

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 806

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending sections 6a, 10, 11, 13, 13m, 15, 17, 19, 19a, 20,
21, 27, 28, 29, 32a, 32b, 33, 34, 37, 38, 42, 44, 46, 48, 50, 54,
62, and 64 (MCL 421.6a, 421.10, 421.11, 421.13, 421.13m, 421.15,
421.17, 421.19, 421.19a, 421.20, 421.21, 421.27, 421.28, 421.29,
421.32a, 421.32b, 421.33, 421.34, 421.37, 421.38, 421.42, 421.44,
421.46, 421.48, 421.50, 421.54, 421.62, and 421.64), section 6a
as amended by 1992 PA 204, sections 10, 15, 54, 62, and 64 as
amended by 2011 PA 14, sections 11 and 19a as amended by 2009 PA
1, section 13 as amended by 1985 PA 197, section 13m as added by
2010 PA 383, section 17 as amended by 2009 PA 18, section 19 as
amended by 2007 PA 188, section 20 as amended by 2009 PA 20,

sections 21, 33, and 34 as amended by 1983 PA 164, section 27 as amended by 2011 PA 216, section 28 as amended by 1994 PA 422, section 29 as amended by 2008 PA 480, sections 32a and 38 as amended by 1996 PA 503, section 32b as added and sections 44 and 48 as amended by 2002 PA 192, and sections 46 and 50 as amended by 1995 PA 25, and by adding sections 15a, 42a, and 48a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6a. ~~By resolution adopted by a majority of its members,~~
2 ~~the commission~~ **THE UNEMPLOYMENT INSURANCE AGENCY** may destroy or
3 dispose of a document ~~that has been retained in the commission~~
4 ~~files for not less than 2 years and that in the commission's~~
5 ~~opinion is of no value to the commission, and may authorize the~~
6 ~~director to make or cause to be made a reproduction pursuant to~~
7 ~~the records media act, or a summary or compilation, that he or~~
8 ~~she considers advisable to preserve the information contained in~~
9 ~~the document.~~ **AS SOON AS PRACTICABLE AFTER THE DOCUMENT HAS BEEN**
10 **ELECTRONICALLY CAPTURED AND PRESERVED IN AN INFORMATION RETRIEVAL**
11 **SYSTEM. ELECTRONICALLY STORED RECORDS SHALL BE RETAINED FOR THE**
12 **SAME MINIMUM RETENTION PERIOD AS REQUIRED FOR THE ORIGINAL**
13 **RECORD.** If an original document is destroyed or disposed of
14 pursuant to this section, a reproduction of the document in a
15 medium pursuant to the records media act, ~~a reproduction~~
16 ~~consisting of a printout or other output readable by sight from~~
17 ~~such a medium, or a summary or compilation of the document, if~~
18 ~~certified by the director to be a true and accurate official~~
19 ~~reproduction, compilation, or summary of the original~~

1 **REPRODUCTION ACT, 1992 PA 116, MCL 24.401 TO 24.406, is**
2 admissible in evidence the same as the original in any proceeding
3 before the commission, ~~referee, or appeal board~~ **ADMINISTRATIVE**
4 **LAW JUDGE, OR MICHIGAN COMPENSATION APPELLATE COMMISSION** and in
5 all courts. Information contained on printouts prepared by
6 automatic data processing equipment is also admissible in
7 evidence, if the original documents from which such information
8 was obtained would have been admissible.

9 Sec. 10. (1) There is created in the department of treasury
10 a special fund to be known and designated as the administration
11 fund (Michigan employment security act). Any balances in the
12 administration fund at the end of any fiscal year of this state
13 shall be carried over as a part of the administration fund and
14 shall not revert to the general fund of this state. Except as
15 otherwise provided in subsection (3), all money deposited into
16 the administration fund under this act shall be appropriated by
17 the legislature to the unemployment agency to pay the expenses of
18 the administration of this act.

19 (2) The administration fund shall be credited with all money
20 appropriated to the fund by the legislature, all money received
21 from the United States or any agency of the United States for
22 that purpose, and all money received by this state for the fund.
23 All money in the administration fund that is received from the
24 federal government or any agency of the federal government or
25 that is appropriated by this state for the purposes of this act,
26 except money requisitioned from the account of this state in the
27 unemployment trust fund pursuant to a specific appropriation made

1 by the legislature in accordance with section 903(c)(2) of title
2 IX of the social security act, 42 USC 1103(c)(2), and with
3 section 17(3)(f), shall be expended solely for the purposes and
4 in the amounts found necessary by the appropriate agency of the
5 United States and the legislature for the proper and efficient
6 administration of this act.

7 (3) All money requisitioned from the account of this state
8 in the unemployment trust fund pursuant to a specific
9 appropriation made by the legislature in accordance with section
10 903(c)(2) of title IX of the social security act, 42 USC
11 1103(c)(2), and with section 17(3)(f), shall be deposited in the
12 administration fund. Any money that remains unexpended at the
13 close of the 2-year period beginning on the date of enactment of
14 a specific appropriation shall be immediately redeposited with
15 the secretary of the treasury of the United States to the credit
16 of this state's account in the unemployment trust fund; or any
17 money that for any reason cannot be expended or is not to be
18 expended for the purpose for which appropriated before the close
19 of this 2-year period shall be redeposited at the earliest
20 practicable date.

21 (4) If any money received after June 30, 1941, from the
22 appropriate agency of the United States under title III of the
23 social security act, 42 USC 501 to 504, or any unencumbered
24 balances in the administration fund (Michigan employment security
25 act) as of that date, or any money granted after that date to
26 this state under the Wagner-Peyser act, as defined in section 12,
27 or any money made available by this state or its political

1 subdivisions and matched by money granted to this state under the
2 Wagner-Peyser act, is found by the appropriate agency of the
3 United States, because of any action or contingency, to have been
4 lost or been expended for purposes other than, or in amounts in
5 excess of, those found necessary by that agency of the United
6 States for the proper administration of this act, the money shall
7 be replaced by money appropriated for that purpose from the
8 general funds of this state to the administration fund (Michigan
9 employment security act) for expenditure as provided in this act.
10 Upon receipt of notice of such a finding by the appropriate
11 agency of the United States, the commission shall promptly report
12 the amount required for replacement to the governor and the
13 governor shall, at the earliest opportunity, submit to the
14 legislature a request for the appropriation of that amount. This
15 subsection shall not be construed to relieve this state of its
16 obligation with respect to funds received prior to July 1, 1941,
17 under the provisions of 42 USC 501 to 504.

18 (5) If any funds expended or disbursed by the commission are
19 found by the appropriate agency of the United States to have been
20 lost or expended for purposes other than, or in amounts in excess
21 of, those found necessary by that agency of the United States for
22 the proper administration of this act, and if these funds are
23 replaced as provided in subsection (4) by money appropriated for
24 that purpose from the general fund of this state, then the
25 director who approved the expenditure or disbursement of those
26 funds for those purposes or in those amounts, is liable to this
27 state in an amount equal to the sum of money appropriated to

1 replace those funds. ~~The director shall be required by the~~
2 ~~governor to post a proper bond in a sum not less than \$25,000.00~~
3 ~~to cover his or her liability as prescribed in this section, the~~
4 ~~cost of the bond to be paid from the general fund of this state.~~

5 (6) There is created in the department of treasury a
6 separate fund to be known as the contingent fund (Michigan
7 employment security act) into which shall be deposited all
8 solvency taxes collected under section 19a and all interest on
9 contributions, penalties, and damages collected under this act.
10 Except as otherwise provided in subsections (8) and (9), all
11 amounts in the contingent fund (Michigan employment security act)
12 and all earnings on those amounts are continuously appropriated
13 without regard to fiscal year for the administration of the
14 unemployment agency and for the payment of interest on advances
15 from the federal government to the unemployment compensation fund
16 under 42 USC 1321, to be expended only if authorized by the
17 unemployment agency. Money deposited from the solvency taxes
18 collected under section 19a shall not be used for the
19 administration of the unemployment agency, except for the
20 repayment of loans from the state treasury and interest on loans
21 made under section 19a(3). However, an authorization or
22 expenditure shall not be made as a substitution for a grant of
23 federal funds or for any portion of a grant that, in the absence
24 of an authorization, would be available to the unemployment
25 agency. Immediately upon receipt of administrative grants from
26 the appropriate agency of the United States to cover
27 administrative costs for which the unemployment agency has

1 authorized and made expenditures from the contingent fund, those
2 grants shall be transferred to the contingent fund to the extent
3 necessary to reimburse the contingent fund for the amount of
4 those expenditures. Amounts needed to refund interest, damages,
5 and penalties erroneously collected shall be withdrawn and
6 expended for those purposes from the contingent fund upon order
7 of the unemployment agency. Any amount authorized to be expended
8 for administration under this section may be transferred to the
9 administration fund. An amount not needed for the purpose for
10 which authorized shall, upon order of the unemployment agency, be
11 returned to the contingent fund. Amounts needed to refund
12 erroneously collected solvency taxes shall be withdrawn and
13 expended for that purpose upon order of the unemployment agency.

14 ~~—— (7) There is created in the department of treasury~~
15 ~~contingent fund a separate fund to be known as the special fraud~~
16 ~~control fund (Michigan employment security act). The special~~
17 ~~fraud control fund shall consist of money collected or received~~
18 ~~by the unemployment agency as follows:~~

19 ~~—— (a) All interest and penalties collected under section 62.~~

20 ~~—— (b) All gifts to, interest on, or profits earned by the~~
21 ~~special fraud control fund.~~

22 ~~—— (c) Amounts credited under section 54(k)(ii).~~

23 ~~—— (8) The money in the special fraud control fund is~~
24 ~~continuously appropriated only to the unemployment agency and may~~
25 ~~not be transferred or otherwise made available to any other state~~
26 ~~agency.~~

27 ~~—— (9) All amounts in the special fraud control fund are to be~~

~~used first for the acquisition of packaged software that has a proven record of success with the detection and collection of unemployment benefit overpayments and then for administrative costs associated with the prevention, discovery, and collection of unemployment benefit overpayments, as included in the biennial budget of the unemployment agency and approved by the legislature. The unemployment agency shall submit a report to the clerk of the house of representatives and the secretary of the senate at the close of the 2 year period that begins on the effective date of the amendatory act that added this subsection, to show how the money from the special fraud control fund was used and the results obtained from the special fraud control fund. The department shall implement the initial detection and collection software package by September 1, 2011.~~

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

Sec. 11. (a) In the administration of this act, the commission shall cooperate with the appropriate agency of the United States under the social security act. The commission shall make reports, in a form and containing information as the appropriate agency of the United States may require, and shall comply with the provisions that the appropriate agency of the United States prescribes to assure the correctness and verification of the reports. The commission, subject to this act, shall comply with the regulations prescribed by the appropriate

1 agency of the United States relating to the receipt or
2 expenditure of the sums that are allotted and paid to this state
3 for the purpose of assisting in the administration of this act.
4 As used in this section, "social security act" means the social
5 security act, chapter 531, 49 Stat. 620.

6 (b)(1) Information obtained from any employing unit or
7 individual pursuant to the administration of this act and
8 determinations as to the benefit rights of any individual are
9 confidential and shall not be disclosed or open to public
10 inspection other than to public employees and public officials in
11 the performance of their official duties under this act and to
12 agents or contractors of those public officials, including those
13 described in subdivision (viii), in any manner that reveals the
14 individual's or the employing unit's identity or any identifying
15 particular about any individual or any past or present employing
16 unit or that could foreseeably be combined with other publicly
17 available information to reveal identifying particulars. However,
18 all of the following apply:

19 (i) Information in the commission's possession that might
20 affect a claim for worker's disability compensation under the
21 worker's disability compensation act of 1969, 1969 PA 317, MCL
22 418.101 to 418.941, shall be available to interested parties as
23 defined in R 421.201 of the Michigan administrative code,
24 regardless of whether the commission is a party to an action or
25 proceeding arising under that act.

26 (ii) Any information in the commission's possession that may
27 affect a claim for benefits or a charge to an employer's

1 experience account shall be available to interested parties as
2 defined in R 421.201 of the Michigan administrative code, and to
3 their agents, if their agents provide the unemployment insurance
4 agency with a written authorization of representation from the
5 party represented. A written authorization of representation is
6 not required in any of the following circumstances:

7 (A) If the request is made by an attorney who is retained by
8 an interested party and files an appearance for purposes related
9 to a claim for unemployment benefits.

10 (B) If the request is made by an elected official performing
11 constituent services and the elected official presents reasonable
12 evidence that the identified individual authorized the
13 disclosure.

14 (C) If the request is made by a third party who is not
15 acting as an agent for an interested party and the third party
16 presents a release from an interested party for the information.
17 The release shall be signed by an interested party; specify the
18 information to be released and all individuals who may receive
19 the information; and state the specific purpose for which the
20 information is sought, that files of the state may be accessed to
21 obtain the information, and that the information sought will only
22 be used for the purpose indicated. The purpose specified in the
23 release shall be limited to that of providing a service or
24 benefit to the individual signing the release or carrying out
25 administration or evaluation of a public program to which the
26 release pertains.

27 (iii) Except as provided in this act, the information and

1 determinations shall not be used in any action or proceeding
2 before any court or administrative tribunal unless the commission
3 is a party to or a complainant in the action or proceeding, or
4 unless used for the prosecution of fraud, civil proceeding, or
5 other legal proceeding in the programs indicated in subdivision
6 (2).

7 (iv) Any report or statement, written or verbal, made by any
8 person to the commission, any member of the commission, or to any
9 person engaged in administering this act is a privileged
10 communication, and a person, firm, or corporation shall not be
11 held liable for slander or libel on account of a report or
12 statement. The records and reports in the custody of the
13 commission shall be available for examination by the employer or
14 employee affected.

15 (v) Subject to restrictions that the commission prescribes
16 by rule, information in the commission's possession may be made
17 available to any agency of this state, any other state, or any
18 federal agency charged with the administration of an unemployment
19 compensation law or the maintenance of a system of public
20 employment offices; the bureau of internal revenue of the United
21 States department of the treasury; the bureau of the census of
22 the economics and statistics administration of the United States
23 department of commerce; or the social security administration of
24 the United States department of health and human services.

25 (vi) Information obtained in connection with the
26 administration of ~~the employment service~~ **THIS ACT** may be made
27 available to persons or agencies for purposes appropriate to the

1 operation of a public employment service **OR UNEMPLOYMENT**
2 **COMPENSATION PROGRAM.** Subject to restrictions that the commission
3 prescribes by rule, the commission may also make that information
4 available to agencies of other states that are responsible for
5 the administration of public assistance to unemployed workers; ~~7~~
6 ~~and to the departments of this state;~~ **AND TO FEDERAL, STATE, AND**
7 **LOCAL LAW ENFORCEMENT AGENCIES IN CONNECTION WITH A CRIMINAL**
8 **INVESTIGATION INVOLVING THE HEALTH, SAFETY, OR WELFARE OF THE**
9 **PUBLIC.** Information so released shall be used only for purposes
10 not inconsistent with the purposes of this act. **THE INFORMATION**
11 **SHALL ONLY BE RELEASED UPON ASSURANCE BY THE ENTITY RECEIVING THE**
12 **INFORMATION THAT IT WILL REIMBURSE THE COST OF PROVIDING THE**
13 **INFORMATION AND WILL NOT DISCLOSE THE INFORMATION EXCEPT TO THE**
14 **INDIVIDUAL OR EMPLOYER THAT IS THE SUBJECT OF THE INFORMATION, AN**
15 **ATTORNEY OR AGENT OF THE INDIVIDUAL OR EMPLOYER, OR A PROSECUTING**
16 **AUTHORITY FOR OR ON BEHALF OF THE ENTITY RECEIVING THE**
17 **INFORMATION.**

18 (vii) Upon request, the commission shall furnish to any
19 agency of the United States charged with the administration of
20 public works or assistance through public employment, and may
21 furnish to any state agency similarly charged, the name, address,
22 ordinary occupation, and employment status of each recipient of
23 benefits and the recipient's rights to further benefits under
24 this act.

25 (viii) Subject to restrictions the commission prescribes, by
26 rule or otherwise, the commission may also make information that
27 it obtains available for use in connection with research projects

1 of a public service nature to a college, university, or agency of
2 this state that is acting as a contractor or agent of a public
3 official and conducting research that assists the public official
4 in carrying out the duties of the office. A person associated
5 with those institutions or agencies shall not disclose the
6 information in any manner that would reveal the identity of any
7 individual or employing unit from or concerning whom the
8 information was obtained by the commission. The unemployment
9 insurance agency shall enter into a written, enforceable
10 agreement with the public official that holds the official
11 responsible for ensuring that the agent or contractor maintains
12 the confidentiality of the information. If the agreement is
13 violated, the agreement shall be terminated and the public
14 official may be subject to penalties equivalent to those that
15 apply under section 54(f) to a person associated with a college,
16 university, or public agency who discloses confidential
17 information.

18 (ix) The commission may request the comptroller of the
19 currency of the United States to cause an examination of the
20 correctness of any return or report of any national banking
21 association rendered under this act, and may, in connection with
22 the request, transmit the report or return to the comptroller of
23 the currency of the United States as provided in section 3305(c)
24 of the internal revenue code of 1986, 26 USC 3305(c).

25 (2) The commission shall disclose to qualified requesting
26 agencies, upon request, with respect to an identified individual,
27 information in its records pertaining to the individual's name;

1 social security number; gross wages paid during each quarter; the
2 name, address, and federal and state employer identification
3 number of the individual's employer; any other wage information;
4 whether an individual is receiving, has received, or has applied
5 for unemployment benefits; the amount of unemployment benefits
6 the individual is receiving or is entitled to receive; the
7 individual's current or most recent home address; whether the
8 individual has refused an offer of work and if so a description
9 of the job offered including the terms, conditions, and rate of
10 pay; and any other information which the qualified requesting
11 agency considers useful in verifying eligibility for, and the
12 amount of, benefits. For purposes of this subdivision, "qualified
13 requesting agency" means any state or local child support
14 enforcement agency responsible for enforcing child support
15 obligations under a plan approved under part d of title IV of the
16 social security act, 42 USC 651 to 669b; the United States
17 department of health and human services for purposes of
18 establishing or verifying eligibility or benefit amounts under
19 titles II and XVI of the social security act, 42 USC 401 to 434
20 and 42 USC 1381 to 1383f; the United States department of
21 agriculture for the purposes of determining eligibility for, and
22 amount of, benefits under the food stamp program established
23 under the food stamp act of 1977, 7 USC 2011 to 2036; and any
24 other state or local agency of this or any other state
25 responsible for administering the following programs:

26 (i) The aid to families with dependent children program under
27 part a of title IV of the social security act, 42 USC 601 to 619.

1 (ii) The medicaid program under title XIX of the social
2 security act, 42 USC 1396 to 1396v.

3 (iii) The unemployment compensation program under section 3304
4 of the internal revenue code of 1986, 26 USC 3304.

5 (iv) The food stamp program under the food stamp act of 1977,
6 7 USC 2011 to 2036.

7 (v) Any state program under a plan approved under title I,
8 X, XIV, or XVI of the social security act, 42 USC 301 to 306, 42
9 USC 1201 to 1206, 42 USC 1351 to 1355, and 42 USC 1381 to 1383f.

10 (vi) Any program administered under the social welfare act,
11 1939 PA 280, MCL 400.1 to 400.119b.

12 The information shall be disclosed only if the qualified
13 requesting agency has executed an agreement with the commission
14 to obtain the information and if the information is requested for
15 the purpose of determining the eligibility of applicants for
16 benefits, or the type and amount of benefits for which applicants
17 are eligible, under any of the programs listed above or under
18 title II and XVI of the social security act, 42 USC 401 to 434
19 and 42 USC 1381 to 1383f; for establishing and collecting child
20 support obligations from, and locating individuals owing such
21 obligations that are being enforced under a plan described in
22 section 454 of the social security act, 42 USC 654; or for
23 investigating or prosecuting alleged fraud under any of these
24 programs.

25 The commission shall cooperate with the department of human
26 services in establishing the computer data matching system
27 authorized in section 83 of the social welfare act, 1939 PA 280,

1 MCL 400.83, to transmit the information requested on at least a
2 quarterly basis. The information shall not be released unless the
3 qualified requesting agency agrees to reimburse the commission
4 for the costs incurred in furnishing the information.

5 In addition to the requirements of this section, except as
6 later provided in this subdivision, all other requirements with
7 respect to confidentiality of information obtained in the
8 administration of this act apply to the use of the information by
9 the officers and employees of the qualified requesting agencies,
10 and the sanctions imposed under this act for improper disclosure
11 of the information apply to those officers and employees. A
12 qualified requesting agency may redisclose information only to
13 the individual who is the subject of the information, an attorney
14 or other duly authorized agent representing the individual if the
15 information is needed in connection with a claim for benefits
16 against the requesting agency, or any criminal or civil
17 prosecuting authority acting for or on behalf of the requesting
18 agency.

19 The commission is authorized to enter into an agreement with
20 any qualified requesting agency for the purposes described in
21 this subdivision. The agreement or agreements shall comply with
22 all federal laws and regulations applicable to such agreements.

23 (3) The commission shall enable the United States department
24 of health and human services to obtain prompt access to any wage
25 and unemployment benefit claims information, including any
26 information that may be useful in locating an absent parent or an
27 absent parent's employer, for purposes of section 453 of the

1 social security act, 42 USC 653, in carrying out the child
2 support enforcement program under title IV of the social security
3 act, 42 USC 601 to 679b. Access to the information shall not be
4 provided unless the requesting agency agrees to reimburse the
5 commission for the costs incurred in furnishing the information.

6 (4) Upon request accompanied by presentation of a consent to
7 the release of information signed by an individual, the
8 commission shall disclose to the United States department of
9 housing and urban development, ~~and any state or local public~~
10 **housing agency, OR AN ENTITY CONTRACTING WITH A STATE OR LOCAL**
11 **PUBLIC HOUSING AGENCY TO PROVIDE PUBLIC HOUSING, OR ANY OTHER**
12 **AGENCY** responsible for verifying an applicant's or participant's
13 eligibility for, or level of benefits in, any housing assistance
14 program administered by the United States department of housing
15 and urban development, the name, address, wage information,
16 whether an individual is receiving, has received, or has applied
17 for unemployment benefits, and the amount of unemployment
18 benefits the individual is receiving or is entitled to receive
19 under this act. This information shall be used only to determine
20 an individual's eligibility for benefits or the amount of
21 benefits to which an individual is entitled under a housing
22 assistance program of the United States department of housing and
23 urban development. The information shall not be released unless
24 the requesting agency agrees to reimburse the commission for the
25 costs incurred in furnishing the information. For purposes of
26 this subdivision, "public housing agency" means an agency
27 described in section 3(b)(6) of the United States housing act of

1 1937, 42 USC 1437a(b)(6).

2 (5) The commission may make available to the department of
3 treasury information collected for the income and eligibility
4 verification system begun on October 1, 1988 for the purpose of
5 detecting potential tax fraud in other areas.

6 (6) A recipient of confidential information under this act
7 shall use the disclosed information only for purposes authorized
8 by law and consistent with an agreement entered into with the
9 unemployment insurance agency. The recipient shall not redisclose
10 the information to any other individual or entity without the
11 written permission of the unemployment insurance agency.

12 (c) The commission may enter into agreements with the
13 appropriate agencies of other states or the federal government
14 whereby potential rights to benefits accumulated under the
15 unemployment compensation laws of other states or of the federal
16 government, or both, may constitute the basis for the payment of
17 benefits through a single appropriate agency under plans that the
18 commission finds will be fair and reasonable to all affected
19 interests and will not result in substantial loss to the
20 unemployment compensation fund.

21 (d)(1) The commission may enter into reciprocal agreements
22 with the appropriate agencies of other states or of the federal
23 government adjusting the collection and payment of contributions
24 by employers with respect to employment not localized within this
25 state.

26 (2) The commission may enter into reciprocal agreements with
27 agencies of other states administering unemployment compensation,

1 whereby contributions paid by an employer to any other state may
2 be received by the other state as an agent acting for and on
3 behalf of this state to the same extent as if the contributions
4 had been paid directly to this state if the payment is remitted
5 to this state. Contributions so received by another state shall
6 be considered contributions, required and paid under this act as
7 of the date the contributions were received by the other state.
8 The commission may collect contributions in a like manner for
9 agencies of other states administering unemployment compensation
10 and remit the contributions to the agencies under the terms of
11 the reciprocal agreements.

12 (e) The commission may make the state's records relating to
13 the administration of this act available and may furnish to the
14 railroad retirement board or any other state or federal agency
15 administering an unemployment compensation law, at the expense of
16 that board, state, or agency, copies of the records as the
17 railroad retirement board considers necessary for its purpose.

18 (f) The commission may cooperate with or enter into
19 agreements with any agency of another state or of the United
20 States charged with the administration of any unemployment
21 insurance or public employment service law.

22 The commission may investigate, secure, and transmit
23 information, make available services and facilities, and exercise
24 other powers provided in this act with respect to the
25 administration of this act as it considers necessary or
26 appropriate to facilitate the administration of any unemployment
27 compensation or public employment service law, and may accept and

1 utilize information, services, and facilities made available to
2 this state by the agency charged with the administration of any
3 other unemployment compensation or public employment service law.

4 On request of an agency that administers an employment
5 security law of another state or foreign government and that has
6 found, in accordance with that law, that a claimant is liable to
7 repay benefits received under that law, the commission may
8 collect the amount of the benefits from the claimant to be
9 refunded to the agency.

10 In any case in which under this subsection a claimant is
11 liable to repay any amount to the agency of another state or
12 foreign government, the amount may be collected by civil action
13 in the name of the commission acting as agent for the agency.
14 Court costs shall be paid or guaranteed by the agency of that
15 state.

16 To the extent permissible under the laws and constitution of
17 the United States, the commission may enter into or cooperate in
18 arrangements whereby facilities and services provided under this
19 act and facilities and services provided under the unemployment
20 compensation law of Canada may be utilized for the taking of
21 claims and the payment of benefits under the unemployment
22 compensation law of this state or under a similar law of Canada.

23 Any employer who is not a resident of this state and who
24 exercises the privilege of having 1 or more individuals perform
25 service for him or her within this state, and any resident
26 employer who exercises that privilege and thereafter leaves this
27 state, is considered to have appointed the secretary of state as

1 his or her agent and attorney for the acceptance of process in
2 any civil action under this act. In instituting the action, the
3 commission shall cause process or notice to be filed with the
4 secretary of state, and the service shall be sufficient and shall
5 be of the same force and validity as if served upon the
6 nonresident or absent employer personally within this state. The
7 commission immediately shall send notice of the service of
8 process or notice, together with a copy thereof, by certified
9 mail, return receipt requested, to the employer at his or her
10 last known address. The return receipt, the commission's
11 affidavit of compliance with this section, and a copy of the
12 notice of service shall be attached to the original of the
13 process filed in the court in which the civil action is pending.

14 The courts of this state shall recognize and enforce
15 liabilities, as provided in this act, for unemployment
16 compensation contributions, penalties, and interest imposed by
17 other states that extend a like comity to this state.

18 The attorney general may commence action in the appropriate
19 court of any other state or any other jurisdiction of the United
20 States by and in the name of the commission to collect
21 unemployment compensation contributions, penalties, and interest
22 finally determined, redetermined, or decided under this act to be
23 legally due this state. The officials of other states that extend
24 a like comity to this state may sue in the courts of this state
25 for the collection of unemployment compensation contributions,
26 penalties, and interest, the liability for which has been
27 similarly established under the laws of the other state or

1 jurisdiction. A certificate by the secretary of another state
2 under the great seal of that state attesting the authority of the
3 official or officials to collect unemployment compensation
4 contributions, penalties, and interest is conclusive evidence of
5 that authority.

6 The attorney general may commence action in this state as
7 agent for or on behalf of any other state to enforce judgments
8 and established liabilities for unemployment compensation taxes
9 or contributions, penalties, and interest due the other state if
10 the other state extends a like comity to this state.

