual has violated
6 this section, the individual is subject to the ~~penalty provisions~~
7 **SANCTIONS** of this section and, ~~where~~ **IF** applicable, the
8 requirements of section 62.

9 (j) Amounts recovered by the commission under subsection (a)
10 ~~or (b)~~ shall be credited first to the unemployment compensation
11 fund and thereafter amounts recovered that are in excess of the
12 amounts obtained or withheld as a result of the violation of
13 subsection (a) ~~and (b)~~ shall be credited to the penalty and
14 interest account of the contingent fund. ~~Fines and penalties~~
15 **AMOUNTS** recovered by the commission under subsections (c), (d),
16 (e), and (f) shall be credited to the penalty and interest account
17 of the contingent fund in accordance with section 10(6).

18 **(K) AMOUNTS RECOVERED BY THE UNEMPLOYMENT AGENCY UNDER**
19 **SUBSECTION (B) SHALL BE CREDITED AS FOLLOWS:**

20 **(i) DEDUCTIONS FROM UNEMPLOYMENT INSURANCE BENEFITS SHALL BE**
21 **APPLIED SOLELY TO THE AMOUNT OF THE BENEFITS LIABLE TO BE REPAID**
22 **UNDER THIS SECTION.**

23 **(ii) ALL OTHER RECOVERIES SHALL BE APPLIED FIRST TO**
24 **ADMINISTRATIVE SANCTIONS AND DAMAGES, THEN TO INTEREST, AND THEN TO**
25 **THE AMOUNT LIABLE TO BE REPAID. THE AMOUNTS APPLIED TO**
26 **ADMINISTRATIVE SANCTIONS, DAMAGES, AND INTEREST SHALL BE CREDITED**
27 **TO THE SPECIAL FRAUD CONTROL FUND CREATED IN SECTION 10.**

House Bill No. 4408 as amended March 23, 2011

1 (I) ~~(k)~~The revisions in the penalties in subsections (a) and
 2 (b) provided by the 1991 amendatory act that added this subsection
 3 shall apply to conduct that began before April 1, 1992, but that
 4 continued on or after April 1, 1992, and to conduct that began on
 5 or after April 1, 1992.

6 Sec. 62. (a) If the ~~commission~~**UNEMPLOYMENT AGENCY** determines
 7 that a person has obtained benefits to which that person is not
 8 entitled, ~~the commission~~**IT** may recover a sum equal to the amount
 9 received **PLUS INTEREST** by 1 or more of the following methods: ~~(1)~~
 10 deduction from benefits **<<OR WAGES>>** payable to the individual, ~~(2)~~
 11 payment by
 12 the individual ~~to the commission~~ in cash, or ~~(3)~~ deduction from a
 13 tax refund payable to the individual as provided under section 30a
 14 of ~~Act No. 122 of the Public Acts of 1941, being section 205.30a of~~
 15 ~~the Michigan Compiled Laws 1941 PA 122, MCL 205.30A.~~ Deduction from
 16 benefits **<<OR WAGES>>** payable to the individual shall be **IS** limited to
 17 not more
 18 than 20% of each **<<weekly benefit check PAYMENT>>** due the claimant.
 19 The
 20 ~~commission~~**UNEMPLOYMENT AGENCY** shall not recover improperly paid
 21 benefits from an individual more than 3 years, or more than 6 years
 22 in the case of a violation of section 54(a) or (b) or sections 54a
 23 to 54c, after the date of receipt of the improperly paid benefits
 24 unless ~~:(1)~~**THE UNEMPLOYMENT AGENCY FILED** a civil action ~~is filed~~
 25 in a court ~~by the commission~~ within the 3-year or 6-year period; ~~;~~
 26 ~~(2)~~ the individual made an intentional false statement,
 27 misrepresentation, or concealment of material information to obtain
 the benefits; ~~;~~ ~~or (3)~~**OR** the ~~commission~~**UNEMPLOYMENT AGENCY** issued
 a determination requiring restitution within the 3-year or 6-year
 period. ~~Furthermore, except~~**EXCEPT** in a case of an intentional

House Bill No. 4408 as amended March 23, 2011

1 false statement, misrepresentation, or concealment of material
2 information, the ~~commission~~**UNEMPLOYMENT AGENCY** may waive recovery
3 of an improperly paid benefit << >> if the payment was not
4 the fault of the individual and if repayment would be contrary to
5 equity and good conscience <<**AND SHALL WAIVE ANY INTEREST**>>.