11 (g) The commission may also enter into reciprocal agreements
12 with the appropriate and authorized agencies of other states or
13 of the federal government whereby remuneration and services that
14 determine entitlement to benefits under the unemployment
15 compensation law of another state or of the federal government
16 are considered wages and employment for the purposes of sections
17 27 and 46, if the other state agency or agency of the federal
18 government has agreed to reimburse the fund for that portion of
19 benefits paid under this act upon the basis of the remuneration
20 and services as the commission finds will be fair and reasonable
21 as to all affected interests. A reciprocal agreement may provide
22 that wages and employment that determine entitlement to benefits
23 under this act are considered wages or services on the basis of
24 which unemployment compensation under the law of another state or
25 of the federal government is payable; may provide that services
26 performed by an individual for a single employing unit for which
27 services are customarily performed by the individual in more than

1 1 state are considered services performed entirely within any 1
2 of the states in which any part of the individual's service is
3 performed, in which the individual has his or her residence, or
4 in which the employing unit maintains a place of business, if
5 there is in effect as to those services, an election approved by
6 the agency charged with the administration of the state's
7 unemployment compensation law, under which all the services
8 performed by the individual for the employing unit are considered
9 to be performed entirely within the state; and may provide that
10 the commission will reimburse other state or federal agencies
11 charged with the administration of unemployment compensation laws
12 with such reasonable portion of benefits, paid under the law of
13 any other state or of the federal government upon the basis of
14 employment and wages, as the commission finds will be fair and
15 reasonable as to all affected interests. Reimbursements payable
16 under this subsection are considered benefits for the purpose of
17 limiting duration of benefits and for the purposes of sections
18 20(a) and 26, and the payments shall be charged to the
19 contributing employer's experience account for the purposes of
20 sections 17, 18, 19, and 20, or the reimbursing employer's
21 account under section 13c, 13g, 13i, or 13l, as applicable.
22 Benefits paid under a combined wage plan shall be allocated and
23 charged to each employer involved in the quarter in which the
24 paying state requires reimbursement. Benefits charged to this
25 state shall be allocated to each employer of this state who has
26 employed the claimant during the base period of the paying state
27 in the same ratio that the wages earned by the claimant during

1 the base period of the paying state in the employ of the employer
2 bears to the total amount of wages earned by the claimant in the
3 base period of the paying state in the employ of all employers of
4 the state. The commission is authorized to make to other state or
5 federal agencies and receive from other state or federal agencies
6 reimbursements from or to the fund, in accordance with
7 arrangements made under this section.

8 (h) The commission may enter into any agreement necessary to
9 cooperate with any agency of the United States charged with the
10 administration of any program for the payment of primary or
11 supplemental benefits to individuals recently discharged from the
12 military services of the United States, and to assist in the
13 establishing of eligibility and in the payments of benefits under
14 those programs, and for those purposes may accept and administer
15 funds made available by the federal government and may accept and
16 exercise any delegated function under those programs. The
17 commission shall not enter into any agreement providing for, or
18 exercise any function connected with, the disbursement of the
19 state's unemployment trust fund for purposes not authorized by
20 this act.

21 (i) The commission may enter into agreements with the
22 appropriate agency of the United States under which, in
23 accordance with the laws of the United States, the commission, as
24 agent of the United States or from funds provided by the United
25 States, provides for the payment of unemployment compensation or
26 unemployment allowances of any kind, including the payment of any
27 benefits and allowances that are made available for manpower

1 development, training, retraining, readjustment, and relocation.
2 The commission may receive and disburse funds from the United
3 States or any appropriate agency of the United States in
4 accordance with any such agreements.

5 If the federal enactment providing for unemployment
6 compensation, training allowance, or relocation payments requires
7 joint federal-state financing of such payments, the commission
8 may participate in the programs by using funds appropriated by
9 the legislature to the extent provided by the legislature for
10 such programs.

11 (j) The commission shall participate in any arrangement that
12 provides for the payment of compensation on the basis of
13 combining an individual's wages and employment covered under this
14 act with his or her wages and employment covered under the
15 unemployment compensation laws of other states, if the
16 arrangement is approved by the United States secretary of labor
17 in consultation with the state unemployment compensation agencies
18 as reasonably calculated to assure the prompt and full payment of
19 compensation. An arrangement shall include provisions for both of
20 the following:

21 (i) Applying the base period of a single state law to a claim
22 involving the combining of an individual's wages and employment
23 covered under 2 or more state unemployment compensation laws.

24 (ii) Avoiding the duplicate use of wages and employment as a
25 result of the combining.

26 (k) In a proceeding before any court, the commission and the
27 state shall be represented by the attorney general of this state

1 or attorneys designated by the attorney general. Only the
2 attorney general or other attorneys designated by the attorney
3 general shall act as legal counsel for the commission.

4 Sec. 13. (1) Each employer subject to this act shall pay to
5 the ~~commission~~**UNEMPLOYMENT AGENCY** a tax in the form of payments
6 in lieu of contributions where the employer is liable for those
7 payments, or tax contributions equal to a standard rate of 2.7%
8 for calendar years before 1985 and 5.4% for calendar year 1985
9 and thereafter, subject to an adjustment in rate of contributions
10 as provided in section 19. The contributions shall become due and
11 be paid to the ~~commission~~**UNEMPLOYMENT AGENCY**, for the
12 unemployment compensation fund, by each employer semiannually or
13 for shorter periods of not less than 28 days, as the ~~commission~~
14 **UNEMPLOYMENT AGENCY** may by rule prescribe. **CONTRIBUTIONS DUE AND**
15 **PAYABLE FROM AN EMPLOYER THAT IS LIABLE UNDER THIS ACT SOLELY ON**
16 **THE BASIS OF THE PAYMENT OF WAGES FOR DOMESTIC SERVICE MAY BE**
17 **PAID ANNUALLY ON THE DATE SPECIFIED BY THE UNEMPLOYMENT AGENCY.**
18 **CONTRIBUTIONS, AND PAYMENTS IN LIEU OF CONTRIBUTIONS, SHALL BE**
19 **CREDITED FIRST TO PENALTY; THEN TO INTEREST; AND THEN TO**
20 **PRINCIPAL, UNPAID AND OWING IN THE OLDEST CALENDAR QUARTER AND**
21 **PROGRESSING EACH QUARTER TO THE MOST RECENT QUARTER.** An
22 employer's contribution shall not be deducted directly or
23 indirectly, in whole or in part, from wages of individuals in his
24 or her employ. ~~In the payment of contributions, a fractional part~~
25 ~~of a cent shall be disregarded unless it amounts to 1/2 cent or~~
26 ~~more, in which case it shall be increased to 1 cent.~~ **A**
27 **CONTRIBUTION PAYMENT AMOUNT THAT IS NOT AN EVEN DOLLAR AMOUNT**

1 SHALL BE CREDITED TO THE ACCOUNT OF THE EMPLOYER IN AN AMOUNT
2 EQUAL TO THE NEXT LOWER DOLLAR AMOUNT IF UNDER 50 CENTS AND IN AN
3 AMOUNT EQUAL TO THE NEXT HIGHER DOLLAR AMOUNT IF 50 CENTS OR
4 MORE. The ~~commission~~ **UNEMPLOYMENT AGENCY** may prescribe by rule
5 the details of the computation and payment of contributions.
6 Every employing unit shall file with the ~~commission~~ **UNEMPLOYMENT**
7 **AGENCY** periodic reports on forms and at a time as ~~the commission~~
8 ~~shall prescribe~~ **THE UNEMPLOYMENT AGENCY PRESCRIBES** to disclose
9 liability for contributions under this act. Each employing unit
10 shall keep records, including wage and employment records, and
11 shall, within prescribed time limits, submit or provide reports,
12 including wage and employment reports, to the ~~commission~~
13 **UNEMPLOYMENT AGENCY** or to the employing unit's employees or
14 former employees as the ~~commission may by rule prescribe as~~
15 ~~necessary to carry out this act.~~ **UNEMPLOYMENT AGENCY PRESCRIBES BY**
16 **RULE.**

17 (2) Beginning with the first quarter of 1986, each employer
18 shall file a quarterly wage report with the ~~commission,~~
19 **UNEMPLOYMENT AGENCY**, on forms and at a time as the ~~commission~~
20 ~~shall prescribe,~~ **UNEMPLOYMENT AGENCY PRESCRIBES**, which shall
21 include for each of the employer's employees the employee's name,
22 social security number, gross wages paid during each quarter, and
23 the name, address, and federal and state employer identification
24 number of the individual's employer. **IF THE UNEMPLOYMENT AGENCY**
25 **DISCOVERS AN ERROR IN A REPORT FILED TIMELY, THE UNEMPLOYMENT**
26 **AGENCY SHALL PROVIDE WRITTEN NOTIFICATION TO THE EMPLOYER OF THE**
27 **ERROR. IF THE EMPLOYER PROVIDES CORRECTED INFORMATION WITHIN 14**

1 DAYS OF THE NOTIFICATION, THE ADMINISTRATIVE FINE PROVIDED IN
2 SECTION 54 FOR A LATE, INCOMPLETE, OR ERRONEOUS REPORT SHALL NOT
3 APPLY. AN EMPLOYER HAVING MORE THAN 25 EMPLOYEES ON JANUARY 1,
4 2013 SHALL FILE QUARTERLY REPORTS BEGINNING WITH THE REPORT FOR
5 THE FIRST QUARTER OF 2013 BY AN ELECTRONIC METHOD APPROVED BY THE
6 UNEMPLOYMENT AGENCY. AN EMPLOYER HAVING MORE THAN 5 BUT FEWER
7 THAN 26 EMPLOYEES ON JANUARY 1, 2013 SHALL FILE QUARTERLY REPORTS
8 BEGINNING WITH THE REPORT FOR THE FIRST QUARTER OF 2014 BY AN
9 ELECTRONIC METHOD APPROVED BY THE UNEMPLOYMENT AGENCY. AN
10 EMPLOYER HAVING 5 OR FEWER EMPLOYEES ON JANUARY 1, 2013 SHALL
11 FILE QUARTERLY REPORTS BEGINNING WITH THE REPORT FOR THE FIRST
12 QUARTER OF 2015 BY AN ELECTRONIC METHOD APPROVED BY THE
13 UNEMPLOYMENT AGENCY, EXCEPT THAT THE DIRECTOR OF THE UNEMPLOYMENT
14 AGENCY, UPON APPLICATION BY THE EMPLOYER, MAY GRANT ADDITIONAL
15 TIME FOR THE EMPLOYER TO COMPLY WITH THE ELECTRONIC FILING METHOD
16 IF THE DIRECTOR CONCLUDES THAT SATISFYING THE REQUIREMENT OF
17 ELECTRONIC FILING WILL CAUSE ECONOMIC HARDSHIP FOR THE EMPLOYER.
18 THE EMPLOYER SHALL PROVIDE, AND THE DIRECTOR SHALL CONSIDER,
19 INFORMATION ABOUT THE EMPLOYER'S ANTICIPATED COST EXPENDITURE FOR
20 PREPARING FOR ELECTRONIC FILING AND ABOUT THE EMPLOYER'S ANNUAL
21 INCOME. AN EMPLOYER THAT COMPLIES WITH THE REPORTING REQUIREMENTS
22 OF THIS SUBSECTION BY FILING ELECTRONICALLY A QUARTERLY WAGE
23 REPORT USING A METHOD APPROVED BY THE UNEMPLOYMENT AGENCY IS NOT
24 REQUIRED TO FILE PERIODICALLY TO DISCLOSE CONTRIBUTIONS UNDER
25 THIS ACT.

26 (3) THE UNEMPLOYMENT AGENCY SHALL ALLOW A CONTRIBUTING
27 EMPLOYER THAT EMPLOYED 25 OR FEWER INDIVIDUALS DURING THE PAY

1 PERIOD THAT INCLUDES JANUARY 12, 2012, OR DURING THE
2 CORRESPONDING PAY PERIOD IN EACH SUCCEEDING CALENDAR YEAR, AND
3 THAT INCURRED 50% OR MORE OF THE EMPLOYER'S TOTAL PREVIOUS YEAR'S
4 CONTRIBUTION OBLIGATION IN THE FIRST QUARTER OF THAT YEAR TO
5 DISCHARGE THE LIABILITY FOR CONTRIBUTIONS DUE IN THE NEXT
6 SUCCEEDING YEAR THROUGH QUARTERLY PAYMENTS THAT DISTRIBUTE THE
7 PAYMENT OF THE FIRST QUARTER'S OBLIGATION EQUALLY OVER THE 4
8 QUARTERS IN THAT YEAR. TO AVOID INTEREST AND PENALTIES OTHERWISE
9 APPLICABLE TO THOSE PAYMENTS, AN EMPLOYER MEETING THE
10 REQUIREMENTS OF THIS SUBSECTION SHALL NOTIFY THE UNEMPLOYMENT
11 AGENCY OF THE ELECTION TO MAKE APPORTIONED PAYMENTS WITH THE
12 FIRST QUARTER'S PAYMENT AND TIMELY FILE EACH SUCCEEDING QUARTERLY
13 PAYMENT IN THE AMOUNTS PRESCRIBED IN SECTION 15A. THIS SUBSECTION
14 APPLIES TO CONTRIBUTIONS BEGINNING IN THE 2013 TAX YEAR.

15 Sec. 13m. (1) A professional employer organization that has
16 not previously filed shall file a report with the agency in
17 accordance with R 421.121 and R 421.190 of the Michigan
18 administrative code for a determination of its status as a liable
19 employing unit and employer under this act. A PEO determined to
20 be a liable employer shall complete an electronic employer
21 registration in the manner approved by the agency to register its
22 employer liability.

23 (2) Except as provided in subdivision (b), a PEO that is a
24 liable employer shall use the following method for reporting
25 wages and paying unemployment contributions under this act:

26 (a) The PEO shall comply with all requirements of this act
27 that apply to a contributing employer. The PEO shall file a

1 single quarterly wage report and unemployment contribution report
2 and pay contributions of its client employers based on the
3 account information of each client employer. The unemployment
4 agency shall convert a reimbursing employer to a contributing
5 employer beginning with the calendar quarter in which the
6 employer becomes a client employer of a PEO. The PEO shall file
7 reports required under R 421.121 of the Michigan administrative
8 code and make contribution payments by electronic reporting and
9 payment methods approved by the agency. The PEO shall notify the
10 agency within 30 days after any employer becomes its client
11 employer and within 30 days after any client employer
12 discontinues its association with the PEO. All of the following
13 apply to a rate calculation for client employers of the PEO:

14 (i) For a client employer that is a contributing employer and
15 was a client employer of the PEO on the date that the PEO changed
16 to the reporting method provided in this subdivision, the
17 following rates apply:

18 (A) Except as provided in sub-subparagraphs (B) and (C), if
19 the client employer reported no employees or no payroll to the
20 agency for ~~8-12~~ or more quarters, the client employer's
21 unemployment tax rate will be the new employer tax rate.

22 (B) If the client employer was a client employer of the PEO
23 for less than ~~8-12~~ full calendar quarters, the client employer's
24 unemployment tax rate will be based on the client employer's
25 prior account and experience.

26 (C) If the client employer's account has been terminated for
27 more than 1 year or if the client employer never previously

1 registered with the agency, the client shall be separately
2 registered using a method approved by the agency within 30 days
3 after the employer becomes a client employer of the PEO. The
4 client employer shall be assigned the new employer unemployment
5 tax rate.

6 (ii) A business entity that is a contributing employer and
7 becomes a client employer of the PEO on or after January 1, 2011
8 shall retain its existing unemployment tax rate or establish a
9 new rate as provided in section 19.

10 (b) A PEO that is a liable employer and that was operating
11 in this state before January 1, 2011 may elect and use the
12 reporting method in subdivision (a) before January 1, 2014, but
13 shall report using the method in subdivision (a) on and after
14 January 1, 2014.

15 (3) A PEO that is a liable employer is the employer for
16 purposes of claims management and hearings under this act on
17 behalf of the client employer.

18 (4) A PEO that reports under subsection (2)(a) shall confirm
19 the mailing address of the client employer, which may be stated
20 as that of the PEO or of the client employer. The PEO shall
21 disclose the business address of the client employer, which shall
22 be the physical address of the client employer, to the agency.

23 (5) Either the PEO that reports under subsection (2)(a) or
24 the PEO's client employers, but not both, shall file a quarterly
25 wage detail report electronically, and shall file a quarterly
26 contribution payment in a manner approved by the agency. **IF A**
27 **CLIENT ENTITY OF A PEO LEASES SOME OF ITS EMPLOYEES FROM THE PEO**

1 BUT RETAINS THE REMAINDER OF ITS EMPLOYEES, THE LEASED EMPLOYEES
 2 SHALL BE REPORTED BY THE PEO UNDER THE CLIENT ENTITY'S
 3 UNEMPLOYMENT INSURANCE AGENCY ACCOUNT NUMBER AND THE RETAINED
 4 EMPLOYEES SHALL BE REPORTED BY THE CLIENT ENTITY UNDER AN AGENCY-
 5 ASSIGNED SUBACCOUNT NUMBER OF THE CLIENT ENTITY'S ACCOUNT NUMBER.

6 (6) The agency shall issue a FUTA certification in
 7 accordance with the internal revenue code of 1986, 26 USC 1 to
 8 9834, and regulations, rulings, instructions, and directives of
 9 the internal revenue service.

10 (7) The requirements of this section do not preclude the
 11 agency from enforcing any provision of this act based on any act
 12 or omission by a PEO that occurred before January 1, 2011.

13 (8) As used in this section, "professional employer
 14 organization" or "PEO" means that term as defined in R
 15 421.190(1)(d) of the Michigan administrative code.

16 Sec. 15. (a) Contributions unpaid on the date on which they
 17 are due and payable, as prescribed by the ~~commission,~~

18 **UNEMPLOYMENT AGENCY, AND UNPAID RESTITUTION OF BENEFIT**

19 **OVERPAYMENTS** shall bear interest at the rate of 1% per month,
 20 computed on a day-to-day basis for each day the delinquency is
 21 unpaid, from and after that date until payment plus accrued
 22 interest is received by the ~~commission~~ **UNEMPLOYMENT AGENCY.**

23 ~~Amounts illegally obtained or previously withheld from payment~~
 24 ~~and damages that are recovered by the commission under section~~
 25 ~~54(a) and (b) and sections 54a to 54c shall bear interest at the~~
 26 ~~rate of 1% per month, computed on a day to day basis for each day~~
 27 ~~the amounts remain unpaid until payment plus accrued interest is~~

1 ~~received by the commission.~~ The interest on unpaid contributions
 2 **AND ON UNPAID BENEFIT OVERPAYMENTS**, exclusive of penalties, shall
 3 not exceed 50% of the amount of contributions due at due date **OR**
 4 **50% OF THE AMOUNT OF RESTITUTION OWING. NOTHING IN THIS ACT**
 5 **AUTHORIZES THE ASSESSMENT OR COLLECTION OF INTEREST ON A PENALTY**
 6 **IMPOSED UNDER THIS ACT.** Interest and penalties collected pursuant
 7 to this section shall be paid into the contingent fund. ~~except~~
 8 ~~that interest and penalties collected under section 62 shall be~~
 9 ~~paid into the special fraud control fund.~~ The commission
 10 **UNEMPLOYMENT AGENCY** may cancel any interest and any penalty when
 11 it is shown that the failure to pay on or before the last day on
 12 which the tax could have been paid without interest and penalty
 13 was not the result of negligence, intentional disregard of the
 14 rules of the ~~commission,~~ **UNEMPLOYMENT AGENCY**, or fraud.

15 (b) The ~~commission~~ **UNEMPLOYMENT AGENCY** may make assessments
 16 against an employer, claimant, employee of the ~~commission,~~
 17 **UNEMPLOYMENT AGENCY**, or third party who fails to pay
 18 contributions, **RESTITUTION OF BENEFIT OVERPAYMENTS**, reimbursement
 19 payments in lieu of contributions, penalties, forfeitures, or
 20 interest as required by this act. The ~~commission~~ **UNEMPLOYMENT**
 21 **AGENCY** shall immediately notify the employer, claimant, employee
 22 of the ~~commission,~~ **UNEMPLOYMENT AGENCY**, or third party of the
 23 assessment in writing by first-class mail. An assessment by the
 24 ~~commission~~ **UNEMPLOYMENT AGENCY** against a claimant, an employee of
 25 the ~~commission,~~ **UNEMPLOYMENT AGENCY**, or a third party under this
 26 subsection shall be made only for penalties ~~and interest on those~~
 27 ~~penalties~~ for violations of section 54(a) or (b) or sections 54a

1 to 54c. The assessment is a final determination unless the
2 employer, claimant, employee of the ~~commission~~, **UNEMPLOYMENT**
3 **AGENCY**, or third party files with the ~~commission~~ **UNEMPLOYMENT**
4 **AGENCY** an application for a redetermination of the assessment in
5 accordance with section 32a. A review by the ~~commission~~
6 **UNEMPLOYMENT AGENCY** or an appeal to a ~~referee~~ **AN ADMINISTRATIVE**
7 **LAW JUDGE** or the ~~appeal board~~ **MICHIGAN COMPENSATION APPELLATE**
8 **COMMISSION** on the assessment does not reopen a question
9 concerning an employer's liability for contributions or
10 reimbursement payments in lieu of contributions **OR A CLAIMANT'S**
11 **ENTITLEMENT TO BENEFITS**, unless the **CLAIMANT OR** employer was not
12 a party to the proceeding or decision where the basis for the
13 assessment was determined. An employer may pay an assessment
14 under protest and file an action to recover the amount paid as
15 provided under subsection (d). Unless an assessment is paid
16 within 15 days after it becomes final the ~~commission~~ **UNEMPLOYMENT**
17 **AGENCY** may issue a warrant under its official seal for the
18 collection of the assessed amount. The ~~commission~~ **UNEMPLOYMENT**
19 **AGENCY** through its authorized employees, under a warrant issued,
20 may **PLACE A LIEN ON ANY BANK ACCOUNT OF THE CLAIMANT OR EMPLOYER**
21 **AND MAY** levy upon and sell the property of the employer that is
22 used in connection with the employer's business, or that is
23 subject to a notice to withhold, found within the state, for the
24 payment of the amount of the contributions including penalties,
25 interests, and the cost of executing the warrant. Property of the
26 employer used in connection with the employer's business is not
27 exempt from levy under the warrant. Wages subject to a notice to

1 withhold are exempt to the extent the wages are exempt from
2 garnishment under the laws of this state. The warrant shall be
3 returned to the ~~commission~~**UNEMPLOYMENT AGENCY** together with the
4 money collected under the warrant within the time specified in
5 the warrant which shall not be less than 20 or more than 90 days
6 after the date of the warrant. The ~~commission~~**UNEMPLOYMENT AGENCY**
7 shall proceed upon the warrant as prescribed by law in respect to
8 executions issued against property upon judgments by a court of
9 record. The state, through the ~~commission~~**UNEMPLOYMENT AGENCY** or
10 some other officer or agent designated by it, may bid for and
11 purchase property sold under the provisions of this subsection.
12 If an employer, claimant, employee of the ~~commission~~,
13 **UNEMPLOYMENT AGENCY**, or third party, as applicable, is delinquent
14 in the payment of a contribution, reimbursement payment in lieu
15 of contribution, penalty, forfeiture, or interest provided for in
16 this act, the ~~commission~~**UNEMPLOYMENT AGENCY** may give notice of
17 the amount of the delinquency served either personally or by
18 mail, to a person or legal entity, including the state and its
19 subdivisions, that has in its possession or under its control a
20 credit or other intangible property belonging to the employer,
21 claimant, employee of the ~~commission~~,**UNEMPLOYMENT AGENCY**, or
22 third party, or who owes a debt to the employer, claimant,
23 employee of the ~~commission~~,**UNEMPLOYMENT AGENCY**, or third party
24 at the time of the receipt of the notice. A person or legal
25 entity so notified shall not transfer or dispose of the credit,
26 other intangible property, or debt without retaining an amount
27 sufficient to pay the amount specified in the notice unless the

1 unemployment agency consents to a transfer or disposition or 45
2 days have elapsed from the receipt of the notice. A person or
3 legal entity so notified shall advise the unemployment agency
4 within 5 days after receipt of the notice of a credit, other
5 intangible property, or debt, which is in its possession, under
6 its control, or owed by it. A person or legal entity that is
7 notified and that transfers or disposes of credits or personal
8 property in violation of this section is liable to the
9 unemployment agency for the value of the property or the amount
10 of the debts thus transferred or paid, but not more than the
11 amount specified in the notice. An amount due a delinquent
12 employer, claimant, employee of the unemployment agency, or third
13 party subject to a notice to withhold shall be paid to the
14 unemployment agency upon service upon the debtor of a warrant
15 issued under this section.

16 (c) In addition to the mode of collection provided in
17 subsection (b), if, after due notice, an employer defaults in
18 payment of contributions or interest on the contributions, or a
19 claimant, employee of the unemployment agency, or third party
20 defaults in the payment of a penalty or interest on a penalty,
21 the unemployment agency may bring an action at law in a court of
22 competent jurisdiction to collect and recover the amount of a
23 contribution, and any interest on the contribution, or the
24 penalty or interest on the penalty, and in addition 10% of the
25 amount of contributions or penalties found to be due, as damages.
26 An employer, claimant, employee of the unemployment agency, or
27 third party adjudged in default shall pay costs of the action. An

1 action by the unemployment agency against a claimant, employee of
2 the unemployment agency, or third party under this subsection
3 shall be brought only to recover penalties and interest on those
4 penalties for violations of section 54(a) or (b) or sections 54a
5 to 54c. Civil actions brought under this section shall be heard
6 by the court at the earliest possible date. If a judgment is
7 obtained against an employer for contributions and an execution
8 on that judgment is returned unsatisfied, the employer may be
9 enjoined from operating and doing business in this state until
10 the judgment is satisfied. The circuit court of the county in
11 which the judgment is docketed or the circuit court for the
12 county of Ingham may grant an injunction upon the petition of the
13 unemployment agency. A copy of the petition for injunction and a
14 notice of when and where the court shall act on the petition
15 shall be served on the employer at least 21 days before the court
16 may grant the injunction.

17 (d) An employer or employing unit improperly charged or
18 assessed contributions provided for under this act, or a
19 claimant, employee of the unemployment agency, or third party
20 improperly assessed a penalty under this act and who paid the
21 contributions or penalty under protest within 30 days after the
22 mailing of the notice of determination of assessment, may recover
23 the amount improperly collected or paid, together with interest,
24 in any proper action against the unemployment agency. The circuit
25 court of the county in which the employer or employing unit or
26 claimant, employee of the unemployment agency, or third party
27 resides, or, in the case of an employer or employing unit, in

1 which is located the principal office or place of business of the
2 employer or employing unit, has original jurisdiction of an
3 action to recover contributions improperly paid or collected or a
4 penalty improperly assessed whether or not the charge or
5 assessment has been reviewed by the unemployment agency or heard
6 or reviewed by ~~a referee~~ **AN ADMINISTRATIVE LAW JUDGE** or the
7 ~~appeal board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**. The
8 court has no jurisdiction of the action unless written notice of
9 claim is given to the unemployment agency at least 30 days before
10 the institution of the action. In an action to recover
11 contributions paid or collected or penalties assessed, the court
12 shall allow costs it considers proper. Either party to the action
13 has the right of appeal as is now provided by law in other civil
14 actions. An action by a claimant, employee of the unemployment
15 agency, or third party against the unemployment agency under this
16 subsection shall be brought only to recover penalties and
17 interest on those penalties improperly assessed by the
18 unemployment agency under section 54(a) or (b) or sections 54a to
19 54c. If a final judgment is rendered in favor of the plaintiff in
20 an action to recover the amount of contributions illegally
21 collected or charged, the treasurer of the unemployment agency,
22 upon receipt of a certified copy of the final judgment, shall pay
23 the amount of contributions illegally collected or charged or
24 penalties assessed from the clearing account, and pay interest as
25 allowed by the court, in an amount not to exceed the actual
26 earnings of the contributions as found to have been illegally
27 collected or charged, from the contingent fund.

(e) Except for liens and encumbrances recorded before the filing of the notice provided for in this section, all contributions, interest, and penalties payable under this act to the unemployment agency from an employer, claimant, employee of the unemployment agency, or third party that neglects to pay the same when due are a first and prior lien upon all property and rights to property, real and personal, belonging to the employer, claimant, employee of the unemployment agency, or third party.

The lien continues until the liability for that amount or a judgment arising out of the liability is satisfied or becomes unenforceable by reason of lapse of time. The lien attaches to the property and rights to property of the employer, claimant, employee of the unemployment agency, or third party, whether real or personal, from and after the required filing date of the report upon which the specific tax is computed. Notice of the lien shall be recorded in the office of the register of deeds of the county in which the property subject to the lien is situated, and the register of deeds shall receive the notice for recording.

NOTICE OF THE LIEN MAY ALSO BE FILED WITH THE SECRETARY OF STATE IN ACCORDANCE WITH THE STATE TAX LIEN REGISTRATION ACT, 1968 PA 203, MCL 211.681 TO 211.687. This subsection applies only to penalties and interest on those penalties assessed by the unemployment agency against a claimant, employee of the unemployment agency, or third party for violations of section 54(a) or (b) or sections 54a to 54c.

If there is a distribution of an employer's assets pursuant to an order of a court under the laws of this state, including a

1 receivership, assignment for benefit of creditors, adjudicated
2 insolvency, composition, or similar proceedings, contributions
3 then or thereafter due shall be paid in full before all other
4 claims except for wages and compensation under the worker's
5 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to
6 418.941. In the distribution of estates of decedents, claims for
7 funeral expenses and expenses of last sickness shall also be
8 entitled to priority.

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

12 (g) A person or employing unit ~~—~~that acquires the
13 organization, trade, business, or 75% or more of the assets from
14 an employing unit, as a successor described in section 41(2), is
15 liable for contributions and interest due to the unemployment
16 agency from the transferor at the time of the acquisition in an
17 amount not to exceed the reasonable value of the organization,
18 trade, business, or assets acquired, less the amount of a secured
19 interest in the assets owned by the transferee that are entitled
20 to priority. The transferor or transferee who has, not less than
21 10 days before the acquisition, requested from the unemployment
22 agency in writing a statement certifying the status of
23 contribution liability of the transferor shall be provided with
24 that statement and the transferee is not liable for any amount
25 due from the transferor in excess of the amount of liability
26 computed as prescribed in this subsection and certified by the
27 unemployment agency. At least 2 calendar days not including a

1 Saturday, Sunday, or legal holiday before the acceptance of an
2 offer, the transferor, or the transferor's real estate broker or
3 other agent representing the transferor, shall disclose to the
4 transferee on a form provided by the unemployment agency, the
5 amounts of the transferor's outstanding unemployment tax
6 liability, unreported unemployment tax liability, and the tax
7 payments, tax rates, and cumulative benefit charges for the most
8 recent 5 years, a listing of all individuals currently employed
9 by the transferor, and a listing of all employees separated from
10 employment with the transferor in the most recent 12 months. This
11 form shall specify any other information the unemployment agency
12 determines is required for a transferee to estimate future
13 unemployment compensation costs based on the transferor's benefit
14 charge and unemployment tax reporting and payment experience.
15 Failure of the transferor, or the transferor's real estate broker
16 or other agent representing the transferor, to provide accurate
17 information required by this subsection is a misdemeanor
18 punishable by imprisonment for not more than 90 days, or a fine
19 of not more than \$2,500.00, or both. In addition, the transferor,
20 or the transferor's real estate broker or other agent
21 representing the transferor, is liable to the transferee for any
22 consequential damages resulting from the failure to comply with
23 this subsection. However, the real estate broker or other agent
24 is not liable for consequential damages if he or she exercised
25 good faith in compliance with the disclosure of information. The
26 remedy provided the transferee is not exclusive, and does not
27 reduce any other right or remedy against any party provided for

1 in this or any other act. Nothing in this subsection decreases
2 the liability of the transferee as a successor in interest, or
3 prevents the transfer of a rating account balance as provided in
4 this act. The foregoing provisions are in addition to the
5 remedies the unemployment agency has against the transferor.

6 (h) If a part of a deficiency in payment of the employer's
7 contribution to the fund is due to negligence or intentional
8 disregard of unemployment agency rules, but without intention to
9 defraud, 5% of the total amount of the deficiency, in addition to
10 the deficiency and all other interest charges and penalties
11 provided herein, shall be assessed, collected, and paid in the
12 same manner as a deficiency. If a part of a deficiency is
13 determined in an action at law to be due to fraud with intent to
14 avoid payment of contributions to the fund, then the judgment
15 rendered shall include an amount equal to 50% of the total amount
16 of the deficiency, in addition to the deficiency and all other
17 interest charges and penalties provided herein.

18 (i) If an employing unit fails to make a report as
19 reasonably required by the rules of the unemployment agency
20 pursuant to this act, the unemployment agency may estimate the
21 liability of that employing unit from information it obtains and,
22 according to that estimate, assess the employing unit for the
23 contributions, penalties, and interest due. The unemployment
24 agency may act under this subsection only after a default
25 continues for 30 days and after the unemployment agency has
26 determined that the default of the employing unit is willful.

27 (j) An assessment or penalty with respect to contributions

1 unpaid is not effective for any period before the 3 calendar
2 years preceding the date of the assessment.

3 (k) The rights respecting the collection of contributions
4 and the levy of interest and penalties and damages made available
5 to the unemployment agency by this section are additional to
6 other powers and rights vested in the unemployment agency under
7 other provisions of this act. The unemployment agency may
8 exercise any of the collection remedies under this act even
9 though an application for a redetermination or an appeal is
10 pending final disposition.

11 (l) A person recording a lien under this section shall pay a
12 fee of \$2.00 for recording a lien and a fee of \$2.00 for
13 recording a discharge of a lien.

14 (M) IN ADDITION TO THE RESTITUTION RECOUPMENT METHODS IN
15 SECTION 62, THE UNEMPLOYMENT AGENCY MAY OBTAIN RESTITUTION DUE
16 FROM A CLAIMANT AS A RESULT OF A BENEFIT OVERPAYMENT THAT HAS
17 BECOME FINAL BY ANY OF THE FOLLOWING METHODS:

18 (1) LEVY OF A BANK ACCOUNT BELONGING TO THE CLAIMANT.

19 (2) ENTRY INTO A WAGE ASSIGNMENT WITH THE CLAIMANT.

20 (3) ISSUING AN ADMINISTRATIVE GARNISHMENT OF THE WAGES OF
21 THE CLAIMANT.

22 (N) TO OBTAIN AN ADMINISTRATIVE GARNISHMENT, THE
23 UNEMPLOYMENT AGENCY SHALL NOTIFY THE CLAIMANT OF BOTH OF THE
24 FOLLOWING: THE INTENTION TO ISSUE AN ADMINISTRATIVE GARNISHMENT
25 ON THE CLAIMANT'S EMPLOYER AND THE AMOUNT DETERMINED TO BE DUE
26 FROM THE CLAIMANT. THE NOTICE SHALL INCLUDE A DEMAND FOR
27 IMMEDIATE PAYMENT OF THE AMOUNT DUE, A STATEMENT THAT IT IS NOT

1 SUBJECT TO APPEAL, AND A STATEMENT THAT THE CLAIMANT MAY, WITHIN
2 30 DAYS OF THE ISSUANCE OF THE NOTICE, OBJECT TO THE GARNISHMENT
3 BY PROVIDING INFORMATION TO THE AGENCY, WITH SUPPORTING
4 DOCUMENTATION, THAT THE CLAIMANT DOES NOT OWE THE STATED AMOUNT
5 OF RESTITUTION. NOT LESS THAN 30 DAYS AFTER ISSUING THE NOTICE TO
6 THE CLAIMANT, THE UNEMPLOYMENT AGENCY SHALL NOTIFY THE CLAIMANT'S
7 EMPLOYER TO WITHHOLD FROM EARNINGS DUE OR TO BECOME DUE FROM THE
8 CLAIMANT THE AMOUNT SHOWN ON THE NOTICE PLUS ACCRUED INTEREST.
9 THE EMPLOYER SHALL COMPLY WITH THE NOTICE TO WITHHOLD AND SHALL
10 CONTINUE TO WITHHOLD EACH PAY PERIOD THE AMOUNT SHOWN ON THE
11 NOTICE PLUS ACCRUED INTEREST UNTIL THE GARNISHMENT AMOUNT PLUS
12 ACCRUED INTEREST HAS BEEN SATISFIED AND THE NOTICE IS RELEASED BY
13 THE UNEMPLOYMENT AGENCY. THE UNEMPLOYMENT AGENCY'S ADMINISTRATIVE
14 GARNISHMENT HAS PRIORITY OVER ANY SUBSEQUENT GARNISHMENT OR WAGE
15 ASSIGNMENT. THE AMOUNT SUBJECT TO GARNISHMENT FOR ANY PAY PERIOD
16 SHALL BE DECREASED BY ANY OTHER IRREVOCABLE AND PREVIOUSLY
17 EFFECTIVE ASSIGNMENT OF WAGES OR OTHER GARNISHMENT ACTION SERVED
18 ON THE EMPLOYER BEFORE SERVICE OF THE AGENCY'S GARNISHMENT
19 NOTICE. THE AMOUNT OF THE AGENCY'S GARNISHMENT SHALL NOT EXCEED
20 25% OF THE BALANCE. IN RESPONSE TO THE ADMINISTRATIVE
21 GARNISHMENT, THE EMPLOYER SHALL DO ALL OF THE FOLLOWING:

22 (1) WITHIN 10 CALENDAR DAYS OF THE DATE OF THE AGENCY'S
23 NOTICE TO WITHHOLD WAGES, NOTIFY THE AGENCY OF THE AMOUNT OF ANY
24 IRREVOCABLE AND PREVIOUSLY EFFECTIVE ASSIGNMENT OF WAGES OR
25 GARNISHMENT ACTIONS.

26 (2) WITHIN 10 DAYS AFTER THE END OF EACH PAY PERIOD IN WHICH
27 WAGES ARE REQUIRED TO BE WITHHELD UNDER THE ADMINISTRATIVE

1 GARNISHMENT, REMIT TO THE AGENCY THE AMOUNT WITHHELD PURSUANT TO
2 THE ADMINISTRATIVE GARNISHMENT.

3 (3) WITHIN 10 DAYS AFTER THE DATE ON WHICH THE CLAIMANT
4 CEASES TO BE EMPLOYED BY THE EMPLOYER, NOTIFY THE AGENCY.

5 (O) BEFORE PAYMENT OF A PRIZE OF \$1,000.00 OR MORE UNDER THE
6 MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELEY LOTTERY ACT, 1972 PA 239,
7 MCL 432.1 TO 432.47, THE BUREAU OF STATE LOTTERY SHALL DETERMINE
8 WHETHER A LOTTERY PRIZE WINNER HAS A CURRENT LIABILITY FOR
9 RESTITUTION OF UNEMPLOYMENT BENEFITS, PENALTY, OR INTEREST,
10 ASSESSED BY THE UNEMPLOYMENT INSURANCE AGENCY AND THE AMOUNT OF
11 THE PRIZE OWING TO THE UNEMPLOYMENT INSURANCE AGENCY AND SHALL
12 REMIT THAT AMOUNT TO THE UNEMPLOYMENT INSURANCE AGENCY.

13 SEC. 15A. (1) THE UNEMPLOYMENT AGENCY SHALL NOT COLLECT
14 INTEREST ON A CONTRIBUTION OBLIGATION THAT AN EMPLOYER PAYS
15 THROUGH APPORTIONED QUARTERLY PAYMENTS, IF THE EMPLOYER MEETS THE
16 REQUIREMENTS OF SECTION 13(3) AND HAS REMITTED THE FOLLOWING
17 AMOUNTS OR MORE EACH QUARTER BY THE DATE ESTABLISHED FOR EACH
18 QUARTERLY FILING:

19 (A) FIRST QUARTER - 25% OF THE TOTAL OBLIGATION INCURRED IN
20 THE FIRST QUARTER.

21 (B) SECOND QUARTER - THE OBLIGATION INCURRED IN THE SECOND
22 QUARTER PLUS 25% OF THE TOTAL OBLIGATION FOR THE FIRST QUARTER.

23 (C) THIRD QUARTER - THE OBLIGATION INCURRED IN THE THIRD
24 QUARTER PLUS 25% OF THE TOTAL OBLIGATION FOR THE FIRST QUARTER.

25 (D) FOURTH QUARTER - THE OBLIGATION INCURRED IN THE FOURTH
26 QUARTER PLUS 25% OF THE TOTAL OBLIGATION FOR THE FIRST QUARTER.

27 (2) IF AN EMPLOYER FAILS IN ANY QUARTER TO PAY IN FULL, BY

1 THE DUE DATE OF THE TAX PAYMENT FOR THAT QUARTER, THE PERCENTAGE
2 OF THE TAX DEFERRED FROM THE FIRST QUARTER AS DESCRIBED IN
3 SUBSECTION (1), THE UNEMPLOYMENT AGENCY MAY COLLECT INTEREST AT
4 THE RATE SPECIFIED IN SECTION 15 ON THE AMOUNT OF THE DEFERRED
5 TAX THAT IS DUE IN THAT QUARTER AND UNPAID.

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

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

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

20 (b) Any positive balance remaining in the employer's
21 experience account as of the second June 30 computation date
22 occurring after the employer has ceased to be subject to this act
23 or after the employer has elected to change from a contributing
24 employer to a reimbursing employer.

25 (c) The proceeds of the nonchargeable benefits component of
26 employers' contribution rates determined as provided in section
27 19(a)(5).

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

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

6 (f) All benefits improperly paid to claimants that have been
7 recovered and that were previously charged to an employer's
8 account.

9 (g) Any benefits forfeited by an individual by application
10 of section 62(b).

11 (h) The amount of any benefit check, any employer refund
12 check, ~~or~~ any claimant restitution refund check, **OR OTHER PAYMENT**
13 duly issued that has not been presented for payment within 1 year
14 after the date of issue.

15 (i) Any other unemployment fund income not creditable to the
16 experience account of any employer.

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

19 (k) Amounts transferred from the contingent fund under
20 section 10.

21 (3) The nonchargeable benefits account shall be charged with
22 the following:

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

1 (b) Refunds of amounts erroneously collected due to the
2 nonchargeable benefits component of an employer's contribution
3 rate.

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

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

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

12 (f) The amounts received by the unemployment compensation
13 fund under section 903 of the social security act, 42 USC 1103,
14 that may be appropriated to the ~~bureau~~ **UNEMPLOYMENT AGENCY** in
15 accordance with subsection (8).

16 (g) All benefits determined to have been improperly paid to
17 claimants that have been credited to employers' accounts in
18 accordance with section 20(a).

19 (h) The amount of any substitute check **OR OTHER PAYMENT**
20 issued to replace an uncashed benefit check, employer refund
21 check, ~~ex~~-claimant restitution refund check, **OR OTHER PAYMENT**
22 previously credited to this account.

23 (i) The amount of any benefit check **OR OTHER PAYMENT** issued
24 that would be chargeable to the experience account of an employer
25 who has ceased to be subject to this act, and who has had a
26 balance transferred from the employer's experience account to the
27 solvency or nonchargeable benefits account.

(j) All benefits that become nonchargeable to an employer under ~~section 29(3) or~~ section 19(b) or (c), **29(1)(A)(ii) OR (iii) OR (3), OR 42A.**

(k) For benefit years beginning before October 1, 2000, with benefits allocated under section 20(e)(2) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer, and for benefit years beginning on or after October 1, 2000, with benefits allocated under ~~section 20(e)(3)~~ **20(F)** for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer.

(l) Benefits that are nonchargeable to an employer's account in accordance with section 20(i) **OR (J).**

(M) BENEFITS OTHERWISE CHARGEABLE TO THE ACCOUNT OF AN EMPLOYER WHEN THE BENEFITS ARE PAYABLE SOLELY ON THE BASIS OF COMBINING WAGES PAID BY A MICHIGAN EMPLOYER WITH WAGES PAID BY A NON-MICHIGAN EMPLOYER UNDER THE INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES UNDER 20 CFR 616.1 TO 616.11.

(4) All contributions paid by an employer shall be credited to the unemployment compensation fund, and, except as otherwise provided with respect to the proceeds of the nonchargeable benefits component of employers' contribution rates by section 19(a)(5), to the employer's experience account, as of the date when paid. However, those contributions paid during any July shall be credited as of the immediately preceding June 30.

1 Additional contributions paid by an employer as the result of a
2 retroactive contribution rate adjustment, solely for the purpose
3 of this subsection, shall be credited to the employer's
4 experience account as if paid when due, if the payment is
5 received within 30 days after the issuance of the initial
6 assessment that results from the contribution rate adjustment and
7 a written request for the application is filed by the employer
8 during this period.

9 (5) If an employer who has ceased to be subject to this act,
10 and who has had a positive **OR NEGATIVE** balance transferred as
11 provided in subsection (2) **OR (3)** from the employer's experience
12 account to the solvency or nonchargeable benefits account as of
13 the second computation date after the employer has ceased to be
14 subject to this act, becomes subject to this act again within 6
15 years after that computation date, ~~the employer may apply, within~~
16 ~~60 days after the bureau's determination that the employer is~~
17 ~~again subject to this act, to the bureau to have~~ **THE UNEMPLOYMENT**
18 **AGENCY SHALL TRANSFER** the positive **OR NEGATIVE** balance, adjusted
19 by the debits and credits ~~as have been made subsequent to~~ **THAT**
20 **ARE MADE AFTER** the date of transfer, ~~credited to the employer's~~
21 new experience account. ~~If the application is timely, the bureau~~
22 ~~shall credit the positive balance to the employer's new~~
23 ~~experience account.~~

24 (6) If an employer's status as a reimbursing employer is
25 terminated within 6 years after the date the employer's
26 experience account as a prior contributing employer was
27 transferred to the solvency or nonchargeable benefits account as

1 provided in subsection (2) or (3) and the employer continues to
2 be subject to this act as a contributing employer, any positive
3 or negative balance in the employer's experience account as a
4 prior contributing employer, which was transferred to the
5 solvency or nonchargeable benefits account, shall be transferred
6 to the employer's new experience account. However, an employer
7 who is delinquent with respect to any reimbursement payments in
8 lieu of contributions for which the employer may be liable shall
9 not have a positive balance transferred during the delinquency.

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

14 (8) All money credited under section 903 of the social
15 security act, 42 USC 1103, to the account of the state in the
16 federal unemployment trust fund shall immediately be credited by
17 the ~~bureau~~ **UNEMPLOYMENT AGENCY** to the fund's nonchargeable
18 benefits account. There is authorized to be appropriated to the
19 ~~bureau~~ **UNEMPLOYMENT AGENCY** from the money credited to the
20 nonchargeable benefits account under this subsection, an amount
21 determined to be necessary for the proper and efficient
22 administration by the ~~bureau~~ **UNEMPLOYMENT AGENCY** of this act for
23 purposes for which federal grants under ~~Title~~ **TITLE** 3 of the
24 social security act, 42 USC 501 to 504, and the Wagner-Peyser
25 act, 29 USC 49 to 49l-2, are not available or are insufficient.
26 The appropriation shall expire not more than 2 years after the
27 date of enactment and shall provide that any unexpended balance

1 shall then be credited to the nonchargeable benefits account. An
2 appropriation shall not be made under this subsection for an
3 amount that exceeds the "adjusted balance" of the nonchargeable
4 benefits account on the most recent computation date.
5 Appropriations made under this subsection shall limit the total
6 amount that may be obligated by the ~~bureau~~ **UNEMPLOYMENT AGENCY**
7 during a fiscal year to an amount that does not exceed the amount
8 by which the aggregate of the amounts credited to the
9 nonchargeable benefits account under this subsection during the
10 fiscal year and the 24 preceding fiscal years, exceeds the
11 aggregate of the amounts obligated by the ~~bureau~~ **UNEMPLOYMENT**
12 **AGENCY** by appropriation under this subsection and charged against
13 the amounts thus credited to the nonchargeable benefits account
14 during any of the 25 fiscal years and any amounts credited to the
15 nonchargeable benefits account that have been used for the
16 payment of benefits.

17 Sec. 19. (a) The commission shall determine the contribution
18 rate of each contributing employer for each calendar year after
19 1977 as follows:

20 (1) (i) Except as provided in paragraph (ii), an employer's
21 rate shall be calculated as described in table A, **A-1, OR A-2**
22 with respect to wages paid by the employer in each calendar year
23 for employment. If an employer's coverage is terminated under
24 section 24, or at the conclusion of ~~8-12~~ or more consecutive
25 calendar quarters during which the employer has not had workers
26 in covered employment, and if the employer **AGAIN** becomes liable
27 for contributions, the employer shall be considered as newly

liable for contributions for the purposes of ~~table A or table B~~
~~of THE TABLES IN~~ this subsection. **AN EMPLOYER THAT BECOMES LIABLE**
UNDER SECTION 41(2) WILL NOT BE ASSIGNED THE NEW EMPLOYER RATE
BUT INSTEAD THE EMPLOYER'S MOST RECENT PRIOR RATE AS A
PREDECESSOR EMPLOYER WILL BE ASSIGNED TO ITS NEW ACCOUNT.

(ii) To provide against the high risk of net loss to the fund
in such cases, an employing unit that becomes newly liable for
contributions under this act in a calendar year beginning on or
after January 1, 1983 in which it employs in "employment", not
necessarily simultaneously but in any 1 week 2 or more
individuals in the performance of 1 or more contracts or
subcontracts for construction in the state of roads, bridges,
highways, sewers, water mains, utilities, public buildings,
factories, housing developments, or similar construction
projects, shall be liable for contributions to that employer's
account under this act for the first 4 years of operations in
this state at a rate equal to the average rate paid by employers
engaged in the construction business as determined by contractor
type in the manner provided in table B, B-1, OR B-2.

FOR AN EMPLOYER THAT WAS A CONTRIBUTING EMPLOYER BEFORE
JANUARY 1, 2012 AND DID NOT CONVERT FROM A REIMBURSING TO A
CONTRIBUTING EMPLOYER ON OR AFTER JANUARY 1, 2012, THE FOLLOWING
TABLES APPLY:

Table A

Year of Contribution Liability	Contribution Rate
-----------------------------------	-------------------

1		
2	1	2.7%
3	2	2.7%
4	3	1/3 (chargeable benefits
5		component) + 1.8%
6	4	2/3 (chargeable benefits
7		component) + 1.0%
8	5 and over	(chargeable benefits component) +
9		(account building component) +
10		(nonchargeable benefits component)
11		
12	Table B	
13		
14	Year of Contribution	Contribution Rate
15	Liability	
16		
17	1	average construction contractor
18		rate as determined by the
19		commission
20	2	average construction contractor
21		rate as determined by the
22		commission
23	3	1/3 (chargeable benefits component)
24		+ 2/3 average construction con-
25		tractor rate as determined by the
26		commission
27	4	2/3 (chargeable benefits component)
28		+ 1/3 average construction con-
29		tractor rate as determined by the
30		commission
31	5 and over	(chargeable benefits component) +
32		(account building component) +

(nonchargeable benefits component)

FOR AN EMPLOYER THAT BECOMES A CONTRIBUTING EMPLOYER ON OR
AFTER JANUARY 1, 2012 AND BEFORE JANUARY 1, 2013, THE FOLLOWING
TABLES APPLY:

TABLE A-1

YEAR OF CONTRIBUTION LIABILITY	CONTRIBUTION RATE
1	2.7%
2	2.7% + 1/3 (CHARGEABLE BENEFITS COMPONENT)
3	2.7% + 2/3 (CHARGEABLE BENEFITS COMPONENT)
4 AND OVER	(CHARGEABLE BENEFITS COMPONENT) + (ACCOUNT BUILDING COMPONENT) + (NONCHARGEABLE BENEFITS COMPONENT)

TABLE B-1

YEAR OF CONTRIBUTION LIABILITY	CONTRIBUTION RATE
1	AVERAGE CONSTRUCTION CONTRACTOR RATE AS DETERMINED BY THE COMMISSION
2	AVERAGE CONSTRUCTION CONTRACTOR RATE AS DETERMINED BY THE COMMISSION + 1/3 (CHARGEABLE BENEFITS COMPONENT)

1 3 AVERAGE CONSTRUCTION CONTRACTOR
 2 RATE AS DETERMINED BY THE
 3 COMMISSION + 2/3 (CHARGEABLE
 4 BENEFITS COMPONENT)
 5 4 AND OVER (CHARGEABLE BENEFITS COMPONENT) +
 6 (ACCOUNT BUILDING COMPONENT) +
 7 (NONCHARGEABLE BENEFITS COMPONENT)

8 FOR AN EMPLOYER THAT BECOMES A CONTRIBUTING EMPLOYER ON OR
 9 AFTER JANUARY 1, 2013, THE FOLLOWING TABLES APPLY:

10
11 TABLE A-2

12	13	14	15
	YEAR OF CONTRIBUTION		CONTRIBUTION RATE
	LIABILITY		
16	1		2.7% + 1/3 (CHARGEABLE BENEFITS
17			COMPONENT)
18	2		2.7% + 2/3 (CHARGEABLE BENEFITS
19			COMPONENT)
20	3 AND OVER		(CHARGEABLE BENEFITS COMPONENT) +
21			(ACCOUNT BUILDING COMPONENT) +
22			(NONCHARGEABLE BENEFITS COMPONENT)

23
24 TABLE B-2

25	26	27	28
	YEAR OF CONTRIBUTION		CONTRIBUTION RATE
	LIABILITY		
29	1		AVERAGE CONSTRUCTION CONTRACTOR
30			RATE AS DETERMINED BY THE
31			COMMISSION + 1/3 (CHARGEABLE
32			BENEFITS COMPONENT)

1	2	AVERAGE CONSTRUCTION CONTRACTOR
2		RATE AS DETERMINED BY THE
3		COMMISSION + 2/3 (CHARGEABLE
4		BENEFITS COMPONENT)
5	3 AND OVER	(CHARGEABLE BENEFITS COMPONENT) +
6		(ACCOUNT BUILDING COMPONENT) +
7		(NONCHARGEABLE BENEFITS COMPONENT)

8 (2) With the exception of employers who are in the first 4
9 consecutive years of liability, each employer's contribution rate
10 shall be the sum of the following components, all of which are
11 determined as of the computation date: a chargeable benefits
12 component determined under subdivision (3), an account building
13 component determined under subdivision (4), and a nonchargeable
14 benefits component determined under subdivision (5).

15 (3) (i) ~~The~~ **FOR CALENDAR YEARS BEGINNING BEFORE JANUARY 1,**
16 **2012, THE** chargeable benefits component of an employer's
17 contribution rate is the percentage determined by dividing: the
18 total amount of benefits charged to the employer's experience
19 account within the lesser of 60 consecutive months ending on the
20 computation date or the number of consecutive months ending on
21 the computation date with respect to which the employer has been
22 continuously liable for contributions; by the amount of wages,
23 subject to contributions, paid by the employer within the same
24 period. If the resulting quotient is not an exact multiple of
25 1/10 of 1%, it shall be increased to the next higher multiple of
26 1/10 of 1%. **FOR THE CALENDAR YEAR 2012, THE CHARGEABLE BENEFITS**
27 **COMPONENT OF AN EMPLOYER'S CONTRIBUTION RATE IS THE PERCENTAGE**

1 DETERMINED BY DIVIDING: THE TOTAL AMOUNT OF BENEFITS CHARGED TO
2 THE EMPLOYER'S EXPERIENCE ACCOUNT WITHIN THE LESSER OF 48
3 CONSECUTIVE MONTHS ENDING ON THE COMPUTATION DATE OR THE NUMBER
4 OF CONSECUTIVE MONTHS ENDING ON THE COMPUTATION DATE WITH RESPECT
5 TO WHICH THE EMPLOYER HAS BEEN CONTINUOUSLY LIABLE FOR
6 CONTRIBUTIONS; BY THE AMOUNT OF WAGES, SUBJECT TO CONTRIBUTIONS,
7 PAID BY THE EMPLOYER WITHIN THE SAME PERIOD. IF THE RESULTING
8 QUOTIENT IS NOT AN EXACT MULTIPLE OF 1/10 OF 1%, IT SHALL BE
9 INCREASED TO THE NEXT HIGHER MULTIPLE OF 1/10 OF 1%. FOR EACH
10 CALENDAR YEAR BEGINNING ON OR AFTER JANUARY 1, 2013, THE
11 CHARGEABLE BENEFITS COMPONENT OF AN EMPLOYER'S CONTRIBUTION RATE
12 IS THE PERCENTAGE DETERMINED BY DIVIDING: THE TOTAL AMOUNT OF
13 BENEFITS CHARGED TO THE EMPLOYER'S EXPERIENCE ACCOUNT WITHIN THE
14 LESSER OF 36 CONSECUTIVE MONTHS ENDING ON THE COMPUTATION DATE OR
15 THE NUMBER OF CONSECUTIVE MONTHS ENDING ON THE COMPUTATION DATE
16 WITH RESPECT TO WHICH THE EMPLOYER HAS BEEN CONTINUOUSLY LIABLE
17 FOR CONTRIBUTIONS; BY THE AMOUNT OF WAGES, SUBJECT TO
18 CONTRIBUTIONS, PAID BY THE EMPLOYER WITHIN THE SAME PERIOD. IF
19 THE RESULTING QUOTIENT IS NOT AN EXACT MULTIPLE OF 1/10 OF 1%, IT
20 SHALL BE INCREASED TO THE NEXT HIGHER MULTIPLE OF 1/10 OF 1%.