6 (b) For benefit years beginning before ~~the conversion date~~
7 ~~prescribed in section 75~~**OCTOBER 1, 2000**, if the ~~commission~~
8 **UNEMPLOYMENT AGENCY** determines that a person has intentionally made
9 a false statement or misrepresentation or has concealed material
10 information to obtain benefits, whether or not the person obtains
11 benefits by or because of the intentional false statement,
12 misrepresentation, or concealment of material information, the
13 person shall, in addition to any other applicable **INTEREST AND**
14 penalties, have all of his or her uncharged credit weeks with
15 respect to the benefit year in which the act occurred canceled as
16 of the date the ~~commission~~**UNEMPLOYMENT AGENCY** receives notice of,
17 or initiates investigation of, the possible false statement,
18 misrepresentation, or concealment of material information,
19 whichever date is earlier. Before receiving benefits in a benefit
20 year established within 2 years after cancellation of uncharged
21 credit weeks under this subsection, the individual, in addition to
22 making the restitution of benefits established under subsection
23 (a), may be liable ~~to the commission, by cash, deduction from~~
24 ~~benefits, or deduction from a tax refund,~~ for an additional amount
25 as determined by the ~~commission~~**UNEMPLOYMENT AGENCY** under this act,
26 **WHICH MAY BE PAID BY CASH, DEDUCTION FROM BENEFITS, OR DEDUCTION**
27 **FROM A TAX REFUND.** Restitution resulting from the intentional false

1 statement, misrepresentation, or concealment of material
2 information is not subject to the 20% limitation provided in
3 subsection (a). For benefit years beginning ~~after the conversion~~
4 ~~date prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, if the
5 ~~commission~~ **UNEMPLOYMENT AGENCY** determines that a person has
6 intentionally made a false statement or misrepresentation or has
7 concealed material information to obtain benefits, whether or not
8 the person obtains benefits by or because of the intentional false
9 statement, misrepresentation, or concealment of material
10 information, the person shall, in addition to any other applicable
11 **INTEREST AND** penalties, have his or her rights to benefits for the
12 benefit year in which the act occurred canceled as of the date the
13 ~~commission~~ **UNEMPLOYMENT AGENCY** receives notice of, or initiates
14 investigation of, a possible false statement, misrepresentation, or
15 concealment of material information, whichever date is earlier, and
16 wages used to establish that benefit year shall not be used to
17 establish another benefit year. Before receiving benefits in a
18 benefit year established within 2 years after cancellation of
19 rights to benefits under this subsection, the individual, in
20 addition to making the restitution of benefits established under
21 subsection (a), may be liable ~~to the commission, by cash, deduction~~
22 ~~from benefits, or deduction from a tax refund,~~ for an additional
23 amount as otherwise determined by the ~~commission~~ **UNEMPLOYMENT**
24 **AGENCY** under this act, **WHICH MAY BE PAID BY CASH, DEDUCTION FROM**
25 **BENEFITS, OR DEDUCTION FROM A TAX REFUND.** Restitution resulting
26 from the intentional false statement, misrepresentation, or
27 concealment of material information is not subject to the 20%

1 limitation provided in subsection (a).

2 (c) Any determination made by the ~~commission~~-**UNEMPLOYMENT**
3 **AGENCY** under this section is final unless an application for a
4 redetermination is filed ~~with the commission~~ in accordance with
5 section 32a.

6 (d) The ~~commission~~-**UNEMPLOYMENT AGENCY** shall take the action
7 necessary to recover all benefits improperly obtained or paid under
8 this act, and to enforce all **INTEREST AND** penalties under
9 subsection (b).

10 (E) **INTEREST RECOVERED UNDER THIS SECTION SHALL BE DEPOSITED**
11 **IN THE SPECIAL FRAUD CONTROL FUND CREATED IN SECTION 10.**

<<Sec. 64. (1) (a) Payment of extended benefits under this section shall be made at the individual's weekly extended benefit rate, for any week of unemployment that begins in the individual's eligibility period, to each individual who is fully eligible and not disqualified under this act, who has exhausted all rights to regular benefits under this act, who is not seeking or receiving benefits with respect to that week under the unemployment compensation law of Canada, and who does not have rights to benefits under the unemployment compensation law of any other state or the United States or to compensation or allowances under any other federal law, such as the trade expansion act, the automotive products trade act, or the railroad unemployment insurance act; however, if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to benefits under another law, the individual shall be considered to have exhausted the right to benefits. For the purpose of the preceding sentence, an individual shall have exhausted the right to regular benefits under this section with respect to any week of unemployment in the individual's eligibility period under either of the following circumstances:

(i) When payments of regular benefits may not be made for that week because the individual has received all regular benefits available based on his or her employment or wages during the base period for the current benefit year.