21 (ii) For benefit years established before October 1, 2000,
22 the chargeable benefits component shall not exceed 6.0%, unless
23 there is a statutory change in the maximum duration of regular
24 benefit payments or the statutory ratio of regular benefit
25 payments to credit weeks. In the event of a change in the maximum
26 duration of regular benefit payments, the maximum chargeable
27 benefits component shall increase by the same percentage as the

1 statutory percentage change in the duration of regular benefit
2 payments between computation dates. In the event of an increase
3 in the statutory ratio of regular benefit payments to credit
4 weeks, as described in section 27(d), the maximum chargeable
5 benefits component determined as of the computation dates
6 occurring after the effective date of the increased ratio shall
7 increase by 1/2 the same percentage as the increase in the ratio
8 of regular benefit payments to credit weeks. If the resulting
9 increase is not already an exact multiple of 1/10 of 1%, it shall
10 be adjusted to the next higher multiple of 1/10 of 1%. For
11 benefit years established after October 1, 2000, the chargeable
12 benefits component shall not exceed 6.0%, unless there is a
13 statutory change in the maximum duration of regular benefit
14 payments or the percentage factor of base period wages, which
15 defines maximum duration, as provided in section 27(d). If there
16 is a statutory change in the maximum duration of regular benefit
17 payments, the maximum chargeable benefits component shall
18 increase by the same percentage as the statutory percentage
19 change in the duration of regular benefit payments between
20 computation dates. If there is an increase in the statutory
21 percentage factor of base period wages, as described in section
22 27(d), the maximum chargeable benefits component determined as of
23 the computation dates occurring after the effective date of the
24 increased ratio shall increase by 1/2 the same percentage as the
25 increase in the percentage factor of base period wages. If the
26 resulting increase is not already an exact multiple of 1/10 of
27 1%, it shall be adjusted to the next higher multiple of 1/10 of

1 1%.

2 (4) The account building component of an employer's
3 contribution rate is the percentage arrived at by the following
4 calculations: (i) Multiply the amount of the employer's total
5 payroll for the 12 months ending on the computation date, by the
6 cost criterion; (ii) Subtract the amount of the balance in the
7 employer's experience account as of the computation date from the
8 product determined under (i); and (iii) if the remainder is zero or
9 a negative quantity, the account building component of the
10 employer's contribution rate shall be zero; but (iv) if the
11 remainder is a positive quantity, the account building component
12 of the employer's contribution rate shall be determined by
13 dividing that remainder by the employer's total payroll paid
14 within the 12 months ending on the computation date. The account
15 building component shall not exceed the lesser of 1/4 of the
16 percentage calculated or 2%. However, except as otherwise
17 provided in this subdivision, the account building component
18 shall not exceed the lesser of 1/2 of the percentage calculated
19 or 3%, if on the June 30 of the preceding calendar year the
20 balance in the unemployment compensation fund was less than 50%
21 of an amount equal to the aggregate of all contributing
22 employers' annual payrolls, for the 12 months ending March 31,
23 times the cost criterion. For calendar years after 1993 and
24 before 1996, the account building component shall not exceed the
25 lesser of .69 of the percentage calculated, or 3%, if on the June
26 30 of the preceding calendar year the balance in the unemployment
27 compensation fund was less than 50% of an amount equal to the

1 aggregate of all contributing employers' annual payrolls, for the
2 12 months ending March 31, as defined in section 18(f), times the
3 cost criterion; selected for the computation date under section
4 18(e). If the account building component determined under this
5 subdivision is not an exact multiple of 1/10 of 1%, it shall be
6 adjusted to the next higher multiple of 1/10 of 1%.

7 (5) The nonchargeable benefits component of employers'
8 contribution rates is the percentage arrived at by the following
9 calculations: (i) multiply the aggregate amount of all
10 contributing employers' annual payrolls, for the 12 months ending
11 March 31, as defined in section 18(f), by the cost criterion
12 selected for the computation date under section 18(e); (ii)
13 subtract the balance of the unemployment fund on the computation
14 date, net of federal advances, from the product determined under
15 (i); and (iii) if the remainder is zero or a negative quantity, the
16 nonchargeable benefits component of employers' contribution rates
17 shall be zero; but (iv) if the remainder is a positive quantity,
18 the nonchargeable benefits component of employers' contribution
19 rates shall be determined by dividing that remainder by the total
20 of wages subject to contributions under this act paid by all
21 contributing employers within the 12 months ending on March 31
22 and adjusting the quotient, if not an exact multiple of 1/10 of
23 1%, to the next higher multiple of 1/10 of 1%. The maximum
24 nonchargeable benefits component shall be 1%. However, for
25 calendar years after 1993, if there are no benefit charges
26 against an employer's account for the 60 months ending as of the
27 computation date, or for calendar years after 1995, if the

1 employer's chargeable benefits component is less than 2/10 of 1%,
2 the maximum nonchargeable benefit component shall not exceed 1/2
3 of 1%. For calendar years after 1995, if there are no benefit
4 charges against an employer's account for the 72 months ending as
5 of the computation date, the maximum nonchargeable benefits
6 component shall not exceed 4/10 of 1%. For calendar years after
7 1996, if there are no benefit charges against an employer's
8 account for the 84 months ending as of the computation date, the
9 maximum nonchargeable benefits component shall not exceed 3/10 of
10 1%. For calendar years after 1997, if there are no benefit
11 charges against an employer's account for the 96 months ending as
12 of the computation date, the maximum nonchargeable benefits
13 component shall not exceed 2/10 of 1%. For calendar years after
14 1998, if there are no benefit charges against an employer's
15 account for the 108 months ending as of the computation date, the
16 maximum nonchargeable benefits component shall not exceed 1/10 of
17 1%. For calendar years after 2002, the maximum nonchargeable
18 benefits component shall not exceed 1/10 of 1% if there are no
19 benefit charges against an employer's account for the 60 months
20 ending as of the computation date; 9/100 of 1% if there are no
21 benefit charges against an employer's account for the 72 months
22 ending as of the computation date; 8/100 of 1% if there are no
23 benefit charges against an employer's account for the 84 months
24 ending as of the computation date; 7/100 of 1% if there are no
25 benefit charges against an employer's account for the 96 months
26 ending as of the computation date; or 6/100 of 1% if there are no
27 benefit charges against an employer's account for the 108 months

1 ending as of the computation date. For purposes of determining a
2 nonchargeable benefits component under this subsection, an
3 employer account shall not be considered to have had a charge if
4 claim for benefits is denied or determined to be fraudulent
5 pursuant to section 54 or 54c. An employer with a positive
6 balance in its experience account on the June 30 computation date
7 preceding the calendar year shall receive for that calendar year
8 a credit in an amount equal to 1/2 of the extra federal
9 unemployment tax paid in the preceding calendar year under
10 section 3302(c)(2) of the federal unemployment tax act, 26 USC
11 3302, because of an outstanding balance of unrepaid advances from
12 the federal government to the unemployment compensation fund
13 under section 1201 of title XII of the social security act, 42
14 USC 1321. However, the credit for any calendar year shall not
15 exceed an amount determined by multiplying the employer's
16 nonchargeable benefit component for that calendar year times the
17 employer's taxable payroll for that year. Contributions paid by
18 an employer shall be credited to the employer's experience
19 account, in accordance with the provisions of section 17(5),
20 without regard to any credit given under this subsection. The
21 amount credited to an employer's experience account shall be the
22 amount of the employer's tax before deduction of the credit
23 provided in this subsection.

24 (6) The total of the chargeable benefits and account
25 building components of an employer's contribution rate shall not
26 exceed by more than 1% in the 1983 calendar year, 1.5% in the
27 calendar year 1984, or 2% in the 1985 calendar year the higher of

1 4% or the total of the chargeable benefits and the account
2 building components that applied to the employer during the
3 preceding calendar year. For calendar years after 1985, the total
4 of the chargeable benefits and account building components of the
5 employer's contribution rate shall be computed without regard to
6 the foregoing limitation provided in this subdivision. During a
7 year in which this subdivision limits an employer's contribution
8 rate, the resulting reduction shall be considered to be entirely
9 in the experience component of the employer's contribution rate,
10 as defined in section 18(d).

11 ~~—— (7) Unless an employer's contribution rate is 1/10 of 1% for~~
12 ~~calendar years beginning after December 31, 1995, the employer's~~
13 ~~contribution rate shall be reduced by any of the following~~
14 ~~calculation methods that results in the lowest rate.~~

15 ~~—— (i) The chargeable benefits component, the account building~~
16 ~~component, and the nonchargeable benefits component of the~~
17 ~~contribution rate calculated under this section shall each be~~
18 ~~reduced by 10% and if the resulting quotient is not an exact~~
19 ~~multiple of 1/10 of 1%, that quotient shall be increased to the~~
20 ~~next higher multiple of 1/10 of 1%. The 3 components as increased~~
21 ~~shall then be added together.~~

22 ~~—— (ii) One tenth of 1% shall be deducted from the contribution~~
23 ~~rate.~~

24 ~~—— (iii) The contribution rate shall be reduced by 10% and if the~~
25 ~~resulting quotient is not an exact multiple of 1/10 of 1%, that~~
26 ~~quotient shall be increased to the next higher multiple of 1/10~~
27 ~~of 1%.~~

~~1 The contribution rate reduction described in this section~~
~~2 applies to employers who have been liable for the payment of~~
~~3 contributions in accordance with this act for more than 4~~
~~4 consecutive years, if the balance of money in the unemployment~~
~~5 compensation fund established under section 26, excluding money~~
~~6 borrowed from the federal unemployment trust fund, is equal to or~~
~~7 greater than 1.2% of the aggregate amount of all contributing~~
~~8 employers' payrolls for the 12-month period ending on the~~
~~9 computation date. If the employer's contribution rate is reduced~~
~~10 by a 1/10 of 1% deduction in accordance with this subdivision,~~
~~11 the employer's contributions shall be credited to each of the~~
~~12 components of the contribution rate on a pro rata basis. As used~~
~~13 in this subdivision:~~

~~14 (i) "Federal unemployment trust fund" means the fund created~~
~~15 under section 904 of title IX of the social security act, 42 USC~~
~~16 1104.~~

~~17 (ii) "Payroll" means that term as defined in section 18(f).~~

(b) An employer previously liable for contributions under
this act which on or after January 1, 1978 filed a petition for
arrangement under the bankruptcy act of July 1, 1898, chapter
541, 30 Stat. 544, or on or after October 1, 1979 filed a
petition for reorganization under title 11 of the United States
Code, 11 USC 101 to 1330, pursuant to which a plan of arrangement
or reorganization for rehabilitation purposes has been confirmed
by order of the United States bankruptcy court, shall be
considered as a reorganized employer and shall have a reserve
fund balance of zero as of the first calendar year immediately

1 following court confirmation of the plan of arrangement or
2 reorganization, but not earlier than the calendar year beginning
3 January 1, 1983, if the employer meets each of the following
4 requirements:

5 (1) An employer whose plan of arrangement or reorganization
6 has been confirmed as of January 1, 1983 shall, within 60 days
7 after January 1, 1983, notify the commission of its intention to
8 elect the status of a reorganized employer. An employer that has
9 not had a plan of arrangement or reorganization confirmed as of
10 January 1, 1983 shall, within 60 days after the entry by the
11 bankruptcy court of the order of confirmation of the plan of
12 arrangement or reorganization, notify the commission of its
13 intention to elect the status of a reorganized employer. An
14 employer shall not make an election under this subdivision after
15 December 31, 1985.

16 (2) The employer has paid to the commission all
17 contributions previously owed by the employer pursuant to this
18 act for all calendar years prior to the calendar year as to which
19 the employer elects to begin its status as a reorganized
20 employer.

21 (3) More than 50% of the employer's total payroll is paid
22 for services rendered in this state during the employer's fiscal
23 year immediately preceding the date the employer notifies the
24 fund administrator of its intention to elect the status of a
25 reorganized employer.

26 (4) The employer, within 180 days after notifying the
27 commission of its intention to elect the status of a reorganized

1 employer, makes a cash payment to the commission, for the
 2 unemployment compensation fund, equal to: .20 times the first
 3 \$2,000,000.00 of the employer's negative balance, .35 times the
 4 amount of the employer's negative balance above \$2,000,000.00 and
 5 up to \$5,000,000.00, and .50 times the amount of the negative
 6 balance above \$5,000,000.00. The total amount determined by the
 7 commission shall be based on the employer's negative balance
 8 existing as of the end of the calendar month immediately
 9 preceding the calendar year in which the employer will begin its
 10 status as a reorganized employer. If the employer fails to pay
 11 the amount determined, within 180 days of electing status as a
 12 reorganized employer, the commission shall reinstate the
 13 employer's negative balance previously reduced and redetermine
 14 the employer's rate on the basis of the reinstated negative
 15 balance. The redetermined rate shall then be used to redetermine
 16 the employer's quarterly contributions for that calendar year.
 17 The redetermined contributions shall be subject to the interest
 18 provisions of section 15 as of the date the redetermined
 19 quarterly contributions were originally due.

20 (5) Except as provided in subdivision (6), the employer
 21 contribution rates for a reorganized employer beginning with the
 22 first calendar year of the employer's status as a reorganized
 23 employer shall be as follows:

24	
25	Year of Contribution
26	Liability
27	Contribution Rate
28	
	1 2.7% of total taxable wages paid

1	2	2.7%
2	3	2.7%
3	4 and over	(chargeable benefits component
4		based upon 3-year experience) plus
5		(account building component based
6		upon 3-year experience) plus
7		(nonchargeable benefits component)

8 (6) To provide against the high risk of net loss to the fund
 9 in such cases, any reorganized employer that employs in
 10 "employment", not necessarily simultaneously but in any 1 week 25
 11 or more individuals in the performance of 1 or more contracts or
 12 subcontracts for construction in the state of roads, bridges,
 13 highways, sewers, water mains, utilities, public buildings,
 14 factories, housing developments, or similar major construction
 15 projects, shall be liable beginning the first calendar year of
 16 the employer's status as a reorganized employer for contribution
 17 rates as follows:

18		
19	Year of Contribution	Contribution Rate
20	Liability	
21		
22	1	average construction contractor
23		rate as determined by the
24		commission
25	2	average construction contractor
26		rate as determined by the
27		commission
28	3	1/3 (chargeable benefits component)
29		+ 2/3 average construction con-

1		tractor rate as determined by the
2		commission
3	4	2/3 (chargeable benefits component)
4		+ 1/3 average construction con-
5		tractor rate as determined by the
6		commission
7	5 and over	(chargeable benefits component) +
8		(account building component) +
9		(nonchargeable benefits component)

10 (c) Upon application by an employer to the commission for
 11 designation as a distressed employer, the commission, within 60
 12 days after receipt of the application, shall make a determination
 13 whether the employer meets the conditions set forth in this
 14 subsection. Upon finding that the conditions are met, the
 15 commission shall notify the legislature of the determination and
 16 request legislative acquiescence in the determination. If the
 17 legislature approves the determination by concurrent resolution,
 18 the employer shall be considered to be a "distressed employer" as
 19 of January 1 of the year in which the determination is made. The
 20 commission shall notify the employer of that determination and
 21 notify the employer of its contribution rate as a distressed
 22 employer and the contribution rate that would apply if the
 23 employer was not a distressed employer. The distressed employer
 24 shall determine its tax contribution using the 2 rates furnished
 25 by the commission and shall pay its tax contribution based on the
 26 lower of the 2 rates. If the determination of distressed employer
 27 status is made during the calendar year, the employer shall be

1 entitled to a credit on future quarterly installments for any
2 excess contributions paid during that initial calendar year. The
3 employer shall notify the commission of the difference between
4 the amount paid and the amount that would have been paid if the
5 employer were not determined to be a distressed employer and the
6 difference will be owed to the unemployment compensation fund,
7 payable in accordance with this subsection. Cumulative totals of
8 the difference must be reported to the commission with each
9 return required to be filed. The commission may periodically
10 determine continued eligibility of an employer under this
11 subsection. When the commission makes a determination that an
12 employer no longer qualifies as a distressed employer, the
13 commission shall notify the employer of that determination. After
14 notice by the commission that the employer no longer qualifies as
15 a distressed employer, the employer will be liable for
16 contributions, beginning with the first quarter occurring after
17 receipt of notification of disqualification, on the basis of the
18 rate that would apply if the employer was not a distressed
19 employer. The contribution rate for a distressed employer shall
20 be calculated under the law in effect for the 1982 calendar year
21 except that the rate determined shall be reduced by the
22 applicable solvency tax rate assessed against the employer under
23 section 19a. The distressed employer will pay in 10 equal annual
24 installments the amount of the unpaid contributions owed to the
25 unemployment compensation fund due to the application of this
26 subsection, without interest. Each installment shall be made with
27 the fourth quarterly return for the respective year. As used in

1 this subsection, "distressed employer" means an employer whose
2 continued presence in this state is considered essential to the
3 state's economic well-being and who meets the following criteria:

4 (1) The employer's average annual Michigan payroll in the 5
5 previous years exceeded \$500,000,000.00.

6 (2) The employer's average quarterly number of employees in
7 Michigan in the 5 previous years exceeded 25,000.

8 (3) The employer's business income as defined in section 3
9 of the single business tax act, 1975 PA 228, MCL 208.3, or
10 section 105 of the Michigan business tax act, 2007 PA 36, MCL
11 208.1105, as applicable, has resulted in an aggregate loss of
12 \$1,000,000,000.00 or more during the 5-year period ending in the
13 second year prior to the year for which the application is being
14 made.

15 (4) The employer has received from this state loans totaling
16 \$50,000,000.00 or more or loan guarantees from the federal
17 government in excess of \$500,000,000.00, either of which are
18 still outstanding.

19 (5) Failure to give an employer designation as a distressed
20 employer would adversely impair the employer's ability to repay
21 the outstanding loans owed to this state or that are guaranteed
22 by the federal government.

23 (d) An employer may at any time make payments to that
24 employer's experience account in the fund in excess of the
25 requirements of this section, but these payments, when accepted
26 by the commission, shall be irrevocable. A payment made by an
27 employer within 30 days after mailing to the employer by the

1 commission of a notice of the adjusted contribution rate of the
2 employer shall be credited to the employer's account as of the
3 computation date for which the adjusted contribution rate was
4 computed, and the employer's contribution rate shall be further
5 adjusted accordingly. However, a payment made more than 120 days
6 after the beginning of a calendar year shall not affect the
7 employer's contribution rate for that year.

8 Sec. 19a. (1) Except for the first 4 consecutive years of
9 liability, a contributing employer is subject to a solvency tax
10 for a calendar year after 1982 if the employer's experience
11 account has a negative balance on the June 30 preceding that
12 calendar year, and if on the June 30 preceding that calendar year
13 the balance in the unemployment compensation fund is less than
14 the total amount of unrepaid interest bearing advances from the
15 federal government to the fund under section 1201 of the social
16 security act, 42 USC 1321, or the commission projects that
17 interest will be due during the calendar year on federal advances
18 and there will be insufficient solvency tax funds in the
19 contingent fund to meet the federal interest obligations when due
20 or there are outstanding advances from the state treasury from
21 the previous year and any interest thereon and there will be
22 insufficient solvency tax funds in the contingent fund to repay
23 such advances and interest. The solvency tax rate is in addition
24 to the employer's contribution rate and is not subject to the
25 limiting provisions of section 19(a)(6).

26 (2) The solvency tax rate shall be determined ~~for the~~
27 ~~respective calendar years as follows:~~

1 ~~—— (a) For the 1983 calendar year, the solvency tax rate shall~~
2 ~~be 0.5%.~~

3 ~~—— (b) For the 1984 calendar year, the solvency tax rate shall~~
4 ~~be 1%.~~

5 ~~—— (c) For the 1985 calendar year, the solvency tax rate shall~~
6 ~~be calculated in the manner provided in this subdivision. By~~
7 ~~February 1, 1985, the commission shall estimate the amount of~~
8 ~~interest due on federal loans during the 1985 calendar year,~~
9 ~~without regard to any deferral permitted under section 1202(b)(3)~~
10 ~~or (8) of the social security act, 42 USC 1322, the amount of~~
11 ~~funds required for the unemployment insurance automation project~~
12 ~~for the 1985 calendar year, and the amount of deferred solvency~~
13 ~~taxes which cannot be collected because of employer bankruptcies.~~
14 ~~The total of these estimated amounts plus any amounts advanced~~
15 ~~from the state treasury under subsection (3) during the 1984~~
16 ~~calendar year and any interest thereon shall be divided by the~~
17 ~~estimated total taxable payroll for the 1985 calendar year of all~~
18 ~~active employers who had negative balances in their experience~~
19 ~~accounts as of June 30, 1984. Total taxable payroll shall be~~
20 ~~estimated by using the total taxable payroll for those employers~~
21 ~~for the 12 month period ending June 30, 1984 and adjusting this~~
22 ~~figure for any change in the taxable wage limit for the 1985~~
23 ~~calendar year. The solvency tax rate thus calculated for the 1985~~
24 ~~calendar year shall be adjusted to the next highest 1/10 of 1%,~~
25 ~~but shall not exceed 2%.~~

26 ~~—— (d) For the 1986 calendar year, the solvency tax rate shall~~
27 ~~be calculated in the manner provided in this subdivision. By~~

~~1 February 1, 1986, the commission shall estimate the amount of
2 interest due during the 1986 calendar year on federal loans,
3 without regard to any deferral that may be permitted under
4 section 1202(b) (3) or (8) of the social security act, 42 USC
5 1322, the amount of funds required for the unemployment insurance
6 automation project for the 1986 calendar year, and the expected
7 balance on December 31, 1986, if any, of unrepaid interest
8 bearing federal advances. The total of these amounts plus any
9 amounts advanced from the state treasury under subsection (3)
10 during the 1985 calendar year and any interest thereon shall be
11 divided by the estimated total taxable payroll for the calendar
12 year of all active employers who had negative balances in their
13 experience accounts as of June 30, 1985. Total taxable payroll
14 shall be estimated by using the total taxable payroll for those
15 employers for the 12 month period ending on June 30, 1985 and
16 adjusting this figure for any change in the taxable wage limit
17 for the 1986 calendar year. The quotient shall be adjusted to the
18 next highest 1/10 of 1%. If this adjusted percentage is 0.8% or
19 less, the employer's solvency tax rate for the 1986 calendar year
20 shall be the adjusted percentage calculated. If the adjusted
21 percentage is more than 0.8%, the employer's solvency tax rate
22 shall be calculated in the same manner as the account building
23 component of the employer's contribution rate as determined under
24 section 19(a) (4), adjusted to generate aggregate solvency tax
25 revenues sufficient to pay the interest due during the year on
26 federal loans, to pay for the unemployment insurance automation
27 project, to repay the balance of interest bearing loans by~~

~~December 31, 1986, and to repay amounts advanced from the state treasury during the 1985 calendar year and any interest thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.~~

~~—— (e) For calendar years after 1986, the solvency tax rate shall be calculated as follows:~~

~~—— (i) If there is no balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate, if any, shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.~~

(A) ~~(ii)~~ If there is a balance on December 31, ~~1986~~, **2011**, of unrepaid interest bearing federal advances, the solvency tax rate for the ~~1987~~ **2012** calendar year and for each calendar year thereafter shall be calculated in the manner provided in this ~~subparagraph~~ **SUBDIVISION** until the balance of the interest bearing federal advances on December 31, ~~1986~~ **2011** has been reduced to zero. By February 1 of the calendar year, the commission shall calculate the sum of ~~(a)~~ the estimated interest due during the calendar on federal loans, without regard to any interest deferral ~~which may be~~ **THAT IS** permitted under section 1202 of the social security act, 42 USC 1322, ~~(b) the estimated amount of funds required for the unemployment insurance automation project,~~ ~~(c)~~ the remaining balance on December 31 of the preceding year of the December 31, ~~1986~~ **2011** balance of unrepaid interest bearing federal advances, and ~~(d)~~ any amounts

1 advanced from the state treasury under subsection (3) during the
2 preceding year and any interest ~~thereon.~~ **ON THE BALANCE.** For
3 purposes of calculating the remaining balance, any loan
4 repayments during the year shall first be applied toward reducing
5 the December 31, ~~1986~~ **2011** loan balance. The amount so calculated
6 shall be divided by the estimated total taxable payroll for the
7 calendar year of all active employers who had negative balances
8 in their experience accounts as of June 30 of the previous year.
9 Total taxable payroll shall be estimated by using the total
10 taxable payroll for ~~such~~ **THOSE** employers for the 12-month period
11 ending June 30 of the previous calendar year and adjusting this
12 figure for any change in the taxable wage limit for the calendar
13 year. The quotient shall be adjusted to the next 1/10 of 1%. If
14 this adjusted percentage is 0.8% or less, an employer's solvency
15 tax rate for that calendar year shall be the percentage
16 calculated. If the adjusted percentage is more than 0.8%, the
17 employer's solvency tax rate shall be calculated in the same
18 manner as the account building component of the employer's
19 contribution rate as determined under section 19(a)(4), adjusted
20 to generate sufficient aggregate solvency tax revenues to pay the
21 interest due during the year on federal loans, to pay for the
22 unemployment insurance automation project, to repay the remaining
23 balance of the December 31, ~~1986~~ **2011** balance of unrepaid federal
24 interest bearing loans, and to repay advances from the state
25 treasury and any interest due thereon, but shall not exceed the
26 lesser of 1/4 of the percentage calculated or 2%.

27 (B) For any calendar year after the first calendar year that

1 the remaining balance of the December 31, ~~1986~~**2011** balance of
2 unrepaid interest bearing federal advances has been reduced to
3 zero by December 31 of that year, an employer's solvency tax rate
4 shall be calculated in the same manner as the account building
5 component of the employer's contribution rate as determined under
6 section 19(a)(4), but shall not exceed the lesser of 1/4 of the
7 percentage calculated or 2%.

8 ~~—— (iii) Notwithstanding subparagraph (i), if there is no~~
9 ~~interest bearing federal loan balance on December 31, 1986, but~~
10 ~~the state will have interest due during the 1987 calendar year on~~
11 ~~federal advances made prior to January 1, 1987, or the state must~~
12 ~~repay in the 1987 calendar year any advances made from the state~~
13 ~~treasury during the 1986 calendar year, plus any interest~~
14 ~~thereon, the employer's solvency tax rate for the 1987 calendar~~
15 ~~year shall be calculated in the same manner as in subparagraph~~
16 ~~(ii). If there is no federal interest bearing loan balance on~~
17 ~~December 31, 1986, and there will be no federal or state interest~~
18 ~~due during the 1987 calendar year based on advances made prior to~~
19 ~~January 1, 1987, but on June 30, 1986, the balance in the~~
20 ~~unemployment compensation fund was less than the total amount of~~
21 ~~unrepaid interest bearing federal advances, the employer's~~
22 ~~solvency tax rate for the 1987 calendar year shall be zero.~~

23 (3) Solvency taxes shall become due and payable in the
24 manner, and at the times, specified for contributions in rules
25 promulgated by the commission. However, if the state is permitted
26 to defer interest payments due during a calendar year under
27 section 1202(b)(3) or (8) of the social security act, 42 USC

1 1322, payment of the solvency tax may likewise be deferred by an
2 employer and paid in installments in a manner prescribed by the
3 commission. If a deferral of interest payment is subsequently
4 disallowed by the United States department of labor, either
5 prospectively or retroactively, amounts of solvency taxes
6 deferred under this section shall become immediately due and
7 payable. Further, if the commission estimates that the solvency
8 taxes to be collected by September 30 of the calendar year will
9 be insufficient to meet the interest obligations due during that
10 calendar year, the percentages of amounts of solvency taxes
11 deferred in any year shall be reduced by the commission in an
12 amount sufficient to meet the interest obligations due in that
13 calendar year. Furthermore, if the amount of solvency taxes to be
14 collected by the time the federal interest obligations are due in
15 any year are insufficient to meet the obligations when due, the
16 commission shall recommend to the legislature that it appropriate
17 an amount sufficient to meet the interest obligations due. Any
18 amount so appropriated and used to pay federal interest
19 obligations, and interest due on such state appropriation, if
20 any, shall be repaid to the state as soon as possible from the
21 solvency tax revenues in the contingent fund.

22 (4) Amounts obtained pursuant to this section shall be paid
23 into the contingent fund created under section 10 and, except for
24 solvency taxes transferred to the unemployment compensation fund
25 as provided in this subsection, shall not be credited to the
26 employer's experience account. Amounts collected from solvency
27 taxes which are transferred to the unemployment compensation fund

1 and used to repay federal advances to the unemployment
2 compensation fund shall be credited to the employers' experience
3 accounts by June 30 of the year following the calendar year in
4 which the transfer occurred. The amount to be credited to an
5 employer's account shall be determined by the commission, but
6 shall reasonably reflect each employer's pro rata share of the
7 amount transferred. Past due payments of the solvency tax shall
8 be subject to the interest, penalty, assessment, and collection
9 provisions of section 15. Interest and penalties collected shall
10 be paid into the contingent fund. Adjustments and refunds of
11 erroneously collected solvency taxes shall be made in accordance
12 with section 16. Solvency tax determinations are appealable under
13 the appeal process provided for review and appeal of
14 determinations under this act.

15 (5) If any provision of this section prevents the state from
16 qualifying for any federal interest relief provisions provided
17 under section 1202 of the social security act, 42 USC 1322, or
18 prevents employers in this state from qualifying for the
19 limitation on the reduction of federal unemployment tax act
20 credits as provided under section 3302(f) of the federal
21 unemployment tax act, 26 USC 3302(f), that provision is invalid
22 to the extent necessary to maintain qualification for the
23 interest relief provisions and federal unemployment tax credits.