(ii) When the right to the benefits has terminated before that week by reason of the expiration or termination of the benefit year with respect to which the right existed; and the individual has no, or insufficient, wages or employment to establish a new benefit year. However, for purposes of this subsection, an individual shall be considered to have exhausted the right to regular benefits with respect to any week of unemployment in his or her eligibility period when the individual may become entitled to regular benefits with respect to that week or future weeks, but the benefits are not payable at the time the individual claims extended benefits because final action on a pending redetermination or on an appeal has not yet been taken with respect to eligibility or qualification for the regular benefits or when the individual may be entitled to regular benefits

with respect to future weeks of unemployment, but regular benefits are not payable with respect to any week of unemployment in his or her eligibility period by reason of seasonal limitations in any state unemployment compensation law.

(b) Except where inconsistent with the provisions of this section, the terms and conditions of this act that apply to claims for regular benefits and to the payment of those benefits apply to claims for extended benefits and to the payment of those benefits.

(c) An individual shall not be paid additional compensation and extended compensation with respect to the same week. If an individual is potentially eligible for both types of compensation in this state with respect to the same week, the bureau may pay extended compensation instead of additional compensation with respect to the week. If an individual is potentially eligible for extended compensation in 1 state and potentially eligible for additional compensation for the same week in another state, the individual may elect which of the 2 types of compensation to claim.

(2) The bureau shall establish, for each eligible individual who files an application, an extended benefit account with respect to that individual's benefit year. The amount established in the account shall be determined as follows:

(a) If subdivision (b) does not apply, whichever of the following is smaller:

(i) Fifty percent of the total amount of regular benefits payable to the individual under this act during the benefit year.

(ii) Thirteen times the individual's weekly extended benefit rate.

(b) With respect to a week beginning in a period in which the average rate of total unemployment as described in subsection (5)(c)(ii) equals or exceeds 8%, but no later than the end of the week in which extended benefits payable under this section cease to be funded under section 2005 of the American recovery and reinvestment act of 2009, Public Law 111-5, whichever of the following is smaller:

(i) Eighty percent of the total amount of regular benefits payable to the individual under this act during the benefit year.

(ii) Twenty times the individual's weekly extended benefit rate.

If an amount determined under this subsection is not an exact multiple of 1/2 of the individual's weekly extended benefit rate, the amount shall be decreased to the next lower such multiple.

(3) All of the following apply to an extended benefit period:

(a) The period begins with the third week after whichever of the following weeks first occurs:

(i) A week for which there is a national "on" indicator as determined by the United States secretary of labor.

(ii) A week for which there is a Michigan "on" indicator.

(b) The period ends with the third week after the first week for which there is both a national "off" indicator and a Michigan "off" indicator.

(c) The period is at least 13 consecutive weeks long, and does not begin by reason of a Michigan "on" indicator before the fourteenth week after the close of a prior extended benefit period under this section. However, an extended benefit period terminates with the week preceding the week for which no extended benefit payments are considered to be shareable compensation under the federal-state extended unemployment compensation act of 1970, section 3304 nt of the internal revenue code of 1986, 26 USC 3304 nt.

(4) An individual's "eligibility period" consists of the weeks in his or her benefit year that begin in an extended benefit period,

and if his or her benefit year ends within the extended benefit period, any weeks thereafter that begin in the period.

(5) (a) With respect to weeks beginning after September 25, 1982, a national "on" indicator for a week shall be determined by the United States secretary of labor.

(b) A national "off" indicator for a week shall be determined by the United States secretary of labor.