24 (6) Notwithstanding any other provision of this section, if
25 interest due during a calendar year on federal advances is
26 forgiven or postponed under federal law and is no longer due
27 during that calendar year, no solvency tax shall be assessed

1 against an employer for that calendar year and any solvency tax
2 already assessed and collected against an employer before the
3 forgiveness or postponement of the interest for that calendar
4 year shall be credited to the employer's experience account.

5 Sec. 20. (a) Benefits paid shall be charged against the
6 employer's account as of the quarter in which the payments are
7 made. If the ~~bureau~~ **UNEMPLOYMENT AGENCY** determines that any
8 benefits charged against an employer's account were improperly
9 paid, an amount equal to the charge based on those benefits shall
10 be credited to the employer's account and a corresponding charge
11 shall be made to the nonchargeable benefits account ~~as of the~~
12 ~~current period or, in the discretion of the bureau,~~ as of the
13 date of the charge. Benefits paid to an individual as a result of
14 an employer's failure to provide the unemployment agency with
15 separation, employment, and wage data as required by section 32
16 shall be considered as benefits properly paid to the extent that
17 the benefits are chargeable to the noncomplying employer.

18 (b) For benefit years established before October 1, 2000,
19 benefits paid to an individual shall be based upon the credit
20 weeks earned during the individual's base period and shall be
21 charged against the experience accounts of the contributing
22 employers or charged to the accounts of the reimbursing employers
23 from whom the individual earned credit weeks. If the individual
24 earned credit weeks from more than 1 employer, a separate
25 determination shall be made of the amount and duration of
26 benefits based upon the total credit weeks and wages earned with
27 each employer. Benefits paid in accordance with the

1 determinations shall be charged against the experience account of
2 a contributing employer or charged to the account of a
3 reimbursing employer beginning with the most recent employer
4 first and thereafter as necessary against other base period
5 employers in inverse order to that in which the claimant earned
6 his or her last credit week with those employers. If there is any
7 disqualifying act or discharge under section 29(1) with an
8 employer, benefits based upon credit weeks earned from that
9 employer before the disqualifying act or discharge shall be
10 charged only after the exhaustion of charges as provided above.
11 Benefits based upon those credit weeks shall be charged first
12 against the experience account of the contributing employer
13 involved or to the account of the reimbursing employer involved
14 in the most recent disqualifying act or discharge and thereafter
15 as necessary in similar inverse order against other base period
16 employers involved in disqualifying acts or discharges. The order
17 of charges determined as of the beginning date of a benefit year
18 shall remain fixed during the benefit year. For benefit years
19 established on or after October 1, 2000, the claimant's full
20 weekly benefit rate shall be charged to the account or experience
21 account of the claimant's most recent separating employer for
22 each of the first 2 weeks of benefits payable to the claimant in
23 the benefit year in accordance with the monetary determination
24 issued pursuant to section 32. However, if the total sum of wages
25 paid by an employer totals \$200.00 or less, those wages shall be
26 used for purposes of benefit payment, but any benefit charges
27 attributable to those wages shall be charged to the nonchargeable

1 benefits account. Thereafter, remaining weeks of benefits payable
2 in the benefit year shall be paid in accordance with the monetary
3 determination and shall be charged proportionally to all base
4 period employers, with the charge to each base period employer
5 being made on the basis of the ratio that total wages paid by the
6 employer in the base period bears to total wages paid by all
7 employers in the base period. However, if the claimant did not
8 perform services for the most recent separating employer or
9 employing entity and receive earnings for performing the services
10 of at least ~~the amount a claimant must earn, in the manner~~
11 ~~prescribed in section 29(3), to requalify for benefits following~~
12 ~~a disqualification under section 29(1)(a), (b), (i), or (k)~~ **40**
13 **TIMES THE STATE MINIMUM HOURLY WAGE TIMES 7** during the claimant's
14 most recent period of employment with the employer or employing
15 entity, then all weeks of benefits payable in the benefit year
16 shall be charged proportionally to all base period employers,
17 with the charge to each base period employer being made on the
18 basis of the ratio that total wages paid by the employer in the
19 base period bears to total wages paid by all employers in the
20 base period. If the claimant performed services for the most
21 recent separating employing entity and received earnings for
22 performing the services of at least ~~the amount a claimant must~~
23 ~~earn, in the manner prescribed in section 29(3), to requalify for~~
24 ~~benefits following a disqualification under section 29(1)(a),~~
25 ~~(b), (i), or (k)~~ **40 TIMES THE STATE MINIMUM HOURLY WAGE TIMES 7**
26 during the claimant's most recent period of employment for the
27 employing entity but the separating employing entity was not a

1 liable employer, the first 2 weeks of benefits payable to the
2 claimant shall be charged proportionally to all base period
3 employers, with the charge to each base period employer made on
4 the basis of the ratio that total wages paid by the employer in
5 the base period bears to total wages paid by all employers in the
6 base period. The "separating employer" is the employer that
7 caused the individual to be unemployed as defined in section 48.

8 (c) For benefit years established before October 1, 2000,
9 and except as otherwise provided in section 11(d) or (g) or
10 section 46a, the charges for regular benefits to any reimbursing
11 employer or to any contributing employer's experience account
12 shall not exceed the weekly benefit rate multiplied by $\frac{3}{4}$ the
13 number of credit weeks earned by the individual during his or her
14 base period from that employer. If the resultant product is not
15 an even multiple of $\frac{1}{2}$ the weekly benefit rate, the amount shall
16 be raised to an amount equal to the next higher multiple of $\frac{1}{2}$
17 the weekly benefit rate, and in the case of an individual who was
18 employed by only 1 employer in his or her base period and who
19 earned 34 credit weeks with that employer, the product shall be
20 raised to the next higher multiple of the weekly benefit rate.

21 (d) For benefit years beginning on or after October 1, 2000,
22 and except as otherwise provided in section 11(d) or (g) or
23 section 46, the charges for regular benefits to any reimbursing
24 employer's account or to any contributing employer's experience
25 account shall not exceed either the amount derived by multiplying
26 by 2 the weekly benefit rate chargeable to the employer in
27 accordance with subsection (b) if the employer is the separating

1 employer and is chargeable for the first 2 weeks of benefits, or
2 the amount derived from the percentage of the weekly benefit rate
3 chargeable to the employer in accordance with subsection (b),
4 multiplied by the number of weeks of benefits chargeable to base
5 period employers based on base period wages, to which the
6 individual is entitled as provided in section 27(d), if the
7 employer is a base period employer, or both of these amounts if
8 the employer was both the chargeable separating employer and a
9 base period employer.

10 (e) For benefit years beginning before October 1, 2000:

11 (1) If an individual has multiemployer credit weeks in his
12 or her base period, and if it becomes necessary to use those
13 credit weeks as a basis for benefit payments, a single
14 determination shall be made of the individual's weekly benefit
15 rate and maximum amount of benefits based on the individual's
16 multiemployer credit weeks and the wages earned in those credit
17 weeks. Each employer involved in the individual's multiemployer
18 credit weeks shall be an interested party to the determination.
19 The proviso in section 29(2) does not apply to multiemployer
20 credit weeks, nor does the reduction provision of section 29(4)
21 apply to benefit entitlement based upon those credit weeks.

22 (2) The charge for benefits based on multiemployer credit
23 weeks shall be allocated to each employer involved on the basis
24 of the ratio that the total wages earned during the total
25 multiemployer credit weeks counted under section 50(b) with the
26 employer bears to the total amount of wages earned during the
27 total multiemployer credit weeks counted under section 50(b) with

1 all such employers, computed to the nearest cent. However, if an
2 adjusted weekly benefit rate is determined in accordance with
3 section 27(f), the charge to the employer who has contributed to
4 the financing of the retirement plan shall be reduced by the same
5 amount by which the weekly benefit rate was adjusted under
6 section 27(f). Benefits for a week of unemployment allocated
7 under this subsection to a contributing employer shall be charged
8 to the nonchargeable benefits account if the claimant during that
9 week earns remuneration with that employer that equals or exceeds
10 the amount of benefits allocated to that employer.

11 (3) Benefits paid in accordance with the determination based
12 on multiemployer credit weeks shall be allocated to each employer
13 involved and charged as of the quarter in which the payments are
14 made. Notice of charges made under this subsection shall be given
15 to each employer by means of a current listing of charges, at
16 least weekly, or of a quarterly statement of charges. The listing
17 or statement shall specify the weeks for which benefits were paid
18 based on multiemployer credit weeks and the amount of benefits
19 paid chargeable to that employer for each week. The notice shall
20 be considered to satisfy the requirements of sections 21(a) and
21 32(d) that notification be given each employer of benefits
22 charged against that employer's account by means of a ~~copy or~~
23 listing of the benefit ~~check~~-**PAYMENT**, and all protest and appeal
24 rights applicable to benefit ~~check copies or~~-**PAYMENT** listings
25 shall also apply to the notice of charges. If an employer
26 receives both a current listing of charges and a quarterly
27 statement of charges under this subsection, all protest and

1 appeal rights shall only apply to the first notice given.

2 (f) For benefit years beginning on or after October 1, 2000
3 ~~, if benefits for a week of unemployment are charged to 2 or more~~
4 ~~base period employers, the share of the benefits allocated and~~
5 ~~charged under this section to a contributing employer shall be~~
6 ~~charged to the nonchargeable benefits account if the claimant~~
7 ~~during that week earns remuneration with that employer that~~
8 ~~equals or exceeds the amount of benefits charged to that~~
9 ~~employer.~~ AND BEFORE JANUARY 1, 2014, IF A BASE PERIOD

10 CONTRIBUTING EMPLOYER NOTIFIES THE UNEMPLOYMENT AGENCY THAT IT
11 PAID GROSS WAGES TO A CLAIMANT IN A WEEK AT LEAST EQUAL TO THE
12 EMPLOYER'S BENEFIT CHARGE FOR THAT CLAIMANT FOR THE WEEK, THEN
13 THE UNEMPLOYMENT AGENCY SHALL ISSUE A MONETARY REDETERMINATION
14 NONCHARGING THE ACCOUNT OF THE EMPLOYER FOR THAT WEEK AND FOR THE
15 REMAINING WEEKS OF THE BENEFIT YEAR FOR BENEFITS PAYABLE TO THE
16 CLAIMANT THAT WOULD OTHERWISE BE CHARGED TO THE EMPLOYER'S
17 ACCOUNT. FOR BENEFIT YEARS BEGINNING ON OR AFTER JANUARY 1, 2014,
18 BENEFITS PAYABLE TO AN INDIVIDUAL FOR A WEEK AND FOR EACH
19 REMAINING PAYABLE WEEK IN THE BENEFIT YEAR SHALL BE CHARGED TO
20 THE NONCHARGEABLE BENEFITS ACCOUNT IF EITHER OF THE FOLLOWING
21 OCCURS:

22 (1) THE INDIVIDUAL REPORTS GROSS EARNINGS IN THE WEEK WITH A
23 CONTRIBUTING BASE PERIOD EMPLOYER AT LEAST EQUAL TO THE
24 EMPLOYER'S BENEFIT CHARGES FOR THAT INDIVIDUAL FOR THE WEEK.

25 (2) A CONTRIBUTING BASE PERIOD EMPLOYER TIMELY PROTESTS A
26 DETERMINATION CHARGING BENEFITS TO ITS ACCOUNT FOR A WEEK IN
27 WHICH THE EMPLOYER PAID GROSS WAGES TO AN INDIVIDUAL AT LEAST

1 EQUAL TO THE EMPLOYER'S CHARGES FOR BENEFITS PAID TO THAT
2 INDIVIDUAL FOR THAT WEEK.

3 (g) For benefit years beginning before October 1, 2000:

4 (1) Training benefits as provided in section 27(g), and
5 extended benefits as provided in section 64, shall be allocated
6 to each reimbursing employer involved in the individual's base
7 period of the claim to which the benefits are related, on the
8 basis of the ratio that the total wages earned during the total
9 credit weeks counted under section 50(b) with a reimbursing
10 employer bears to the total amount of wages earned during the
11 total credit weeks counted under section 50(b) with all
12 employers.

13 (2) Training benefits and extended benefits, to the extent
14 that they are not reimbursable by the federal government and have
15 been allocated to a reimbursing employer, shall be charged to
16 that reimbursing employer. A contributing employer's experience
17 account shall not be charged with training benefits. Training
18 benefits based on service with a contributing employer, to the
19 extent that they are not reimbursable by the federal government,
20 shall be charged to the nonchargeable benefits account. Extended
21 benefits paid and based on service with a contributing employer,
22 to the extent that they are not reimbursable by the federal
23 government, shall be charged to that employer's experience
24 account.

25 (3) If the training benefits or extended benefits are
26 chargeable only to a single reimbursing employer, the benefits
27 shall be charged in accordance with subsection (a). If the

1 training benefits or extended benefits are chargeable to more
2 than 1 reimbursing employer, or to 1 or more reimbursing
3 employers and the nonchargeable benefits account, the benefits
4 shall be charged as of the quarter in which the payments are
5 made.

6 (4) Notice of charges made under this subsection shall be
7 given to each employer by means of a current listing of charges,
8 at least weekly, and subsequently by a quarterly summary
9 statement of charges. The listing shall specify the name and
10 social security number of each claimant paid benefits during the
11 week, the weeks for which the benefits were paid, and the amount
12 of benefits chargeable to that employer paid for each week. The
13 quarterly statement of charges shall list each claimant by name
14 and social security number and shall show total benefit payments
15 chargeable to that employer and made to each claimant during the
16 calendar quarter. The listing shall be considered to satisfy the
17 requirements of sections 21(a) and 32(d) that notification be
18 given each employer of benefits charged against that employer's
19 account by means of a listing of the benefit ~~check~~. **PAYMENT**. All
20 protest and appeal rights applicable to benefit ~~check~~ **PAYMENT**
21 listings shall also apply to the notice of charges. If an
22 employer receives both a current listing of charges and a
23 quarterly statement of charges under this subsection, all protest
24 and appeal rights shall only apply to the first notice given.

25 (h) For benefit years beginning on or after October 1, 2000:

26 (1) Training benefits as provided in section 27(g), and
27 extended benefits as provided in section 64, shall be charged to

1 each reimbursing employer in the base period of the claim to
2 which the benefits are related, on the basis of the ratio that
3 the total wages paid by a reimbursing employer during the base
4 period bears to the total wages paid by all reimbursing employers
5 in the base period.

6 (2) Training benefits, and extended benefits to the extent
7 they are not reimbursable by the federal government and have been
8 allocated to a reimbursing employer, shall be charged to that
9 reimbursing employer. A contributing employer's experience
10 account shall not be charged with training benefits. Training
11 benefits based on service with a contributing employer, to the
12 extent they are not reimbursable by the federal government, shall
13 be charged to the nonchargeable benefits account. Extended
14 benefits paid and based on service with a contributing employer,
15 to the extent they are not reimbursable by the federal
16 government, shall be charged to that employer's experience
17 account.

18 (3) If the training benefits or extended benefits are
19 chargeable only to a single reimbursing employer, the benefits
20 shall be charged in accordance with subsection (a). If the
21 training benefits or extended benefits are chargeable to more
22 than 1 reimbursing employer, or to 1 or more reimbursing
23 employers and the nonchargeable benefits account, the benefits
24 shall be charged as of the quarter in which the payments are
25 made.

26 (4) Notice of charges made under this subsection shall be
27 given to each employer by means of a current listing of charges,

1 at least weekly, and subsequently by a quarterly summary
2 statement of charges. The listing shall specify the name and
3 social security number of each claimant paid benefits in the
4 week, the weeks for which the benefits were paid, and the amount
5 of benefits chargeable to that employer paid for each week. The
6 quarterly summary statement of charges shall list each claimant
7 by name and social security number and shall show total benefit
8 payments chargeable to that employer and made to each claimant
9 during the calendar quarter. The listing shall be considered to
10 satisfy the requirements of sections 21(a) and 32(d) that
11 notification be given to each employer of benefits charged
12 against that employer's account by means of a listing of the
13 benefit ~~check~~-**PAYMENT**. All protest and appeal rights applicable
14 to benefit ~~check~~-**PAYMENT** listings shall also apply to the notice
15 of charges. If an employer receives both a current listing of
16 charges and a quarterly summary statement of charges under this
17 subsection, all protest and appeal rights shall only apply to the
18 first notice given.

19 (i) If a benefit year is established on or after October 1,
20 2000, the portion of benefits paid in that benefit year that are
21 based on wages used to establish the immediately preceding
22 benefit year that began before October 1, 2000 shall not be
23 charged to the employer or employers who paid those wages but
24 shall be charged instead to the nonchargeable benefits account.

25 (j) For benefits years beginning after March 30, 2009,
26 benefits paid to a person who leaves employment to accompany a
27 spouse who is a full-time member of the United States armed

1 forces and is reassigned for military service in a different
2 geographic location are not chargeable to the employer, but shall
3 be charged to the nonchargeable benefits account.

4 Sec. 21. (a) The commission shall currently provide each
5 employer with copies or listings of the benefit checks charged
6 against that employer's account. **AN EMPLOYER DETERMINED BY THE**
7 **AGENCY TO BE A SUCCESSOR EMPLOYER SHALL BEGIN RECEIVING THE**
8 **LISTINGS EFFECTIVE FOR WEEKS BEGINNING AFTER THE MAILING OF THE**
9 **DETERMINATION OF SUCCESSORSHIP.** The copies or listings shall show
10 the name and social security account number of the payee, the
11 amount paid, the date of issuance, the week of unemployment for
12 which the check was issued, the name or account number of the
13 chargeable employer, upon request a code designation of the place
14 of employment by the chargeable employer, and additional
15 information as may be deemed pertinent. The copies or listings
16 shall constitute a determination of the charge to the employer's
17 account. The determination shall be final unless further
18 proceedings are taken in accordance with section 32a.

19 The commission shall furnish at least quarterly, to each
20 employer, a statement summarizing the total of the benefits
21 charged against the employer's account during the period. If the
22 employer requests, the summary shall be broken down by places of
23 employment.

24 The commission shall notify each employer, not later than 6
25 months after the computation date, of his rate of contributions
26 as determined for any calendar year pursuant to section 19. The
27 statement or determination shall be final unless further

1 proceedings are taken in accordance with section 32a. However, on
2 request an employer shall be given an extension of 30 days'
3 additional time in which to apply for the review and
4 redetermination.

5 (b) An employer who is not in agreement with a
6 redetermination of the amount of insured payrolls used in
7 computing the employer's experience account percentage, or the
8 computation of the amount of benefits charged or contributions
9 credited to the experience account, or the computation of the
10 adjusted contribution rate issued under section 32a may, within
11 30 days after mailing of the notice of redetermination, file an
12 appeal and request a hearing on the issue before ~~a referee.~~**AN**

13 **ADMINISTRATIVE LAW JUDGE.**

14 (c) A contribution becoming due and payable while a rate
15 determination is under review or protest may be paid at the rate
16 assessed by the commission for the previous year, but it shall be
17 adjusted by the commission when the proper rate is determined. If
18 an adjustment requires an additional payment from an employer,
19 the additional payment shall be considered as a delinquent
20 contribution as provided by section 15(a).

21 Sec. 27. (a)(1) When a determination, redetermination, or
22 decision is made that benefits are due an unemployed individual,
23 the benefits shall become payable from the fund and continue to
24 be payable to the unemployed individual, subject to the
25 limitations imposed by the individual's monetary entitlement, if
26 the individual continues to be unemployed and to file claims for
27 benefits, until the determination, redetermination, or decision

1 is reversed, a determination, redetermination, or decision on a
2 new issue holding the individual disqualified or ineligible is
3 made, or, for benefit years beginning before October 1, 2000, a
4 new separation issue arises resulting from subsequent work.

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

8 (b)(1) Subject to subsection (f), the weekly benefit rate
9 for an individual, with respect to benefit years beginning before
10 October 1, 2000, shall be 67% of the individual's average after
11 tax weekly wage, except that the individual's maximum weekly
12 benefit rate shall not exceed \$300.00. However, with respect to
13 benefit years beginning on or after October 1, 2000, the
14 individual's weekly benefit rate is 4.1% of the individual's
15 wages paid in the calendar quarter of the base period in which
16 the individual was paid the highest total wages, plus \$6.00 for
17 each dependent as defined in subdivision (4), up to a maximum of
18 5 dependents, claimed by the individual at the time the
19 individual files a new claim for benefits, except that the
20 individual's maximum weekly benefit rate shall not exceed \$300.00
21 before April 26, 2002 and \$362.00 for claims filed on and after
22 April 26, 2002. The weekly benefit rate for an individual
23 claiming benefits on and after April 26, 2002 shall be
24 recalculated subject to the \$362.00 maximum weekly benefit rate.
25 The unemployment agency shall establish the procedures necessary
26 to verify the number of dependents claimed. If a person
27 fraudulently claims a dependent, that person is subject to the

1 penalties set forth in sections 54 and 54c. For benefit years
2 beginning on or after October 2, 1983, the weekly benefit rate
3 shall be adjusted to the next lower multiple of \$1.00.

4 (2) For benefit years beginning before October 1, 2000, the
5 state average weekly wage for a calendar year shall be computed
6 on the basis of the 12 months ending the June 30 immediately
7 before that calendar year. The commission shall prepare a table
8 of weekly benefit rates based on an "average after tax weekly
9 wage" calculated by subtracting, from an individual's average
10 weekly wage as determined in accordance with section 51, a
11 reasonable approximation of the weekly amount required to be
12 withheld by the employer from the remuneration of the individual
13 based on dependents and exemptions for income taxes under 26 USC
14 3401 to 3406, and under section 351 of the income tax act of
15 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's
16 disability insurance taxes under the federal insurance
17 contributions act, 26 USC 3101 to 3128. For purposes of applying
18 the table to an individual's claim, a dependent shall be as
19 defined in subdivision (3). The table applicable to an
20 individual's claim shall be the table reflecting the number of
21 dependents claimed by the individual under subdivision (3). The
22 commission shall adjust the tables based on changes in
23 withholding schedules published by the United States department
24 of treasury, internal revenue service, and by the department of
25 treasury. The number of dependents allowed shall be determined
26 with respect to each week of unemployment for which an individual
27 is claiming benefits.

1 (3) For benefit years beginning before October 1, 2000, a
2 dependent means any of the following persons who are receiving
3 and for at least 90 consecutive days immediately before the week
4 for which benefits are claimed, or, in the case of a dependent
5 husband, wife, or child, for the duration of the marital or
6 parental relationship, if the relationship has existed less than
7 90 days, has received more than 1/2 the cost of his or her
8 support from the individual claiming benefits:

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

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

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

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

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

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

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

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

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

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

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

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

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

Senate Bill No. 806 (H-1) as amended December 14, 2011

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

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

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

20 (2) Each eligible individual shall have his or her weekly
21 benefit rate reduced with respect to each week in which the
22 individual earns or receives remuneration at the rate of ~~[50-40]~~ cents
23 for each whole \$1.00 of remuneration earned or received during
24 that week. **[BEGINNING OCTOBER 1, 2015, AN ELIGIBLE INDIVIDUAL'S WEEKLY
BENEFIT RATE SHALL BE REDUCED AT THE RATE OF 50 CENTS FOR EACH WHOLE
\$1.00 OF REMUNERATION IN WHICH THE ELIGIBLE INDIVIDUAL EARNS OR RECEIVES
REMUNERATION IN THAT BENEFIT WEEK.]**

25 (3) An individual who receives or earns partial remuneration
26 may not receive a total of benefits and earnings that exceeds ~~[1-1/2-1-~~
27 **3/5]** times his or her weekly benefit amount. For each dollar of

Senate Bill 11 No. 806 (H-1) as amended December 14, 2011

1 total benefits and earnings that exceeds [~~1-1/2-1-3/5~~] times the
2 individual's weekly benefit amount, benefits shall be reduced by

3 \$1.00. [BEGINNING OCTOBER 1, 2015, THE TOTAL BENEFITS AND EARNINGS FOR AN
INDIVIDUAL WHO RECEIVES OR EARNS PARTIAL REMUNERATION SHALL NOT EXCEED 1-
1/2 TIMES HIS OR HER WEEKLY BENEFIT AMOUNT. THE INDIVIDUAL'S BENEFITS
SHALL BE REDUCED BY \$1.00 FOR EACH DOLLAR BY WHICH THE TOTAL BENEFITS AND
EARNINGS EXCEED 1-1/2 TIMES THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.]

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

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

[(6) THE UNEMPLOYMENT AGENCY SHALL REPORT ANNUALLY TO THE
LEGISLATURE

THE FOLLOWING INFORMATION WITH REGARD TO SUBDIVISIONS (2) AND (3):

(A) THE NUMBER OF INDIVIDUALS WHOSE WEEKLY BENEFIT RATE WAS REDUCED
AT THE RATE OF 40 OR 50 CENTS FOR EACH WHOLE \$1.00 OF REMUNERATION EARNED
OR RECEIVED OVER THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(B) THE NUMBER OF INDIVIDUALS WHO RECEIVED OR EARNED PARTIAL
REMUNERATION AT OR EXCEEDING THE APPLICABLE LIMIT OF 1-1/2 OR 1-3/5 TIMES
THEIR WEEKLY BENEFIT AMOUNT PRESCRIBED IN SUBDIVISION (3) FOR ANY 1 OR
MORE WEEKS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.]

12 (d) For benefit years beginning before October 1, 2000, and
13 subject to subsection (f) and this subsection, the amount of
14 benefits to which an individual who is otherwise eligible is
15 entitled during a benefit year from an employer with respect to
16 employment during the base period is the amount obtained by
17 multiplying the weekly benefit rate with respect to that
18 employment by 3/4 of the number of credit weeks earned in the
19 employment. For the purpose of this subsection and section 20(c),
20 if the resultant product is not an even multiple of 1/2 the
21 weekly benefit rate, the product shall be raised to an amount
22 equal to the next higher multiple of 1/2 the weekly benefit rate,
23 and, for an individual who was employed by only 1 employer in the
S04476'11 (H-1)

Senate Bill No. 806 (H-1) as amended December 14, 2011

24 individual's base period and earned 34 credit weeks with that
25 employer, the product shall be raised to the next higher multiple
26 of the weekly benefit rate. The maximum amount of benefits
27 payable to an individual within a benefit year, with respect to

1 employment by an employer, shall not exceed 26 times the weekly
2 benefit rate with respect to that employment. The maximum amount
3 of benefits payable to an individual within a benefit year shall
4 not exceed the amount to which the individual would be entitled
5 for 26 weeks of unemployment in which remuneration was not earned
6 or received. The limitation of total benefits set forth in this
7 subsection does not apply to claimants declared eligible for
8 training benefits in accordance with subsection (g). For benefit
9 years beginning on or after October 1, 2000, and subject to
10 subsection (f) and this subsection, the maximum benefit amount
11 payable to an individual in a benefit year for purposes of this
12 section and section 20(d) is the number of weeks of benefits
13 payable to an individual during the benefit year, multiplied by
14 the individual's weekly benefit rate. The number of weeks of
15 benefits payable to an individual shall be calculated by taking
16 43% of the individual's base period wages and dividing the result
17 by the individual's weekly benefit rate. If the quotient is not a
18 whole or half number, the result shall be rounded down to the
19 nearest half number. However, for each eligible individual filing
20 an initial claim before January 15, 2012, not more than 26 weeks
21 of benefits or less than 14 weeks of benefits shall be payable to
22 an individual in a benefit year. For each eligible individual
23 filing an initial claim on or after January 15, 2012, not more
24 than 20 weeks of benefits or less than 14 weeks of benefits shall
25 be payable to an individual in a benefit year. The limitation of
26 total benefits set forth in this subsection does not apply to
27 claimants declared eligible for training benefits in accordance

1 with subsection (g).

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

11 (f)(1) For benefit years beginning before October 1, 2000,
12 and notwithstanding any inconsistent provisions of this act, the
13 weekly benefit rate of each individual who is receiving or will
14 receive a "retirement benefit", as defined in subdivision (4),
15 shall be adjusted as provided in subparagraphs (a), (b), and (c).
16 However, an individual's extended benefit account and an
17 individual's weekly extended benefit rate under section 64 shall
18 be established without reduction under this subsection unless
19 subdivision (5) is in effect. Except as otherwise provided in
20 this subsection, all other provisions of this act continue to
21 apply in connection with the benefit claims of those retired
22 persons.

23 (a) If and to the extent that unemployment benefits payable
24 under this act would be chargeable to an employer who has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit
27 yielding a pro rata weekly amount equal to or larger than the

1 claimant's weekly benefit rate as otherwise established under
2 this act, the claimant shall not receive unemployment benefits
3 that would be chargeable to the employer under this act.

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

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

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

1 otherwise be allocable and chargeable to the employer.