(c) There is a Michigan "on" indicator for a week if 1 or both of the following apply:

(i) The rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks equaled or exceeded 120% of the average of the insured unemployment rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, and equaled or exceeded 5%. **WITH RESPECT TO COMPENSATION FOR EACH WEEK OF UNEMPLOYMENT BEGINNING AFTER DECEMBER 17, 2010 AND ENDING DECEMBER 31, 2011, THE RATE OF INSURED UNEMPLOYMENT UNDER THIS ACT FOR THE PERIOD CONSISTING OF THAT WEEK AND THE IMMEDIATELY PRECEDING 12 WEEKS EQUALED OR EXCEEDED 120% OF THE AVERAGE OF THE INSURED UNEMPLOYMENT RATES FOR THE CORRESPONDING 13-WEEK PERIOD ENDING IN EACH OF THE PRECEDING 3 CALENDAR YEARS, AND EQUALED OR EXCEEDED 5%.**

(ii) For weeks beginning after ~~the week in which the 2009 amendatory act that amended this subparagraph becomes effective and ending at the end of the week in which extended benefits payable under this section cease to be funded under section 2005 of the American recovery and reinvestment act of 2009, Public Law 111-5, DECEMBER 17, 2010 AND ENDING WITH THE WEEK ENDING 4 WEEKS BEFORE THE LAST WEEK OF UNEMPLOYMENT FOR WHICH 100% FEDERAL SHARING IS AVAILABLE UNDER SECTION 2005(A) OF PUBLIC LAW 111-5, WITHOUT REGARD TO THE EXTENSION OF FEDERAL SHARING FOR CERTAIN CLAIMS AS PROVIDED UNDER SECTION 2005(C) OF THAT LAW,~~ the average rate of total unemployment in this state, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of the week equaled or exceeded both of the following:

(A) Six and one-half percent.

(B) One hundred ten percent of the average rate of total unemployment in this state, seasonally adjusted, for the period consisting of the corresponding 3-month period in ~~either or both~~ **ANY OR ALL** of the preceding ~~2-3~~ calendar years.

(d) There is a Michigan "off" indicator for a week if, for the period consisting of that week and the immediately preceding 12 weeks, either subdivision (c)(i) or (c)(ii) was not satisfied. Notwithstanding any other provision of this act, if this state is in a period in which temporary extended unemployment compensation is payable in this state under title II of the job creation and worker assistance act of 2002, Public Law 107-147, or another similar federal law, and if the governor has the authority under that federal act or another similar federal law, then the governor may elect to trigger "off" the Michigan indicator for extended benefits under this act only for a period in which temporary extended unemployment compensation is payable in this state, if the election by the governor would not result in a decrease in the number of weeks of unemployment benefits payable to an individual under this act or under federal law.

(e) For purposes of subdivisions (c) and (d), the rate of insured unemployment for any 13-week period shall be determined by reference to the average monthly covered employment under this act

for the first 4 of the most recent 6 calendar quarters ending before the close of that period.

(f) As used in this subsection, "rate of insured unemployment" means the percentage determined by dividing:

(i) The average weekly number of individuals filing claims for regular benefits for weeks of unemployment with respect to the specified period as determined on the basis of the reports made by all state agencies or, in the case of subdivisions (c) and (d), by the bureau, to the federal government; by

(ii) In the case of subdivisions (c) and (d), the average monthly covered employment under this act for the specified period.

(g) Calculations under subdivisions (c) and (d) shall be made by the bureau and shall conform to regulations, if any, prescribed by the United States secretary of labor under authority of the ~~federal state extended unemployment compensation act of 1970 title II of Public Law 91-373, section 3304 nt of the internal revenue code of 1986, 26 USC 3304 nt.~~

~~(h) An "on" indicator under subdivision (c)(ii) applies to claimants who qualify for benefits payable beginning the week after the effective date of the 2009 amendatory act that amended this subdivision and ending the last week extended benefits under this section are funded under section 2005 of the American recovery and reinvestment act of 2009, Public Act 111-5.~~

(6) As used in this section:

(a) "Regular benefits" means benefits payable to an individual under this act and, unless otherwise expressly provided, under any other state unemployment compensation law, including unemployment benefits payable pursuant to 5 USC 8501 to 8525, other than extended benefits, and other than additional benefits which includes training benefits under section 27(g).

(b) "Extended benefits" means benefits, including additional benefits and unemployment benefits payable pursuant to 5 USC 8501 to 8525, payable for weeks of unemployment beginning in an extended benefit period to an individual as provided under this section.

(c) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law as well as training benefits paid under section 27(g) with respect to an extended benefit period.

(d) "Weekly extended benefit rate" means an amount equal to the amount of regular benefits payable under this act to an individual within the individual's benefit year for a week of total unemployment, unless the individual had more than 1 weekly extended benefit rate within that benefit year, in which case the individual's weekly extended benefit rate shall be computed by dividing the maximum amount of regular benefits payable under this act within that benefit year by the number of weeks for which benefits were payable, adjusted to the next lower multiple of \$1.00.

(e) "Benefits payable" includes all benefits computed in accordance with section 27(d), irrespective of whether the individual was otherwise eligible for the benefits within his or her current benefit year and irrespective of any benefit reduction by reason of a disqualification that required a reduction.

(7) (a) Notwithstanding the provisions of subsection (1)(b), an individual ~~shall be~~ **IS** ineligible for payment of extended benefits for any week of unemployment if the bureau finds that during that period either of the following occurred:

(i) The individual failed to accept any offer of suitable work

or failed to apply for any suitable work to which the individual was referred by the bureau.

(ii) The individual failed to actively engage in seeking work as described in subdivision (f).

(b) Any individual who has been found ineligible for extended benefits under subdivision (a) shall also be denied benefits beginning with the first day of the week following the week in which the failure occurred and until the individual has been employed in each of 4 subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than 4 times the extended weekly benefit amount, as determined under subsection (2).

(c) As used in this subsection, "suitable work" means, with respect to any individual, any work that is within that individual's capabilities, if both of the following apply:

(i) The gross weekly remuneration payable for the work exceeds the sum of the following:

(A) The individual's extended weekly benefit amount as determined under subsection (2).

(B) The amount, if any, of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(D) of the internal revenue code of 1986, 26 USC 501(c)(17)(D), payable to the individual for that week.

(ii) The employer pays wages not less than the higher of the minimum wage provided by section 6(a)(1) of the fair labor standards act of 1938, 29 USC 206(a)(1), without regard to any exemption, or the applicable state or local minimum wage.

(d) An individual shall not be denied extended benefits for failure to accept an offer of, or apply for, any job that meets the definition of suitable work ~~as described in~~ subdivision (c) if 1 or more of the following are true:

(i) The position was not offered to the individual in writing and was not listed with the state employment service.

(ii) The failure could not result in a denial of benefits under the definition of suitable work in section 29(6) to the extent that the criteria of suitability in that section are not inconsistent with the provisions of subdivision (c).

(iii) The individual furnishes satisfactory evidence to the bureau that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If that evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual shall be made in accordance with the definition of suitable work in section 29(6) without regard to the definition ~~specified by~~ **IN** subdivision (c).

(e) Notwithstanding subsection (1)(b), work ~~shall not be considered~~ **IS NOT** suitable work for an individual if the work does not meet the labor standard provisions required by section 3304(a)(5) of the internal revenue code **OF 1986, 26 USC 3304(A)(5)**, and section 29(7).

(f) For the purposes of subdivision (a)(ii), an individual is actively engaged in seeking work during any week if both of the following are true:

(i) The individual has engaged in a systematic and sustained effort to obtain work during that week.

(ii) The individual furnishes tangible evidence to the bureau that he or she has engaged in a systematic and sustained effort during that week.

(g) The bureau shall refer any applicant for extended benefits to any suitable work that meets the criteria prescribed in

subdivisions (c) and (d).

(h) An individual is not eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if that individual has been disqualified for benefits under this act because he or she voluntarily left work, was discharged for misconduct, or failed to accept an offer of or apply for suitable work unless the individual requalified in accordance with a specific provision of this act requiring that the individual be employed subsequent to the week in which the act or discharge occurred that caused the disqualification.

(8) (a) Except as provided in subdivision (b), payment of extended benefits shall not be made to any individual for any week of unemployment that otherwise would have been payable pursuant to an interstate claim filed in any state under the interstate benefit payment plan, if an extended benefit period is not in effect for the week in the state in which the interstate claim is filed.

(b) Subdivision (a) does not apply with respect to the first 2 weeks for which extended benefits are payable, pursuant to an interstate claim, to the individual from the extended benefit account established for the individual.

(9) Notwithstanding the provisions of subsection (1)(b), an individual who established a benefit year under section 46a on or after January 2, 1983, shall be eligible to receive extended benefits only if the individual earned wages in an amount exceeding 40 times the individual's most recent weekly benefit rate during the base period of the benefit year that is used to establish the individual's extended benefit account under subsection (2).

(10) This subsection is effective for weeks of unemployment beginning after October 30, 1982. Notwithstanding any other provision of this section, an individual's extended benefit entitlement, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts of trade readjustment allowances, paid under the trade act of 1974, Public Law 93-618, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.>>