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

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

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

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

23 (ii) Payable to an individual because the individual has
24 qualified on the basis of attained age, length of service, or
25 disability, whether or not the individual retired or was retired
26 from employment. Amounts paid to individuals in the course of
27 liquidation of a private pension or retirement fund because of

1 termination of the business or of a plant or department of the
2 business of the employer involved are not retirement benefits.

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

6 (i) Less than 1/2 of the cost of the benefit, then only 1/2
7 of the benefit is treated as a retirement benefit.

8 (ii) One-half or more of the cost of the benefit, then none
9 of the benefit is treated as a retirement benefit.

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

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

26 (6) For benefit years beginning on or after October 1, 2000,
27 notwithstanding any inconsistent provisions of this act, the

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

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

24 (b) If any base period employer or chargeable employer has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit
27 yielding a pro rata weekly amount less than the claimant's weekly

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

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

11 (g) Notwithstanding any other provision of this act, an
12 individual pursuing vocational training or retraining pursuant to
13 section 28(2) who has exhausted all benefits available under
14 subsection (d) may be paid for each week of approved vocational
15 training pursued beyond the date of exhaustion a benefit amount
16 in accordance with subsection (c), but not in excess of the
17 individual's most recent weekly benefit rate. However, an
18 individual shall not be paid training benefits totaling more than
19 18 times the individual's most recent weekly benefit rate. The
20 expiration or termination of a benefit year shall not stop or
21 interrupt payment of training benefits if the training for which
22 the benefits were granted began before expiration or termination
23 of the benefit year.

24 (h) A payment of accrued unemployment benefits shall not be
25 made to an eligible individual or in behalf of that individual as
26 provided in subsection (e) more than 6 years after the ending
27 date of the benefit year covering the payment or 2 calendar years

1 after the calendar year in which there is final disposition of a
2 contested case, whichever is later.

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

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

27 (2) With respect to service performed in other than an

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

14 (3) With respect to any service described in subdivision (1)
15 or (2), benefits shall not be paid to an individual based upon
16 service for any week of unemployment that commences during an
17 established and customary vacation period or holiday recess if
18 the individual performs the service in the period immediately
19 before the vacation period or holiday recess and there is a
20 contract or reasonable assurance that the individual will perform
21 the service in the period immediately following the vacation
22 period or holiday recess.

23 (4) If benefits are denied to an individual for any week
24 solely as a result of subdivision (2) and the individual was not
25 offered an opportunity to perform in the second academic year or
26 term the service for which reasonable assurance had been given,
27 the individual is entitled to a retroactive payment of benefits

1 for each week for which the individual had previously filed a
2 timely claim for benefits. An individual entitled to benefits
3 under this subdivision may apply for those benefits by mail in
4 accordance with R 421.210 of the Michigan administrative code as
5 promulgated by the commission.

6 (5) Benefits based upon services in other than an
7 instructional, research, or principal administrative capacity for
8 an institution of higher education shall not be denied for any
9 week of unemployment commencing during the period between 2
10 successive academic years or terms solely because the individual
11 had performed the service in the first of the academic years or
12 terms and there is reasonable assurance that the individual will
13 perform the service for an institution of higher education or an
14 educational institution other than an institution of higher
15 education in the second of the academic years or terms, unless a
16 denial is required as a condition for full tax credit against the
17 tax imposed by the federal unemployment tax act, 26 USC 3301 to
18 3311.

19 (6) For benefit years established before October 1, 2000,
20 and notwithstanding subdivisions (1), (2), and (3), the denial of
21 benefits does not prevent an individual from completing
22 requalifying weeks in accordance with section 29(3) nor does the
23 denial prevent an individual from receiving benefits based on
24 service with an employer other than an educational institution
25 for any week of unemployment occurring between academic years or
26 terms, whether or not successive, or during an established and
27 customary vacation period or holiday recess, even though the

1 employer is not the most recent chargeable employer in the
2 individual's base period. However, in that case section 20(b)
3 applies to the sequence of benefit charging, except for the
4 employment with the educational institution, and section 50(b)
5 applies to the calculation of credit weeks. When a denial of
6 benefits under subdivision (1) no longer applies, benefits shall
7 be charged in accordance with the normal sequence of charging as
8 provided in section 20(b).

9 (7) For benefit years beginning on or after October 1, 2000,
10 and notwithstanding subdivisions (1), (2), and (3), the denial of
11 benefits shall not prevent an individual from completing
12 requalifying weeks in accordance with section 29(3) nor shall the
13 denial prevent an individual from receiving benefits based on
14 service with another base period employer other than an
15 educational institution for any week of unemployment occurring
16 between academic years or terms, whether or not successive, or
17 during an established and customary vacation period or holiday
18 recess. However, when benefits are paid based on service with 1
19 or more base period employers other than an educational
20 institution, the individual's weekly benefit rate shall be
21 calculated in accordance with subsection (b)(1) but during the
22 denial period the individual's weekly benefit payment shall be
23 reduced by the portion of the payment attributable to base period
24 wages paid by an educational institution and the account or
25 experience account of the educational institution shall not be
26 charged for benefits payable to the individual. When a denial of
27 benefits under subdivision (1) is no longer applicable, benefits

1 shall be paid and charged on the basis of base period wages with
2 each of the base period employers including the educational
3 institution.

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

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

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

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

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

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

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

1 unemployment compensation.

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

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

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

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

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

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

24 (5) Any amount deducted and withheld under subdivision (2)
25 shall be treated for all purposes as if it were paid to the
26 individual as unemployment compensation and paid by the
27 individual to the state or local child support enforcement agency

1 in satisfaction of the individual's child support obligations.

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

11 (7) As used in this subsection:

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

17 (b) "Child support obligations" includes only obligations
18 that are being enforced pursuant to a plan described in 42 USC
19 654 that has been approved by the secretary of health and human
20 services under 42 USC 651 to 669b.

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

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

1 period wages with that employer are attributable to services
2 performed as a school bus driver. Subsection (i)(1) and (2) but
3 not subsection (i)(3) applies to other services described in
4 those subdivisions that are performed by any employees under an
5 employer's contract with an educational institution or an
6 educational service agency.

7 (o)(1) For weeks of unemployment beginning after July 1,
8 1996, unemployment benefits based on services by a seasonal
9 worker performed in seasonal employment are payable only for
10 weeks of unemployment that occur during the normal seasonal work
11 period. Benefits shall not be paid based on services performed in
12 seasonal employment for any week of unemployment beginning after
13 March 28, 1996 that begins during the period between 2 successive
14 normal seasonal work periods to any individual if that individual
15 performs the service in the first of the normal seasonal work
16 periods and if there is a reasonable assurance that the
17 individual will perform the service for a seasonal employer in
18 the second of the normal seasonal work periods. If benefits are
19 denied to an individual for any week solely as a result of this
20 subsection and the individual is not offered an opportunity to
21 perform in the second normal seasonal work period for which
22 reasonable assurance of employment had been given, the individual
23 is entitled to a retroactive payment of benefits under this
24 subsection for each week that the individual previously filed a
25 timely claim for benefits. An individual may apply for any
26 retroactive benefits under this subsection in accordance with R
27 421.210 of the Michigan administrative code.

1 (2) Not less than 20 days before the estimated beginning
2 date of a normal seasonal work period, an employer may apply to
3 the commission in writing for designation as a seasonal employer.
4 At the time of application, the employer shall conspicuously
5 display a copy of the application on the employer's premises.
6 Within 90 days after receipt of the application, the commission
7 shall determine if the employer is a seasonal employer. A
8 determination or redetermination of the commission concerning the
9 status of an employer as a seasonal employer, or a decision of a
10 ~~referee or the board of review, or of~~ **AN ADMINISTRATIVE LAW**
11 **JUDGE, THE MICHIGAN COMPENSATION APPELLATE COMMISSION, OR** the
12 courts of this state concerning the status of an employer as a
13 seasonal employer, which has become final, together with the
14 record thereof, may be introduced in any proceeding involving a
15 claim for benefits, and the facts found and decision issued in
16 the determination, redetermination, or decision shall be
17 conclusive unless substantial evidence to the contrary is
18 introduced by or on behalf of the claimant.

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

1 second of the normal seasonal work periods.

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

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

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

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

1 with subdivision (4).

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

10 (9) As used in this subsection:

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

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

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

23 ~~—— (1) Customarily operates during regularly recurring periods~~
24 ~~of 26 weeks or less in any 52-consecutive-week~~ **52-WEEK** period
25 **OTHER THAN SERVICES IN THE CONSTRUCTION INDUSTRY.**

26 ~~—— (2) Customarily employs at least 50% of its employees for~~
27 ~~regularly recurring periods of 26 weeks or less within a period~~

1 ~~of 52 consecutive weeks.~~

2 (d) "Seasonal employer" means an employer, other than an
3 employer in the construction industry, who applies to the
4 commission for designation as a seasonal employer and who the
5 commission determines ~~to be~~ **IS** an employer whose operations and
6 business ~~are substantially~~ **REQUIRE EMPLOYEES** engaged in seasonal
7 employment. **A SEASONAL EMPLOYER DESIGNATION UNDER THIS ACT NEED**
8 **NOT CORRESPOND TO A CATEGORY ASSIGNED UNDER THE NORTH AMERICAN**
9 **CLASSIFICATION SYSTEM – UNITED STATES OFFICE OF MANAGEMENT AND**
10 **BUDGET.**

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

14 (10) This subsection does not apply if the United States
15 department of labor finds it to be contrary to the federal
16 unemployment tax act, 26 USC 3301 to 3311, or the social security
17 act, chapter 531, 49 Stat. 620, and if conformity with the
18 federal law is required as a condition for full tax credit
19 against the tax imposed under the federal unemployment tax act,
20 26 USC 3301 to 3311, or as a condition for receipt by the
21 commission of federal administrative grant funds under the social
22 security act, chapter 531, 49 Stat. 620.

23 (p) Benefits shall not be paid to an individual based upon
24 his or her services as a school crossing guard for any week of
25 unemployment that begins between 2 successive academic years or
26 terms, if that individual performs the services of a school
27 crossing guard in the first of the academic years or terms and

1 has a reasonable assurance that he or she will perform those
2 services in the second of the academic years or terms.

3 Sec. 28. (1) An unemployed individual ~~shall be~~ **IS** eligible
4 to receive benefits with respect to any week only if the
5 ~~commission~~ **UNEMPLOYMENT AGENCY** finds that ~~that~~ **ALL OF THE FOLLOWING:**

6 (a) For benefit years established before ~~the conversion date~~
7 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the individual has
8 registered for work at and thereafter has continued to report at
9 an employment office in accordance with ~~such rules as the~~
10 ~~commission may prescribe~~ **UNEMPLOYMENT AGENCY RULES** and is seeking
11 work. The requirements that the individual must report at an
12 employment office, must register for work, must be available to
13 perform suitable full-time work, and must seek work may be waived
14 by the ~~commission~~ **UNEMPLOYMENT AGENCY** if the individual is laid
15 off and the employer who laid the individual off notifies the
16 ~~commission~~ **UNEMPLOYMENT AGENCY** in writing or by computerized data
17 exchange that the layoff is temporary and that work is expected
18 to be available for the individual within a declared number of
19 days, not to exceed 45 calendar days following the last day the
20 individual worked. This waiver shall not be effective unless the
21 notification from the employer has been received by the
22 ~~commission~~ **UNEMPLOYMENT AGENCY** before the individual has
23 completed his or her first compensable week following layoff. If
24 the individual is not recalled within the specified period, the
25 waiver shall cease to be operative with respect to that layoff.
26 Except for a period of disqualification, the requirement that the
27 individual shall seek work may be waived by the ~~commission~~

1 **UNEMPLOYMENT AGENCY** where it finds that suitable work is
2 unavailable both in the locality where the individual resides and
3 in those localities in which the individual has earned base
4 period credit weeks. This waiver shall not apply, for weeks of
5 unemployment beginning on or after March 1, 1981, to a claimant
6 enrolled and attending classes as a full-time student. An
7 individual ~~shall have~~ **HAS** satisfied the requirement of personal
8 reporting at an employment office, as applied to a week in a
9 period during which the requirements of registration and seeking
10 work have been waived by the ~~commission~~ **UNEMPLOYMENT AGENCY**
11 pursuant to this subdivision, if the individual has satisfied the
12 personal reporting requirement with respect to a preceding week
13 in that period and the individual has reported with respect to
14 the week by mail in accordance with the rules promulgated by the
15 ~~commission~~ **UNEMPLOYMENT AGENCY**. For benefit years established **ON**
16 **OR** after the ~~conversion date prescribed in section 75~~ **OCTOBER 1,**
17 **2000**, the individual has registered for work and has continued to
18 report in accordance with ~~such rules as the commission may~~
19 ~~prescribe~~ **UNEMPLOYMENT AGENCY RULES** and is **ACTIVELY ENGAGED IN**
20 seeking work. The requirements that the individual must report,
21 must register for work, must be available to perform suitable
22 full-time work, and must seek work may be waived by the
23 ~~commission~~ **UNEMPLOYMENT AGENCY** if the individual is laid off and
24 the employer who laid the individual off notifies the ~~commission~~
25 **UNEMPLOYMENT AGENCY** in writing or by computerized data exchange
26 that the layoff is temporary and that work is expected to be
27 available for the individual within a declared number of days,

1 not to exceed 45 calendar days following the last day the
2 individual worked. This waiver shall not be effective unless the
3 notification from the employer has been received by the
4 ~~commission~~ **UNEMPLOYMENT AGENCY** before the individual has
5 completed his or her first compensable week following layoff. If
6 the individual is not recalled within the specified period, the
7 waiver shall cease to be operative with respect to that layoff.
8 Except for a period of disqualification, the requirement that the
9 individual shall seek work may be waived by the ~~commission~~ where
10 **UNEMPLOYMENT AGENCY IF** it finds that suitable work is unavailable
11 both in the locality where the individual resides and in those
12 localities in which the individual has earned wages during or
13 after the base period. This waiver ~~shall~~ **DOES** not apply to a
14 claimant enrolled and attending classes as a full-time student.
15 An individual ~~shall be~~ **IS** considered to have satisfied the
16 requirement of personal reporting at an employment office, as
17 applied to a week in a period during which the requirements of
18 registration and seeking work have been waived by the ~~commission~~
19 **UNEMPLOYMENT AGENCY** pursuant to this subdivision, if the
20 individual has satisfied the personal reporting requirement with
21 respect to a preceding week in that period and the individual has
22 reported with respect to the week by mail in accordance with the
23 rules promulgated by the ~~commission~~ **UNEMPLOYMENT AGENCY.**

24 (b) The individual has made a claim for benefits in
25 accordance with section 32 and has provided the ~~commission~~
26 **UNEMPLOYMENT AGENCY** with his or her social security number.

27 (c) The individual is able and available **TO APPEAR AT A**

1 LOCATION OF THE UNEMPLOYMENT AGENCY'S CHOOSING FOR EVALUATION OF
2 ELIGIBILITY FOR BENEFITS, IF REQUIRED, AND to perform suitable
3 full-time work of a character which the individual is qualified
4 to perform by past experience or training, which is of a
5 character generally similar to work for which the individual has
6 previously received wages, and for which the individual is
7 available, full time, either at a locality at which the
8 individual earned wages for insured work during his or her base
9 period or at a locality where it is found by the ~~commission~~
10 UNEMPLOYMENT AGENCY that such work is available. AN INDIVIDUAL IS
11 CONSIDERED UNAVAILABLE FOR WORK UNDER ANY OF THE FOLLOWING
12 CIRCUMSTANCES:

13 (i) THE INDIVIDUAL FAILS DURING A BENEFIT YEAR TO NOTIFY OR
14 UPDATE A CHARGEABLE EMPLOYER WITH TELEPHONE, ELECTRONIC MAIL, OR
15 OTHER INFORMATION SUFFICIENT TO ALLOW THE EMPLOYER TO CONTACT THE
16 INDIVIDUAL ABOUT AVAILABLE WORK.

17 (ii) THE INDIVIDUAL FAILS, WITHOUT GOOD CAUSE, TO RESPOND TO
18 THE UNEMPLOYMENT AGENCY WITHIN 14 CALENDAR DAYS OF THE LATER OF
19 THE MAILING OF A NOTICE TO THE ADDRESS OF RECORD REQUIRING THE
20 INDIVIDUAL TO CONTACT THE UNEMPLOYMENT AGENCY OR OF THE LEAVING
21 OF A TELEPHONE MESSAGE REQUESTING A RETURN CALL AND PROVIDING A
22 RETURN NAME AND TELEPHONE NUMBER ON AN AUTOMATED ANSWERING DEVICE
23 OR WITH AN INDIVIDUAL ANSWERING THE TELEPHONE NUMBER OF RECORD.

24 (iii) UNLESS THE CLAIMANT SHOWS GOOD CAUSE FOR FAILURE TO
25 RESPOND, MAIL SENT TO THE INDIVIDUAL'S ADDRESS OF RECORD IS
26 RETURNED AS UNDELIVERABLE AND THE TELEPHONE NUMBER OF RECORD HAS
27 BEEN DISCONNECTED OR CHANGED OR IS OTHERWISE NO LONGER ASSOCIATED

1 **WITH THE INDIVIDUAL.**

2 (d) In the event of the death of an individual's immediate
3 family member, the eligibility requirements of availability and
4 reporting shall be waived for the day of the death and for 4
5 consecutive calendar days thereafter. As used in this
6 subdivision, "immediate family member" means a spouse, child,
7 stepchild, adopted child, grandchild, parent, grandparent,
8 brother, or sister of the individual or his or her spouse. It
9 shall also include the spouse of any of the persons specified in
10 the previous sentence.

11 (e) The individual participates in reemployment services,
12 such as job search assistance services, if the individual has
13 been determined or redetermined by the ~~commission~~-**UNEMPLOYMENT**
14 **AGENCY** to be likely to exhaust regular benefits and need
15 reemployment services pursuant to a profiling system established
16 by the ~~commission~~-**UNEMPLOYMENT AGENCY**.

17 (2) The ~~commission~~-**UNEMPLOYMENT AGENCY** may authorize an
18 individual with an unexpired benefit year to pursue vocational
19 training or retraining only if the ~~commission~~-**UNEMPLOYMENT AGENCY**
20 finds that:

21 (a) Reasonable opportunities for employment in occupations
22 for which the individual is fitted by training and experience do
23 not exist in the locality in which the individual is claiming
24 benefits.

25 (b) The vocational training course relates to an occupation
26 or skill for which there are, or are expected to be in the
27 immediate future, reasonable employment opportunities.

1 (c) The training course has been approved by a local
2 advisory council on which both management and labor are
3 represented, or if there is no local advisory council, by the
4 ~~commission~~-**UNEMPLOYMENT AGENCY**.

5 (d) The individual has the required qualifications and
6 aptitudes to complete the course successfully.

7 (e) The vocational training course has been approved by the
8 state board of education and is maintained by a public or private
9 school or by the ~~commission~~-**UNEMPLOYMENT AGENCY**.

10 (3) Notwithstanding any other provision of this act, an
11 otherwise eligible individual shall not be ineligible for
12 benefits because he or she is participating in training with the
13 approval of the ~~commission~~-**UNEMPLOYMENT AGENCY**. For each week
14 that the ~~commission~~-**UNEMPLOYMENT AGENCY** finds that an individual
15 who is claiming benefits under this act and who is participating
16 in training with the approval of the ~~commission~~-**UNEMPLOYMENT**
17 **AGENCY**, is satisfactorily pursuing an approved course of
18 vocational training, it shall waive the requirements that he or
19 she be available for work and be seeking work as prescribed in
20 subsection (1)(a) and (c), and it shall find good cause for his
21 or her failure to apply for suitable work, report to a former
22 employer for an interview concerning suitable work, or accept
23 suitable work as required in section 29(1)(c), (d), and (e).

24 (4) The waiver of the requirement that a claimant seek work,
25 as provided in subsection (1)(a), shall not be applicable to
26 weeks of unemployment for which the claimant is claiming extended
27 benefits if section 64(8)(a)(ii) is in effect, unless the

1 individual is participating in training approved by the
2 ~~commission.~~ **UNEMPLOYMENT AGENCY.**

3 (5) Notwithstanding any other provisions of this act, an
4 otherwise eligible individual shall not be denied benefits for
5 any week beginning after October 30, 1982 solely because the
6 individual is in training approved under section 236(a)(1) of the
7 trade act of 1974, as amended, 19 ~~U.S.C.~~ **USC** 2296, nor shall the
8 individual be denied benefits by reason of leaving work to enter
9 such training if the work left is not suitable employment.

10 Furthermore, an otherwise eligible individual shall not be denied
11 benefits because of the application to any such week in training
12 of provisions of this act, or any applicable federal unemployment
13 compensation law, relating to availability for work, active
14 search for work, or refusal to accept work. For purposes of this
15 subsection, "suitable employment" means, with respect to an
16 individual, work of a substantially equal or higher skill level
17 than the individual's past adversely affected employment, as
18 defined for purposes of the trade act of 1974, 19 ~~U.S.C.~~ **USC** 2101
19 to 2495, and wages for that work at not less than 80% of the
20 individual's average weekly wage as determined for the purposes
21 of the trade act of 1974.

22 (6) **FOR PURPOSES OF THIS SECTION, FOR BENEFIT YEARS**
23 **BEGINNING ON OR AFTER JANUARY 1, 2013, TO BE ACTIVELY ENGAGED IN**
24 **SEEKING WORK, AN INDIVIDUAL MUST CONDUCT A SYSTEMATIC AND**
25 **SUSTAINED SEARCH FOR WORK IN EACH WEEK THE INDIVIDUAL IS CLAIMING**
26 **BENEFITS, USING ANY OF THE FOLLOWING METHODS TO REPORT THE**
27 **DETAILS OF THE WORK SEARCH:**

1 (A) REPORTING AT MONTHLY INTERVALS ON THE UNEMPLOYMENT
2 AGENCY'S ONLINE REPORTING SYSTEM THE NAME OF EACH EMPLOYER AND
3 PHYSICAL OR ONLINE LOCATION OF EACH EMPLOYER WHERE WORK WAS
4 SOUGHT AND THE DATE AND METHOD BY WHICH WORK WAS SOUGHT WITH EACH
5 EMPLOYER.

6 (B) FILING A WRITTEN REPORT WITH THE UNEMPLOYMENT AGENCY BY
7 MAIL OR FACSIMILE TRANSMISSION NOT LATER THAN THE END OF THE
8 FOURTH CALENDAR WEEK AFTER THE END OF THE WEEK IN WHICH THE
9 INDIVIDUAL ENGAGED IN THE WORK SEARCH, ON A FORM APPROVED BY THE
10 UNEMPLOYMENT AGENCY, INDICATING THE NAME OF EACH EMPLOYER AND
11 PHYSICAL OR ONLINE LOCATION OF EACH EMPLOYER WHERE WORK WAS
12 SOUGHT AND THE DATE AND METHOD BY WHICH WORK WAS SOUGHT WITH EACH
13 EMPLOYER.

14 (C) APPEARING AT LEAST MONTHLY IN PERSON AT A MICHIGAN WORKS
15 AGENCY OFFICE TO REPORT THE NAME AND PHYSICAL OR ONLINE LOCATION
16 OF EACH EMPLOYER WHERE THE INDIVIDUAL SOUGHT WORK DURING THE
17 PREVIOUS MONTH AND THE DATE AND METHOD BY WHICH WORK WAS SOUGHT
18 WITH EACH EMPLOYER.

19 (7) THE WORK SEARCH CONDUCTED BY THE CLAIMANT IS SUBJECT TO
20 RANDOM AUDIT BY THE UNEMPLOYMENT AGENCY.

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

23 (a) Left work voluntarily without good cause attributable to
24 the employer or employing unit. An individual who left work is
25 presumed to have left work voluntarily without good cause
26 attributable to the employer or employing unit. **AN INDIVIDUAL WHO**
27 **IS ABSENT FROM WORK FOR A PERIOD OF 3 CONSECUTIVE WORK DAYS OR**

1 MORE WITHOUT CONTACTING THE EMPLOYER IN A MANNER ACCEPTABLE TO
2 THE EMPLOYER AND OF WHICH THE INDIVIDUAL WAS INFORMED AT THE TIME
3 OF HIRE SHALL BE CONSIDERED TO HAVE VOLUNTARILY LEFT WORK WITHOUT
4 GOOD CAUSE ATTRIBUTABLE TO THE EMPLOYER. AN INDIVIDUAL WHO
5 BECOMES UNEMPLOYED AS A RESULT OF NEGLIGENTLY LOSING A
6 REQUIREMENT FOR THE JOB OF WHICH HE OR SHE WAS INFORMED AT THE
7 TIME OF HIRE SHALL BE CONSIDERED TO HAVE VOLUNTARILY LEFT WORK
8 WITHOUT GOOD CAUSE ATTRIBUTABLE TO THE EMPLOYER. An individual
9 claiming benefits under this act has the burden of proof to
10 establish that he or she left work involuntarily or for good
11 cause that was attributable to the employer or employing unit. AN
12 INDIVIDUAL CLAIMING TO HAVE LEFT WORK INVOLUNTARILY FOR MEDICAL
13 REASONS MUST HAVE DONE ALL OF THE FOLLOWING BEFORE THE LEAVING:
14 SECURED A STATEMENT FROM A MEDICAL PROFESSIONAL THAT CONTINUING
15 IN THE INDIVIDUAL'S CURRENT JOB WOULD BE HARMFUL TO THE
16 INDIVIDUAL'S PHYSICAL OR MENTAL HEALTH; UNSUCCESSFULLY ATTEMPTED
17 TO SECURE ALTERNATIVE WORK WITH THE EMPLOYER; AND UNSUCCESSFULLY
18 ATTEMPTED TO BE PLACED ON A LEAVE OF ABSENCE WITH THE EMPLOYER TO
19 LAST UNTIL THE INDIVIDUAL'S MENTAL OR PHYSICAL HEALTH WOULD NO
20 LONGER BE HARMED BY THE CURRENT JOB. However, if ~~either~~ ANY of
21 the following conditions is met, the leaving does not disqualify
22 the individual:

23 (i) The individual has an established benefit year in effect
24 and during that benefit year leaves unsuitable work within 60
25 days after the beginning of that work. BENEFITS PAID AFTER A
26 LEAVING UNDER THIS SUBPARAGRAPH SHALL NOT BE CHARGED TO THE
27 EXPERIENCE ACCOUNT OF THE EMPLOYER THE INDIVIDUAL LEFT, BUT SHALL

Senate Bill No. 806 (H-1) as amended December 14, 2011

1 BE CHARGED INSTEAD TO THE NONCHARGEABLE BENEFITS ACCOUNT.

2 (ii) The individual is the spouse of a full-time member of
3 the United States armed forces, and the leaving is due to the
4 military duty reassignment of that member of the United States
5 armed forces to a different geographic location. **[BENEFITS PAID AFTER A
LEAVING UNDER THIS SUBPARAGRAPH SHALL NOT BE CHARGED TO THE EXPERIENCE
ACCOUNT OF THE EMPLOYER THE INDIVIDUAL LEFT, BUT SHALL BE CHARGED INSTEAD
TO THE NONCHARGEABLE BENEFITS ACCOUNT.]**

6 (iii) THE INDIVIDUAL IS CONCURRENTLY WORKING PART-TIME FOR AN
7 EMPLOYER OR EMPLOYING UNIT AND FOR ANOTHER EMPLOYER OR EMPLOYING
8 UNIT AND VOLUNTARILY LEAVES THE PART-TIME WORK WHILE CONTINUING
9 WORK WITH THE OTHER EMPLOYER. THE PORTION OF THE BENEFITS PAID IN
10 ACCORDANCE WITH THIS **[SUBPARAGRAPH]** THAT WOULD OTHERWISE BE CHARGED
11 TO THE EXPERIENCE ACCOUNT OF THE PART-TIME EMPLOYER THAT THE
12 INDIVIDUAL LEFT SHALL NOT BE CHARGED TO THE ACCOUNT OF THAT
13 EMPLOYER, BUT SHALL BE CHARGED INSTEAD TO THE NONCHARGEABLE
14 BENEFITS ACCOUNT.

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

17 (c) Failed without good cause to apply **DILIGENTLY** for
18 available suitable work after receiving ~~from the employment~~
19 ~~office or the commission~~ notice **FROM THE UNEMPLOYMENT AGENCY** of
20 the availability of that work **OR FAILED TO APPLY FOR WORK WITH**
21 **EMPLOYERS THAT COULD REASONABLY BE EXPECTED TO HAVE SUITABLE WORK**
22 **AVAILABLE.**

23 (d) Failed without good cause while unemployed to report to
24 the individual's former employer or employing unit within a
25 reasonable time after that employer or employing unit provided
26 notice of the availability of an interview concerning available
27 suitable work with the former employer or employing unit.

1 (e) Failed without good cause to accept suitable work
2 offered to the individual or to return to the individual's
3 customary self-employment, if any, when directed by the
4 employment office or the ~~commission~~ **UNEMPLOYMENT AGENCY**. An
5 employer that receives a monetary determination under section 32
6 may notify the unemployment agency regarding the availability of
7 suitable work with the employer on the monetary determination or
8 other form provided by the unemployment agency. Upon receipt of
9 the notice of the availability of suitable work, the unemployment
10 agency shall notify the claimant of the availability of suitable
11 work.

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

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

23 (i) A strike or other concerted action in violation of an
24 applicable collective bargaining agreement that results in
25 curtailment of work or restriction of or interference with
26 production.

27 (ii) A wildcat strike or other concerted action not

1 authorized by the individual's recognized bargaining
2 representative.

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

5 (i) Was discharged for theft connected with the individual's
6 work.

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

9 (k) Committed a theft after receiving notice of a layoff or
10 discharge, but before the effective date of the layoff or
11 discharge, resulting in loss or damage to the employer who would
12 otherwise be chargeable for the benefits, regardless of whether
13 the individual qualified for the benefits before the theft.

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

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

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

27 (B) That a failure to provide the temporary help firm with

1 notice of the employee's completion of services pursuant to sub-
2 subparagraph (A) constitutes a voluntary quit that will affect
3 the employee's eligibility for unemployment compensation should
4 the employee seek unemployment compensation following completion
5 of those services.

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

10 (m) Was discharged for illegally ingesting, injecting,
11 inhaling, or possessing a controlled substance on the premises of
12 the employer; refusing to submit to a drug test that was required
13 to be administered in a nondiscriminatory manner; or testing
14 positive on a drug test, if the test was administered in a
15 nondiscriminatory manner. If the worker disputes the result of
16 the testing, **AND IF** a generally accepted confirmatory test ~~shall~~
17 ~~be administered and shall also indicate a positive result for the~~
18 ~~presence of a controlled substance before a disqualification of~~
19 ~~the worker under this subdivision.~~ **HAS NOT BEEN ADMINISTERED ON**
20 **THE SAME SAMPLE PREVIOUSLY TESTED, THEN A GENERALLY ACCEPTED**
21 **CONFIRMATORY TEST SHALL BE ADMINISTERED ON THAT SAMPLE. IF THE**
22 **CONFIRMATORY TEST ALSO INDICATES A POSITIVE RESULT FOR THE**
23 **PRESENCE OF A CONTROLLED SUBSTANCE, THE WORKER WHO IS DISCHARGED**
24 **AS A RESULT OF THE TEST RESULT WILL BE DISQUALIFIED UNDER THIS**
25 **SUBDIVISION. A REPORT BY A DRUG TESTING FACILITY SHOWING A**
26 **POSITIVE RESULT FOR THE PRESENCE OF A CONTROLLED SUBSTANCE IS**
27 **CONCLUSIVE UNLESS THERE IS SUBSTANTIAL EVIDENCE TO THE CONTRARY.**

1 As used in this subdivision:

2 (i) "Controlled substance" means that term as defined in
3 section 7104 of the public health code, 1978 PA 368, MCL
4 333.7104.

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

7 (iii) "Nondiscriminatory manner" means administered
8 impartially and objectively in accordance with a collective
9 bargaining agreement, rule, policy, a verbal or written notice,
10 or a labor-management contract.

11 **(N) THEFT FROM THE EMPLOYER THAT RESULTED IN THE EMPLOYEE'S**
12 **CONVICTION, WITHIN 2 YEARS OF THE DATE OF THE DISCHARGE, OF THEFT**
13 **OR A LESSER INCLUDED OFFENSE.**

14 (2) A disqualification under subsection (1) begins the week
15 in which the act or discharge that caused the disqualification
16 occurs and continues until the disqualified individual
17 requalifies under subsection (3), except that for benefit years
18 beginning before October 1, 2000, the disqualification does not
19 prevent the payment of benefits if there are credit weeks, other
20 than multiemployer credit weeks, after the most recent
21 disqualifying act or discharge.

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

26 (a) For benefit years established before October 1, 2000,
27 the individual shall complete 6 requalifying weeks if he or she

1 was disqualified under subsection (1)(c), (d), (e), (f), (g), or
2 (l), or 13 requalifying weeks if he or she was disqualified under
3 subsection (1)(h), (i), (j), (k), or (m). A requalifying week
4 required under this subdivision is each week in which the
5 individual does any of the following:

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

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

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

14 (b) For benefit years established before October 1, 2000, if
15 the individual is disqualified under subsection (1)(a) or (b), he
16 or she shall requalify, after the week in which the disqualifying
17 discharge occurred by earning in employment for an employer
18 liable under this act or the unemployment compensation act of
19 another state an amount equal to, or in excess of, 7 times the
20 individual's potential weekly benefit rate, calculated on the
21 basis of employment with the employer involved in the
22 disqualification, or by earning in employment for an employer
23 liable under this act or the unemployment compensation act of
24 another state an amount equal to, or in excess of, 40 times the
25 state minimum hourly wage times 7, whichever is the lesser
26 amount.

27 (c) For benefit years established before October 1, 2000, a

1 benefit payable to an individual disqualified under subsection
2 (1)(a) or (b) shall be charged to the nonchargeable benefits
3 account, and not to the account of the employer with whom the
4 individual was involved in the disqualification.

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

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

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

20 (e) For benefit years beginning on or after October 1, 2000
21 and beginning before April 26, 2002, if the individual is
22 disqualified under subsection (1)(a) or (b), he or she shall
23 requalify, after the week in which the disqualifying act or
24 discharge occurred by earning in employment for an employer
25 liable under this act or the unemployment compensation law of
26 another state at least the lesser of the following:

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

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

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

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

16 (h) A benefit payable to the individual disqualified or
17 separated under disqualifying circumstances under subsection
18 (1)(a) or (b), shall be charged to the nonchargeable benefits
19 account, and not to the account of the employer with whom the
20 individual was involved in the separation. Benefits payable to an
21 individual determined by the ~~commission~~ **UNEMPLOYMENT AGENCY** to be
22 separated under disqualifying circumstances shall not be charged
23 to the account of the employer involved in the disqualification
24 for any period after the employer notifies the ~~commission~~
25 **UNEMPLOYMENT AGENCY** of the claimant's possible ineligibility or
26 disqualification. **HOWEVER, AN INDIVIDUAL FILING A NEW CLAIM FOR**
27 **BENEFITS WHO REPORTS THE REASON FOR SEPARATION FROM A BASE PERIOD**

1 EMPLOYER AS A VOLUNTARY LEAVING SHALL BE PRESUMED TO HAVE
2 VOLUNTARILY LEFT WITHOUT GOOD CAUSE ATTRIBUTABLE TO THE EMPLOYER
3 AND SHALL BE DISQUALIFIED UNLESS THE INDIVIDUAL PROVIDES
4 SUBSTANTIAL EVIDENCE TO REBUT THE PRESUMPTION. If a disqualifying
5 act or discharge occurs during the individual's benefit year, any
6 benefits that may become payable to the individual in a later
7 benefit year based on employment with the employer involved in
8 the disqualification shall be charged to the nonchargeable
9 benefits account.

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

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

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

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

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

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

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

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

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

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

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

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

25 (g) For benefit years beginning on or after October 1, 2000,
26 the benefits of an individual disqualified under subsection
27 (1)(h), (i), (j), (k), ~~or~~ (m), **OR (N)** shall be reduced by 13

Senate Bill No. 806 (H-1) as amended December 14, 2011

1 weeks and any weekly benefit payments made to the claimant
2 thereafter shall be reduced by the portion of the payment
3 attributable to base period wages paid by the base period
4 employer involved in a disqualification under subsection (1)(h),
5 (i), (j), (k), ~~or~~ (m), OR (N).

6 (5) If an individual leaves work to accept permanent full-
7 time work with another employer [OR TO ACCEPT A REFERRAL TO ANOTHER
8 EMPLOYER FROM THE INDIVIDUAL'S UNION HIRING HALL] and performs services
9 for that
10 employer, or if an individual leaves work to accept a recall from
11 a former employer, all of the following apply:

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

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

19 (c) When issuing a determination covering the period of
20 employment with a new or former employer described in this
21 subsection, the ~~commission~~ **UNEMPLOYMENT AGENCY** shall advise the
22 chargeable employer of the name and address of the other
23 employer, the period covered by the employment, and the extent of
24 the benefits that may be charged to the account of the chargeable
25 employer.

26 (6) In determining whether work is suitable for an
27 individual, the ~~commission~~ **UNEMPLOYMENT AGENCY** shall consider the
28 degree of risk involved to the individual's health, safety, and
29 morals, the individual's physical fitness and prior training, the

1 individual's length of unemployment and prospects for securing
2 local work in the individual's customary occupation, and the
3 distance of the available work from the individual's residence.
4 Additionally, the ~~commission~~ **UNEMPLOYMENT AGENCY** shall consider
5 the individual's experience and prior earnings, but an unemployed
6 individual who refuses an offer of work determined to be suitable
7 under this section shall be denied benefits if the pay rate for
8 that work is at least 70% of the gross pay rate he or she
9 received immediately before becoming unemployed. **BEGINNING**
10 **JANUARY 15, 2012, AFTER AN INDIVIDUAL HAS RECEIVED BENEFITS FOR**
11 **50% OF THE BENEFIT WEEKS IN THE INDIVIDUAL'S BENEFIT YEAR, WORK**
12 **SHALL NOT BE CONSIDERED UNSUITABLE BECAUSE IT IS OUTSIDE OF THE**
13 **INDIVIDUAL'S TRAINING OR EXPERIENCE OR UNSUITABLE AS TO PAY RATE**
14 **IF THE PAY RATE FOR THAT WORK MEETS OR EXCEEDS THE MINIMUM WAGE;**
15 **IS AT LEAST THE PREVAILING MEAN WAGE FOR SIMILAR WORK IN THE**
16 **LOCALITY FOR THE MOST RECENT FULL CALENDAR YEAR FOR WHICH DATA**
17 **ARE AVAILABLE AS PUBLISHED BY THE DEPARTMENT OF TECHNOLOGY,**
18 **MANAGEMENT, AND BUDGET AS "WAGES BY JOB TITLE", BY STANDARD**
19 **METROPOLITAN STATISTICAL AREA; AND IS 120% OR MORE OF THE**
20 **INDIVIDUAL'S WEEKLY BENEFIT AMOUNT.**

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

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

26 (b) If the remuneration, hours, or other conditions of the
27 work offered are substantially less favorable to the individual

1 than those prevailing for similar work in the locality.

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

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

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

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

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

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

27 (c) An individual is not disqualified under this subsection

1 if the individual is not directly involved in the labor dispute.
2 An individual is not directly involved in a labor dispute unless
3 any of the following are established:

4 (i) At the time or in the course of a labor dispute in the
5 establishment in which the individual was then employed, the
6 individual in concert with 1 or more other employees voluntarily
7 stopped working other than at the direction of the individual's
8 employing unit.

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

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

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

24 (d) As used in this subsection, "directly interested" shall
25 be construed and applied so as not to disqualify individuals
26 unemployed as a result of a labor dispute the resolution of which
27 may not reasonably be expected to affect their wages, hours, or

1 other conditions of employment, and to disqualify individuals
2 whose wages, hours, or conditions of employment may reasonably be
3 expected to be affected by the resolution of the labor dispute. A
4 "reasonable expectation" of an effect on an individual's wages,
5 hours, or other conditions of employment exists, in the absence
6 of a substantial preponderance of evidence to the contrary, in
7 any of the following situations:

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

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

23 (iii) If a collective bargaining agreement covers both the
24 individual's grade or class of workers in the establishment in
25 which the individual is or was last employed and the workers in
26 another establishment of the same employing unit who are actively
27 participating in the labor dispute, and that collective

1 bargaining agreement is subject by its terms to modification,
2 supplementation, or replacement, or has expired or been opened by
3 mutual consent at the time of the labor dispute.

4 (e) In determining the scope of the grade or class of
5 workers, evidence of the following is relevant:

6 (i) Representation of the workers by the same national or
7 international organization or by local affiliates of that
8 national or international organization.

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

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

16 (iv) Any functional integration of the work performed by
17 those workers.

18 (v) Whether the resolution of those issues involved in the
19 labor dispute as to some of the workers could directly or
20 indirectly affect the advancement, negotiation, or settlement of
21 the same or similar issues in respect to the remaining workers.

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

26 (vii) Whether issues on the same subject matter as those
27 involved in the labor dispute have been the subject of proposals

1 or demands made upon the employing unit that would by their terms
2 have applied to those workers.

3 (9) Notwithstanding subsections (1) to (8), if the employing
4 unit submits notice to the ~~commission~~**UNEMPLOYMENT AGENCY** of
5 possible ineligibility or disqualification beyond the time limits
6 prescribed by ~~commission~~**UNEMPLOYMENT AGENCY** rule, the notice
7 shall not form the basis of a determination of ineligibility or
8 disqualification for a claim period compensated before the
9 receipt of the notice by the ~~commission~~**UNEMPLOYMENT AGENCY**.

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

18 Sec. 32a. (1) Upon application by an interested party for
19 review of a determination, upon request for transfer to a ~~referee~~
20 **AN ADMINISTRATIVE LAW JUDGE** for a hearing filed with the
21 ~~commission~~**UNEMPLOYMENT AGENCY** within 30 days after the mailing
22 or personal service of a notice of determination, or upon the
23 ~~commission's~~**UNEMPLOYMENT AGENCY'S** own motion within that 30-day
24 period, the ~~commission~~**UNEMPLOYMENT AGENCY** shall review any
25 determination. After review, the ~~commission~~**UNEMPLOYMENT AGENCY**
26 shall issue a redetermination affirming, modifying, or reversing
27 the prior determination and stating the reasons for the

1 redetermination, or may in its discretion transfer the matter to
2 ~~a referee~~**AN ADMINISTRATIVE LAW JUDGE** for a hearing. If a
3 redetermination is issued, the ~~commission~~**UNEMPLOYMENT AGENCY**
4 shall promptly notify the interested parties of the
5 redetermination, the redetermination is final unless within 30
6 days after the mailing or personal service of a notice of the
7 redetermination an appeal is filed with the ~~commission~~
8 **UNEMPLOYMENT AGENCY** for a hearing on the redetermination before a
9 ~~referee~~**AN ADMINISTRATIVE LAW JUDGE** in accordance with section
10 33.

11 (2) The ~~commission~~**UNEMPLOYMENT AGENCY** may, for good cause,
12 including any administrative clerical error, reconsider a prior
13 determination or redetermination after the 30-day period has
14 expired and after reconsideration issue a redetermination
15 affirming, modifying, or reversing the prior determination or
16 redetermination, or transfer the matter to ~~a referee~~**AN**
17 **ADMINISTRATIVE LAW JUDGE** for a hearing. A reconsideration shall
18 not be made unless the request is filed with the ~~commission~~
19 **UNEMPLOYMENT AGENCY** , or reconsideration is initiated by the
20 ~~commission~~**UNEMPLOYMENT AGENCY** with notice to the interested
21 parties, within 1 year from the date of mailing or personal
22 service of the original determination on the disputed issue.

23 (3) If an interested party fails to file a protest within
24 the 30-day period and the ~~commission~~**UNEMPLOYMENT AGENCY** for good
25 cause reconsiders a prior determination or redetermination and
26 issues a redetermination, a disqualification, or an ineligibility
27 imposed thereunder, other than an ineligibility imposed due to

1 receipt of retroactive pay, the redetermination,
2 disqualification, or ineligibility does not apply to a
3 compensable period for which benefits were paid or are payable
4 unless the benefits were obtained as a result of an
5 administrative clerical error, a false statement, or a
6 nondisclosure or misrepresentation of a material fact by the
7 claimant. However, the redetermination is final unless within 30
8 days after the date of mailing or personal service of the notice
9 of redetermination an appeal is filed for a hearing on the
10 redetermination before ~~a referee~~ **AN ADMINISTRATIVE LAW JUDGE** in
11 accordance with section 33.

12 (4) In addition to the transfer provisions in subsections
13 (1) and (2), both of the following apply:

14 (a) If both the claimant and the employer agree, the matter
15 may be transferred directly to ~~a referee~~ **AN ADMINISTRATIVE LAW**
16 **JUDGE** in a case involving the payment of unemployment benefits.

17 (b) If both the ~~commission~~ **UNEMPLOYMENT AGENCY** and the
18 employer agree, the matter may be transferred directly to a
19 ~~referee~~ **AN ADMINISTRATIVE LAW JUDGE** in a case involving
20 unemployment contributions or reimbursements in lieu of
21 contributions.

22 Sec. 32b. (1) ~~Not later than 6 months after the effective~~
23 ~~date of the amendatory act that added this section, the~~ **THE**
24 unemployment agency shall establish and provide access to a
25 secure internet site to enable employers to determine if
26 correspondence sent to the unemployment agency by the employer
27 has been received.

1 (2) Within 10 days of receiving a ~~request for~~
2 ~~redetermination or a protest~~ **OR APPEAL** from an employer or
3 employing unit, the unemployment agency shall post a statement
4 confirming receipt of the ~~request for redetermination or protest~~
5 **OR APPEAL** from that employer or employing unit on the internet
6 site required under subsection (1).

7 (3) **A PROTEST OR APPEAL SHALL BE SIGNED OR VERIFIED IN A**
8 **MANNER PRESCRIBED BY ADMINISTRATIVE RULE AND SHALL BE TRANSMITTED**
9 **TO THE AGENCY BY MAIL, FACSIMILE, OR OTHER ELECTRONIC METHOD**
10 **APPROVED BY THE AGENCY. IF A PARTY SUBMITS AN UNSIGNED OR**
11 **UNVERIFIED PROTEST OR APPEAL, THE UNEMPLOYMENT AGENCY SHALL**
12 **NOTIFY THE PARTY OF THE DEFECT THAT PREVENTS THE AGENCY FROM**
13 **ACCEPTING THE PROTEST OR APPEAL.**

14 Sec. 33. (1) ~~The commission shall appoint an adequate number~~
15 ~~of impartial referees to hear and decide appeals~~ **AN APPEAL** from a
16 redetermination issued by the ~~commission~~ **AGENCY** in accordance
17 with section 32a or ~~to hear and decide~~ a matter transferred **FOR**
18 **HEARING AND DECISION** in accordance with section 32a **SHALL BE**
19 **REFERRED TO THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM FOR**
20 **ASSIGNMENT TO AN ADMINISTRATIVE LAW JUDGE.** If the ~~commission~~
21 **AGENCY** transfers a matter, or an interested party requests a
22 hearing before ~~a referee~~ **AN ADMINISTRATIVE LAW JUDGE** on a
23 redetermination, all matters pertinent to the claimant's benefit
24 rights or to the liability of the employing unit under this act
25 shall be referred to ~~a referee.~~ **THE ADMINISTRATIVE LAW JUDGE.** The
26 ~~referee~~ **ADMINISTRATIVE LAW JUDGE** shall afford all interested
27 parties a reasonable opportunity for a fair hearing and, unless

1 the appeal is withdrawn, the ~~referee~~ **ADMINISTRATIVE LAW JUDGE**
2 shall decide the rights of the interested parties and shall
3 notify the interested parties of the decision, ~~within 60 days,~~
4 setting forth the findings of fact upon which the decision is
5 based, together with the reasons for the decision. ~~However, with~~
6 **WITH** respect to an appeal from a denial of redetermination, if
7 the ~~referee~~ **ADMINISTRATIVE LAW JUDGE** finds that there was good
8 cause for the issuance of a redetermination, the denial shall be
9 a redetermination affirming the determination and the appeal from
10 the denial shall be an appeal from that affirmance. ~~However, when~~
11 ~~the same or substantially similar evidence is material to the~~
12 ~~matter in issue with respect to more than 1 interested party, the~~
13 ~~same time and place for considering all the cases may be fixed,~~
14 ~~hearing on the cases jointly conducted, a single record of the~~
15 ~~proceedings made, and evidence introduced with respect to 1~~
16 ~~proceeding considered as introduced in the others, if an~~
17 ~~interested party is not prejudiced thereby.~~ **UNLESS AN INTERESTED**
18 **PARTY WOULD BE UNDULY PREJUDICED, AN ADMINISTRATIVE LAW JUDGE MAY**
19 **CONSOLIDATE CASES INVOLVING THE SAME OR SUBSTANTIALLY SIMILAR**
20 **EVIDENCE OR ISSUES, HEAR THE CONSOLIDATED CASES AT THE SAME DATE**
21 **AND TIME, CREATE A SINGLE RECORD OF PROCEEDINGS, AND CONSIDER**
22 **EVIDENCE INTRODUCED IN 1 OF THOSE CASES IN THE OTHER CASES.** If
23 the appellant fails to appear or prosecute the appeal, the
24 ~~referee~~ **ADMINISTRATIVE LAW JUDGE** may dismiss the proceedings or
25 take other action considered advisable. ~~A referee~~ **AN**
26 **ADMINISTRATIVE LAW JUDGE** may, either upon application for
27 rehearing by an interested party or on his or her own motion,

1 proceed to rehear, affirm, modify, set aside, or reverse a prior
2 decision on the basis of the evidence previously submitted in the
3 case, or on the basis of additional evidence. ~~However, the~~ **THE**
4 application or motion shall be made within 30 days after the date
5 of mailing of the decision. The ~~referee~~ **ADMINISTRATIVE LAW JUDGE**
6 may, for good cause, reopen and review a prior decision ~~of a~~
7 ~~referee~~ and issue a new decision after the 30-day appeal period
8 has expired. ~~However, a~~ **A** request for review shall be made within
9 1 year after the date of mailing of the prior decision. ~~A referee~~
10 **AN ADMINISTRATIVE LAW JUDGE** shall not participate in a case in
11 which he or she has a direct or indirect interest.

12 (2) ~~An interested party within~~ **WITHIN** 30 days after the
13 mailing of a copy of a decision of the ~~referee~~ **ADMINISTRATIVE LAW**
14 **JUDGE** or of a denial of a motion for rehearing, **AN INTERESTED**
15 **PARTY** may file an appeal to the ~~board of review,~~ **MICHIGAN**
16 **COMPENSATION APPELLATE COMMISSION**, and unless such an appeal is
17 filed, the decision or denial ~~shall be~~ **BY THE ADMINISTRATIVE LAW**
18 **JUDGE IS** final.

19 ~~—— (3) A writing prepared, owned, used, in the possession of,~~
20 ~~or retained by a referee in the performance of an official~~
21 ~~function shall be made available to the public in compliance with~~
22 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
23 ~~15.246 of the Michigan Compiled Laws.~~

24 Sec. 34. (1) **THE MICHIGAN COMPENSATION APPELLATE COMMISSION**
25 **CREATED IN EXECUTIVE REORGANIZATION ORDER NO. 2011-6, MCL**
26 **445.2032, HAS FULL AUTHORITY TO HANDLE, PROCESS, AND DECIDE**
27 **APPEALS FILED UNDER SECTION 33(2).**

1 (2) An appeal to the ~~board of review~~ **MICHIGAN COMPENSATION**
2 **APPELLATE COMMISSION** from the findings of fact and decision of
3 the ~~referee~~ **ADMINISTRATIVE LAW JUDGE** or from a denial by the
4 ~~referee~~ **ADMINISTRATIVE LAW JUDGE** of a motion for a rehearing or
5 reopening ~~;~~ shall be a matter of right by an interested party.
6 The ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**,
7 on the basis of evidence previously submitted and additional
8 evidence as it requires, shall affirm, modify, set aside, or
9 reverse the findings of fact and decision of the ~~referee~~
10 **ADMINISTRATIVE LAW JUDGE** or a denial by the ~~referee~~
11 **ADMINISTRATIVE LAW JUDGE** of a motion for rehearing or reopening.

12 (3) **THE AGENCY IS AN INTERESTED PARTY IN A MATTER BEFORE AN**
13 **ADMINISTRATIVE LAW JUDGE, THE MICHIGAN COMPENSATION APPELLATE**
14 **COMMISSION, OR A COURT, BUT NOTICE OF HEARING IS NOT REQUIRED TO**
15 **BE PROVIDED TO THE AGENCY FOR A HEARING BEFORE AN ADMINISTRATIVE**
16 **LAW JUDGE OR THE MICHIGAN COMPENSATION APPELLATE COMMISSION.**

17 (4) The ~~board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**
18 shall conduct an oral hearing in a matter before the ~~board~~ **IT**
19 only after an application for the hearing is made by an
20 interested party and the application is approved by 2 or more
21 members of the ~~board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**
22 assigned to review the appeal. If an application for an oral
23 hearing is not approved, the ~~board shall not~~ **MICHIGAN**
24 **COMPENSATION APPELLATE COMMISSION MAY** consider a written argument
25 ~~unless~~ **IF AN APPLICATION FOR WRITTEN ARGUMENT IS APPROVED BY 2 OR**
26 **MORE MEMBERS OF THE MICHIGAN COMPENSATION APPELLATE COMMISSION**
27 **ASSIGNED TO REVIEW THE APPEAL AND** all parties are represented or

1 all parties agree that written argument should be considered. If
2 neither an oral hearing is held nor written argument considered,
3 the ~~board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION** shall decide
4 the case on the ~~referee~~ record **BEFORE THE ADMINISTRATIVE LAW**
5 **JUDGE**. The ~~board shall notify each interested party of its~~
6 ~~decision or order within 60 days after the date of the last board~~
7 ~~of review hearing on a contested matter.~~

8 (5) The ~~board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**, in
9 its discretion, may omit the ~~giving of reasons~~ **THE BASIS FOR ITS**
10 **DECISION** in cases ~~where~~ **IN WHICH IT AFFIRMS** the decision of a
11 ~~referee is affirmed~~ **AN ADMINISTRATIVE LAW JUDGE** without
12 alteration or modification.

13 (6) If the appellant fails to appear, the ~~board of review~~
14 **MICHIGAN COMPENSATION APPELLATE COMMISSION** may dismiss the
15 proceedings or take other action ~~as it may deem~~ **IT CONSIDERS**
16 advisable.

17 (7) The ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE**
18 **COMMISSION** may, either upon application by an interested party
19 for rehearing or on its own motion, proceed to rehear, affirm,
20 modify, set aside, or reverse a prior decision on the basis of
21 the evidence previously submitted in that case, or on the basis
22 of additional evidence if the application or motion is made
23 within 30 days after the date of mailing of the prior decision.
24 The ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**
25 may, for good cause, reopen and review a prior decision of the
26 ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION** and
27 issue a new decision after the 30-day appeal period has expired,

1 but a review shall not be made unless the request is filed with
2 the ~~board~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**, or review
3 is initiated by the ~~board~~ **MICHIGAN COMPENSATION APPELLATE**
4 **COMMISSION** with notice to the interested parties, within 1 year
5 after the date of mailing of the prior decision. Unless an
6 interested party, within 30 days after mailing of a copy of a
7 decision of the ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE**
8 **COMMISSION** or of a denial of a motion for a rehearing, files an
9 appeal from the decision or denial, or seeks judicial review as
10 provided in section 38, the decision shall be final.

11 (8) THE MICHIGAN COMPENSATION APPELLATE COMMISSION MAY ON
12 ITS OWN MOTION AFFIRM, MODIFY, SET ASIDE, OR REVERSE A DECISION
13 OR ORDER OF AN ADMINISTRATIVE LAW JUDGE ON THE BASIS OF THE
14 EVIDENCE PREVIOUSLY SUBMITTED IN THE CASE; DIRECT THE TAKING OF
15 ADDITIONAL EVIDENCE; OR PERMIT A PARTY TO THE DECISION OR ORDER
16 TO INITIATE FURTHER APPEALS BEFORE IT. THE MICHIGAN COMPENSATION
17 APPELLATE COMMISSION SHALL PERMIT A FURTHER APPEAL BY A PARTY
18 INTERESTED IN A DECISION OR ORDER OF AN ADMINISTRATIVE LAW JUDGE
19 OR BY THE MICHIGAN COMPENSATION APPELLATE COMMISSION IF ITS
20 INITIAL RULING HAS BEEN OVERRULED OR MODIFIED. THE MICHIGAN
21 COMPENSATION APPELLATE COMMISSION MAY REMOVE TO ITSELF OR DIRECT
22 THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM TO TRANSFER TO ANOTHER
23 ADMINISTRATIVE LAW JUDGE THE PROCEEDINGS ON APPEAL, REHEARING, OR
24 REVIEW PENDING BEFORE AN ADMINISTRATIVE LAW JUDGE. THE MICHIGAN
25 COMPENSATION APPELLATE COMMISSION SHALL PROMPTLY NOTIFY THE
26 INTERESTED PARTIES OF ITS FINDINGS AND DECISIONS.

27 (9) A MEMBER OF THE MICHIGAN COMPENSATION APPELLATE

1 COMMISSION MAY ADMINISTER OATHS AND TAKE DEPOSITIONS.

2 (10) THE TESTIMONY AT A HEARING BEFORE AN ADMINISTRATIVE LAW
3 JUDGE OR THE MICHIGAN COMPENSATION APPELLATE COMMISSION SHALL BE
4 RECORDED, BUT NEED NOT BE TRANSCRIBED UNLESS REQUESTED BY THE
5 MAJORITY OF THE PANEL OF THE MICHIGAN COMPENSATION APPELLATE
6 COMMISSION ASSIGNED TO HEAR THE CLAIM. IF AN INTERESTED PARTY
7 WANTS A COPY OF A TRANSCRIPT OF A HEARING HELD BEFORE AN
8 ADMINISTRATIVE LAW JUDGE OR THE MICHIGAN COMPENSATION APPELLATE
9 COMMISSION, AN INTERESTED PARTY MAY REQUEST AND SHALL BE PROVIDED
10 A TRANSCRIPT. AN INTERESTED PARTY WHO REQUESTS A TRANSCRIPT IS
11 RESPONSIBLE FOR THE COST OF THE TRANSCRIPT.

12 (11) THE MANNER IN WHICH AN APPEAL TO AN ADMINISTRATIVE LAW
13 JUDGE AND THE MICHIGAN COMPENSATION APPELLATE COMMISSION SHALL BE
14 PRESENTED, THE APPEAL REPORTS REQUIRED FROM AN INTERESTED PARTY,
15 AND THE PROCEDURE GOVERNING THE APPEAL SHALL BE IN ACCORDANCE
16 WITH RULES PROMULGATED BY THE MICHIGAN ADMINISTRATIVE HEARING
17 SYSTEM.

18 Sec. 37. (1) Witnesses subpoenaed pursuant to this act shall
19 be allowed fees at the rate fixed by law. The fees and expenses
20 of proceedings involving disputed determinations, decisions, or
21 notices of assessments before ~~a referee~~ **AN ADMINISTRATIVE LAW**
22 **JUDGE** or the ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE**
23 **COMMISSION** shall be considered a part of the expense of
24 administering this act.

25 (2) If an interested party to a hearing formally requests
26 ~~the commission, a referee,~~ **AN ADMINISTRATIVE LAW JUDGE** or the
27 ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION** to

1 obtain a subpoena for witnesses whose evidence it considers
2 necessary, ~~the commission, referee or board of review~~ **AN**
3 **ADMINISTRATIVE LAW JUDGE OR THE MICHIGAN COMPENSATION APPELLATE**
4 **COMMISSION** shall promptly issue the subpoena as provided in
5 ~~sections 9 and 35 of this act~~, unless the request is determined
6 to be unreasonable.

7 Sec. 38. (1) The circuit court in the county in which the
8 claimant resides or the circuit court in the county in which the
9 claimant's place of employment is or was located, or, if a
10 claimant is not a party to the case, the circuit court in the
11 county in which the employer's principal place of business in
12 this state is located, may review questions of fact and law on
13 the record made before the ~~referee~~ **ADMINISTRATIVE LAW JUDGE** and
14 the ~~board of review~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION**
15 involved in a final order or decision of the ~~board~~, **MICHIGAN**
16 **COMPENSATION APPELLATE COMMISSION**, and may make further orders in
17 respect to that order or decision as justice may require, but the
18 court may reverse an order or decision only if it finds that the
19 order or decision is contrary to law or is not supported by
20 competent, material, and substantial evidence on the whole
21 record. Application for review shall be made within 30 days after
22 the mailing of a copy of the order or decision by any method
23 permissible under the rules and practices of the circuit court of
24 this state.

25 (2) An order or decision of a ~~hearing referee~~ **AN**
26 **ADMINISTRATIVE LAW JUDGE** that involves a claim for unemployment
27 benefits may be appealed directly to the circuit court if the

1 claimant and the employer or their authorized agents or attorneys
2 agree to do so by written stipulation filed with the ~~referee.~~ A
3 ~~hearing referee's~~ **ADMINISTRATIVE LAW JUDGE. AN ADMINISTRATIVE LAW**
4 **JUDGE'S** order or decision involving an employer's contributions
5 or payments in lieu of contributions under this act may be
6 appealed directly to the circuit court ~~if the employer and~~
7 ~~commission execute and file with the hearing referee~~ **BASED ON** a
8 written stipulation agreeing to the direct appeal to the circuit
9 court.

10 (3) The ~~commission~~ **UNEMPLOYMENT AGENCY** is a party to any
11 judicial action involving an order or decision of the ~~board of~~
12 ~~review or a referee.~~ **MICHIGAN COMPENSATION APPELLATE COMMISSION OR**
13 **AN ADMINISTRATIVE LAW JUDGE.**

14 (4) The decision of the circuit court may be appealed in the
15 manner provided by the laws of this state for appeals from the
16 circuit court.

17 Sec. 42. (1) "Employment" means service, including service
18 in interstate commerce, performed for remuneration or under any
19 contract of hire, written or oral, express or implied.

20 (2) "Employment" includes an individual's entire service,
21 performed within or both within and without this state if any of
22 the following apply:

23 (a) The service is localized in this state. Service shall be
24 deemed to be localized within a state if the service is performed
25 entirely within the state; or the service is performed both
26 within and without the state, but the service performed without
27 the state is incidental to the individual's service within the

1 state, such as service which is temporary or transitory in nature
2 or consists of isolated transactions.

3 (b) The service is not localized in a state but some of the
4 service performed in this state and the base of operations, or,
5 if there is not a base of operations, then the place from which
6 the service is directed or controlled, is in this state; or the
7 base of operations or place from which the service is directed or
8 controlled is not in a state in which some part of the service is
9 performed, but the individual's residence is in this state.

10 (c) After December 31, 1964, the service is not localized in
11 any state but is performed by an employee on or in connection
12 with an American aircraft, if either the contract of service is
13 entered into within this state or if the contract of service is
14 not entered into within this state or within any other state and
15 during the performance of the contract of service and while the
16 employee is employed on the aircraft, it touches at an airfield
17 in this state, and the employee is employed on and in connection
18 with the aircraft when outside the United States. The ~~commission~~
19 **UNEMPLOYMENT AGENCY** may enter into reciprocal agreements with
20 other states with respect to aircraft which touch airfields in
21 more than 1 state.

22 (3) Service performed within this state but not covered
23 under subsection (2) and not excluded under section 43 shall be
24 deemed to be employment subject to this act if contributions are
25 not required and paid with respect to those services under an
26 unemployment compensation law of any other state or of the
27 federal government.

1 (4) Services, not covered under subsection (2), performed
2 entirely without this state, for which contributions are not
3 required and paid under an unemployment compensation law of any
4 other state or of the federal government, shall be deemed to be
5 employment subject to this act if the ~~commission~~**UNEMPLOYMENT**
6 **AGENCY** approves the election of the employer for whom the
7 services are performed that the entire service of the individual
8 shall be deemed to be employment subject to this act. Such an
9 election may be canceled by the employer by filing a written
10 notice with the ~~commission~~**UNEMPLOYMENT AGENCY** before January 30
11 of any year stating the employer's desire to cancel the election
12 or at any time by submitting to the ~~commission~~**UNEMPLOYMENT**
13 **AGENCY** satisfactory proof that the services designated in the
14 election are covered by an unemployment compensation law of
15 another state or of the federal government, or if the services
16 are covered by an arrangement pursuant to section 11 between the
17 ~~commission~~**UNEMPLOYMENT AGENCY** and the agency charged with the
18 administration of any other state or federal unemployment
19 compensation law, pursuant to which all services performed by an
20 individual for an employing unit are deemed to be performed
21 entirely within the state, shall be deemed to be employment if
22 the ~~commission~~**UNEMPLOYMENT AGENCY** has approved an election of
23 the employing unit for which the services are performed, pursuant
24 to which the entire service of the individual during the period
25 covered by the election is deemed to be employment.

26 (5) ~~Services~~**BEFORE JANUARY 1, 2013, SERVICES** performed by
27 an individual for remuneration ~~shall not be deemed to be~~**ARE NOT**

1 employment subject to this act, unless the individual is under
2 the employer's control or direction as to the performance of the
3 services both under a contract for hire and in fact. Service
4 performed by an individual for remuneration under an exclusive
5 contract ~~which~~ **THAT** provides for the individual's control and
6 direction by a person, firm, or corporation possessing a public
7 service permit or by a certificated motor carrier transporting
8 goods or property for hire ~~shall be deemed~~ **ARE** employment subject
9 to this act. Service **IS EMPLOYMENT UNDER THIS ACT IF IT IS**
10 performed by an individual who by lease, contract, or arrangement
11 places at the disposal of a person, firm, or corporation a piece
12 of motor vehicle equipment and under a contract of hire ~~, which~~
13 **THAT** provides for the individual's control and direction, is
14 engaged by the person, firm, or corporation to operate the motor
15 vehicle equipment. ~~shall be deemed to be employment subject to~~
16 ~~this act.~~ **ON AND AFTER JANUARY 1, 2013, SERVICES ARE EMPLOYMENT IF**
17 **THE SERVICES ARE PERFORMED BY AN INDIVIDUAL WHO THE AGENCY**
18 **DETERMINES TO BE IN AN EMPLOYER-EMPLOYEE RELATIONSHIP USING THE**
19 **20-FACTOR TEST ANNOUNCED BY THE INTERNAL REVENUE SERVICE OF THE**
20 **UNITED STATES DEPARTMENT OF TREASURY IN REVENUE RULING 87-41,**
21 **1987-1 C.B. 296. AN INDIVIDUAL FROM WHOM AN EMPLOYER IS REQUIRED**
22 **TO WITHHOLD FEDERAL INCOME TAX IS PRIMA FACIE CONSIDERED TO**
23 **PERFORM SERVICES IN EMPLOYMENT UNDER THIS ACT.**

24 (6) Notwithstanding section 43, services performed for an
25 employing unit, for which the employing unit is liable for
26 federal tax against which credit may be taken for contributions
27 required to be paid into a state unemployment compensation fund,

1 shall be deemed to constitute employment for the purposes of this
2 act, but only to the extent that the services constitute
3 employment with respect to which federal tax is payable.

4 Notwithstanding any other provision of this act or any amendatory
5 act, services performed for an employing unit which are required
6 to be covered under this act, as a condition for its

7 certification by the United States secretary of labor, shall
8 constitute employment for the purposes of this act. The

9 ~~commission~~ **UNEMPLOYMENT AGENCY** may waive the provisions of this
10 subsection with respect to services performed within this state
11 if the employing unit is an employer solely by reason of section
12 41(7) and establishes that the services are covered by the
13 election of the employing unit under any other state unemployment
14 compensation law. This subsection shall not apply to the
15 exceptions provided in section 43(q).

16 (7) Notwithstanding subsection (2) all service performed
17 after December 31, 1964, by an officer or member of the crew of
18 an American vessel on or in connection with the vessel is deemed
19 to be employment subject to this act if the operating office,
20 from which the operations of the vessel operating on navigable
21 waters within, or within and without, the United States are
22 ordinarily and regularly supervised, managed, directed, and
23 controlled, is within this state.

24 (8)

25 (a) Service performed before January 1, 1978, by an
26 individual in the classified civil service of this state and
27 service performed by an individual for a school district, a

1 community college district, a school or educational facility
2 owned or operated by the state other than an institution of
3 higher education, or a political subdivision of the state, except
4 a political subdivision which has a local unemployment
5 compensation system as provided in section 13j, is employment
6 subject to this act.

7 (b) Service performed after December 31, 1977, in the employ
8 of a governmental entity as defined in section 50a is employment
9 subject to this act.

10 (9) "Employment" includes service performed after December
11 31, 1971, by an individual in the employ of this state or any of
12 its instrumentalities for a state hospital or state institution
13 of higher education, or in the employ of this state and 1 or more
14 other states or their instrumentalities for a hospital or
15 institution of higher education located in this state. Coverage
16 of services performed for these hospitals and institutions of
17 higher education after December 31, 1977, shall be determined
18 pursuant to section 42(8)(b).

19 (10) "Employment" includes service performed after December
20 31, 1971, by an individual in the employ of a religious,
21 charitable, educational, or other organization which is excluded
22 from the term "employment" as defined in the federal unemployment
23 tax act solely by reason of section 3306(c)(8) of the
24 unemployment tax act.

25 (11) "Employment" includes service performed after December
26 31, 1971, by an individual for his principal as an agent driver
27 or commission driver engaged in distributing beverages, meat,

1 vegetable, fruit, bakery, dairy, or other food products, or
2 laundry or dry cleaning services; or as a traveling or city
3 salesman, other than as an agent driver or commission driver,
4 engaged upon a full-time basis in the solicitation on behalf of,
5 and the transmission to, his principal except for sideline sales
6 activities on behalf of some other person, of orders from
7 wholesalers, retailers, contractors, operators of hotels,
8 restaurants, or other similar establishments for merchandise for
9 resale or supplies for use in their business operations. For
10 purposes of this subsection, "employment" includes services
11 performed after December 31, 1971, only if all of the following
12 apply:

13 (a) The contract of service contemplates that substantially
14 all of the services are to be performed personally by the
15 individual.

16 (b) The individual does not have a substantial investment in
17 facilities used in connection with the performance of the
18 services other than in facilities for transportation.

19 (c) The services are not in the nature of a single
20 transaction which is not part of a continuing relationship with
21 the person for whom the services are performed.

22 (12) "Employment" includes service performed by a United
23 States citizen outside the United States after December 31, 1971,
24 except in Canada, and in the Virgin Islands after December 31,
25 1971, and before January 1 of the year following the year in
26 which the United States secretary of labor approves the
27 unemployment compensation law of the Virgin Islands under section

1 3304(a) of the internal revenue code, while in the employ of an
2 American employer and is other than service which is employment
3 pursuant to subsection (2) or a parallel provision of another
4 state's law, if the requirements of subdivision (a), (b), or (c)
5 are met:

6 (a) The employer's principal place of business in the United
7 States is located in this state.

8 (b) The employer does not have a place of business in the
9 United States, but the employer is any of the following:

10 (i) An individual who is a resident of this state.

11 (ii) A corporation which is organized under the laws of this
12 state.

13 (iii) A partnership or a trust and the number of the partners
14 or trustees who are residents of this state is greater than the
15 number who are residents of any one other state.

16 (c) None of the criteria of subdivisions (a) and (b) is met
17 but the employer elected coverage of the service under this act,
18 or the employer failed to elect coverage in any state and the
19 individual filed a claim for benefits based on the service under
20 the law of this state.

21 (d) An "American employer", for purposes of this subsection,
22 means a person who is one of the following:

23 (i) An individual who is a resident of the United States.

24 (ii) A partnership if 2/3 or more of the partners are
25 residents of the United States.

26 (iii) A trust, if all of the trustees are residents of the
27 United States.

1 (iv) A corporation organized under the laws of the United
2 States or of any state.

3 (e) As used in this subsection, "United States" includes the
4 states, the District of Columbia, and the Commonwealth of Puerto
5 Rico.

6 (13) Notwithstanding any other provision of this act, the
7 term "employment" shall include an individual's service, wherever
8 performed within the United States, the Virgin Islands, or
9 Canada, if the service is not covered under the unemployment
10 compensation law of any other state, the Virgin Islands, or
11 Canada, and the place from which the service is directed or
12 controlled is in this state.

13 **SEC. 42A. IF A BUSINESS ENTITY REQUESTS THE UNEMPLOYMENT**
14 **AGENCY TO DETERMINE WHETHER 1 OR MORE INDIVIDUALS PERFORMING**
15 **SERVICES FOR THE ENTITY IN THIS STATE ARE IN COVERED EMPLOYMENT,**
16 **THE UNEMPLOYMENT AGENCY SHALL ISSUE A DETERMINATION OF COVERAGE**
17 **OF SERVICES PERFORMED BY THOSE INDIVIDUALS AND ANY OTHER**
18 **INDIVIDUALS PERFORMING SIMILAR SERVICES UNDER SIMILAR**
19 **CIRCUMSTANCES. IF THE UNEMPLOYMENT AGENCY DETERMINES THAT THE**
20 **SERVICES ARE IN COVERED EMPLOYMENT AND THE UNEMPLOYMENT AGENCY**
21 **RECEIVED THE REQUEST ON OR AFTER THE EFFECTIVE DATE OF THE**
22 **AMENDATORY ACT THAT ADDED THIS SECTION AND BEFORE JANUARY 1,**
23 **2013, WAGES PAID FOR THOSE SERVICES ARE QUALIFYING WAGES TO**
24 **DETERMINE BENEFIT ENTITLEMENT WITH RESPECT TO THE FIRST 4 OF THE**
25 **LAST 5 CALENDAR QUARTERS ENDING BEFORE THE DATE OF THE**
26 **DETERMINATION. BENEFITS PAID BASED ON AMOUNTS DETERMINED AS A**
27 **RESULT OF THIS SECTION TO BE WAGES IN THOSE CALENDAR QUARTERS AND**

1 THAT ARE OTHERWISE CHARGEABLE TO THE EXPERIENCE ACCOUNT OF A
2 CONTRIBUTING EMPLOYER SHALL BE CHARGED INSTEAD TO THE
3 NONCHARGEABLE BENEFITS ACCOUNT. PENALTIES AND INTEREST ACCRUE
4 ONLY ON CONTRIBUTIONS OR REIMBURSEMENTS IN LIEU OF CONTRIBUTIONS
5 THAT ARE ASSESSED BASED ON WAGES PAID ON OR AFTER THE DATE OF THE
6 DETERMINATION. ON AND AFTER JANUARY 1, 2013, SERVICES WILL BE
7 DETERMINED IN EMPLOYMENT IN ACCORDANCE WITH THE PROVISION OF
8 SECTION 42 THAT APPLIES ON AND AFTER THAT DATE.

9 Sec. 44. (1) "Remuneration" means all compensation paid for
10 personal services, including commissions and bonuses, and except
11 for agricultural and domestic services, the cash value of all
12 compensation payable in a medium other than cash. Any
13 remuneration payable to an individual that has not been actually
14 received by that individual within 21 days after the end of the
15 pay period in which the remuneration was earned, shall, for the
16 purposes of subsections (2) to (5) and section 46, be considered
17 to have been paid on the twenty-first day after the end of that
18 pay period. For benefit years beginning ~~ON OR~~ after the
19 ~~conversion date prescribed in section 75~~ **OCTOBER 1, 2000**, if back
20 pay is awarded to an individual and is allocated by an employer
21 or legal authority to a period of weeks within 1 or more calendar
22 quarters, the back pay shall be considered paid in that calendar
23 quarter or those calendar quarters for purposes of section 46.
24 The reasonable cash value of compensation payable in a medium
25 other than cash shall be estimated and determined in accordance
26 with rules promulgated by the unemployment agency. Beginning
27 January 1, 1986, remuneration shall include tips actually

1 reported to an employer under section 6053(a) of the internal
2 revenue code by an employee who receives tip income. Remuneration
3 does not include either of the following:

4 (a) Money paid an individual by a unit of government for
5 services rendered as a member of the national guard of this
6 state, or for similar services to another state or the United
7 States.

8 (b) Money paid by an employer to a worker under a
9 supplemental unemployment benefit plan ~~under section 501(c) of~~
10 ~~the internal revenue code of 1986~~ **CONSISTENT WITH THE CRITERIA**
11 **FOR A SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN AS DESCRIBED IN**
12 **INTERNAL REVENUE SERVICE PUBLICATION 15-A, EMPLOYER'S**
13 **SUPPLEMENTAL TAX GUIDE**, regardless of whether the benefits are
14 paid from a trust or by the employer.

15 (2) "Wages", subject to subsections (3) to (5), means
16 remuneration paid by employers for employment and, beginning
17 January 1, 1986, includes tips actually reported to an employer
18 under section 6053(a) of the internal revenue code by an employee
19 who receives tip income. If any provision of this subsection
20 prevents this state from qualifying for any federal interest
21 relief provisions provided under section 1202 of title XII of the
22 social security act, 42 ~~U.S.C.—USC~~ 1322, or prevents employers in
23 this state from qualifying for the limitation on the reduction of
24 federal unemployment tax act credits as provided under section
25 3302(f) of the federal unemployment tax act, 26 ~~U.S.C.—USC~~ 3302,
26 that provision is invalid to the extent necessary to maintain
27 qualification for the interest relief provisions and federal

1 unemployment tax credits.

2 (3) For the purpose of determining the amount of
3 contributions due from an employer under this act, wages shall be
4 limited by the taxable wage limit applicable under subsection
5 (4). For this purpose, wages shall exclude all remuneration paid
6 within a calendar year to an individual by an employing unit
7 after the individual was paid within that year by that employing
8 unit remuneration equal to the taxable wage limit on which
9 unemployment taxes were paid or were payable in this state and in
10 any other states. If an employing unit, hereinafter referred to
11 as successor, during any calendar year becomes a transferee in a
12 transfer of business as defined in section 22 of another,
13 hereinafter referred to as a predecessor, and immediately after
14 the transfer employs in his or her trade or business an
15 individual who immediately before the transfer was employed in
16 the trade or business of the predecessor, then for the purpose of
17 determining whether the successor has paid remuneration with
18 respect to employment equal to the taxable wage limit to that
19 individual during the calendar year, any remuneration with
20 respect to employment paid to that individual by the predecessor
21 during the calendar year and before the transfer shall be
22 considered as having been paid by the successor.

23 (4) The taxable wage limit for each calendar year ~~shall be~~
24 **IS** \$8,000.00 in the 1983 calendar year, \$8,500.00 in the 1984
25 calendar year, \$9,000.00 in the 1985 calendar year, \$9,500.00 in
26 ~~the 1986 calendar year, and \$9,500.00 for calendar years after~~
27 **CALENDAR YEARS** 1986 through 2002, and \$9,000.00 for calendar

1 years after 2002 **AND BEFORE 2012**, or the maximum amount of
2 remuneration paid within a calendar year by an employer subject
3 to the federal unemployment tax act, 26 ~~U.S.C.~~**USC** 3301 to 3311,
4 to an individual with respect to employment as defined in that
5 act that is subject to tax under that act during that year for
6 each calendar year, whichever is greater. **FOR CALENDAR YEARS**
7 **BEGINNING 2012, THE TAXABLE WAGE LIMIT IS \$9,500.00, BUT IF AT**
8 **THE BEGINNING OF A CALENDAR QUARTER THE BALANCE IN THE**
9 **UNEMPLOYMENT COMPENSATION FUND EQUALS OR EXCEEDS**
10 **\$2,500,000,000.00 AND THE AGENCY PROJECTS THAT THE BALANCE WILL**
11 **REMAIN AT OR ABOVE \$2,500,000,000.00 FOR THE REMAINDER OF THE**
12 **CALENDAR QUARTER AND FOR THE ENTIRE SUCCEEDING CALENDAR QUARTER,**
13 **THE TAXABLE WAGE LIMIT FOR THAT CALENDAR QUARTER AND THE**
14 **SUCCEEDING CALENDAR QUARTER IS \$9,000.00 FOR AN EMPLOYER THAT IS**
15 **NOT DELINQUENT IN THE PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS,**
16 **PENALTIES, OR INTEREST.**

17 (5) For the purposes of this act, the term "wages" shall not
18 include any of the following:

19 (a) The amount of a payment, including an amount paid by an
20 employer for insurance or annuities or into a fund, to provide
21 for such a payment, made to, or on behalf of, an employee or any
22 of the employee's dependents under a plan or system established
23 by an employer that makes provision for the employer's employees
24 generally, or for the employer's employees generally and their
25 dependents, or for a class or classes of the employer's
26 employees, or for a class or classes of the employer's employees
27 and their dependents, on account of retirement, sickness or

1 accident disability, medical or hospitalization expenses in
2 connection with sickness or accident disability, or death.

3 (b) A payment made to an employee, including an amount paid
4 by an employer for insurance or annuities, or into a fund, to
5 provide for such a payment, on account of retirement.

6 (c) A payment on account of sickness or accident disability,
7 or medical or hospitalization expenses in connection with
8 sickness or accident disability, made by an employer to, or on
9 behalf of, an employee after the expiration of 6 calendar months
10 following the last calendar month in which the employee worked
11 for the employer.

12 (d) A payment made to, or on behalf of, an employee or the
13 employee's beneficiary from or to a trust described in section
14 401(a) of the internal revenue code of 1986 that is exempt from
15 tax under section 501(a) of the internal revenue code of 1986 at
16 the time of the payment, unless the payment is made to an
17 employee of the trust as remuneration for services rendered as an
18 employee and not as a beneficiary of the trust, or under or to an
19 annuity plan which, at the time of the payment, is a plan
20 described in section 403(a) of the internal revenue code of 1986,
21 or under or to a bond purchase plan that at the time of the
22 payment, is a qualified bond purchase plan described in former
23 section 405(a) of the internal revenue code.

24 (e) The payment by an employer, without deduction from the
25 remuneration of the employee, of the tax imposed upon an employee
26 under section 3101 of the federal insurance contributions act, 26
27 ~~U.S.C.~~ **USC** 3101.

1 (f) Remuneration paid in any medium other than cash to an
2 employee for service not in the course of the employer's trade or
3 business.

4 (g) A payment, other than vacation or sick pay, made to an
5 employee after the month in which the employee attains the age of
6 65, if the employee did not work for the employer in the period
7 for which the payment is made.

8 (h) Remuneration paid to or on behalf of an employee as
9 moving expenses if, and to the extent that, at the time of
10 payment of the remuneration it is reasonable to believe that a
11 corresponding deduction is allowable under section 217 of the
12 internal revenue code of 1986.

13 (6) The amendments made to this section by amendatory act
14 1977 PA 155 ~~shall~~ apply to all remuneration paid after December
15 31, 1977.

16 (7) The amendments made in subsection (1) by the amendatory
17 act that added this subsection shall first apply to remuneration
18 paid after December 31, 1977.

19 Sec. 46. (a) Subject to subsections (d) through (g), for
20 benefit years beginning before the conversion date prescribed in
21 section 75, "benefit year" means the period of 52 consecutive
22 calendar weeks beginning the first calendar week in which an
23 individual files a claim in accordance with section 32 and meets
24 all of the following conditions:

25 (1) The individual has earned 20 credit weeks in the 52
26 consecutive calendar weeks before the week he or she files the
27 claim for benefits.

1 (2) The individual is unemployed and meets all requirements
2 of section 28 for the week for which he or she files a claim for
3 benefits.

4 (3) Except for a disqualification under section 29 (8)
5 involving a labor dispute during the individual's most recent
6 period of employment with the most recent employer with whom the
7 individual earned a credit week, the individual is not
8 disqualified or subject to disqualification for the week for
9 which he or she files a claim.

10 (4) The individual does not have a benefit year already in
11 effect at the time of the claim.

12 (b) For benefit years beginning **ON OR** after ~~the conversion~~
13 ~~date prescribed in section 75~~ **OCTOBER 1, 2000**, "benefit year"
14 means the period of 52 consecutive calendar weeks beginning the
15 first calendar week in which an individual files a claim in
16 accordance with section 32. However, a benefit year shall not be
17 established unless the individual meets either of the following
18 conditions:

19 (1) ~~the~~ **THE** total wages paid to the individual in the base
20 period of the claim equals not less than 1.5 times the wages paid
21 to the individual in the calendar quarter of the base period in
22 which the individual was paid the highest wages. ~~or~~

23 (2) ~~the~~ **THE** individual was paid wages in 2 or more calendar
24 quarters of the base period totaling at least 20 times the state
25 average weekly wage as determined by the ~~commission~~ **UNEMPLOYMENT**
26 **AGENCY**.

27 (c) For benefit years beginning after ~~the conversion date~~

1 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the state average
2 weekly wage for a calendar year shall be computed on the basis of
3 the 12 months ending the June 30 preceding that calendar year. A
4 benefit year shall not be established if the individual was not
5 paid wages of at least the state minimum hourly wage multiplied
6 by 388.06 rounded down to the nearest dollar in at least 1
7 calendar quarter of the base period. A benefit year shall not be
8 established based on base period wages previously used to
9 establish a benefit year that resulted in the payment of
10 benefits. However, if a calendar quarter of the base period
11 contains wages that were previously used to establish a benefit
12 year that resulted in the payment of benefits, a claimant may
13 establish a benefit year using the wages in the remaining
14 calendar quarters from among the first 4 of the last 5 completed
15 calendar quarters, or if a benefit year cannot be established
16 using those quarters, then by using wages from among the last 4
17 completed calendar quarters. A benefit year shall not be
18 established unless, after the beginning of the immediately
19 preceding benefit year during which the individual received
20 benefits, the individual worked and received remuneration in an
21 amount equal to at least 5 times the individual's most recent
22 state weekly benefit rate in effect during the individual's
23 immediately preceding benefit year. If a quarterly wage report
24 has not been submitted in a timely manner by the employer as
25 provided in section 13 for any of the quarters of the base
26 period, or if wage information is not available for use by the
27 ~~commission~~ **UNEMPLOYMENT AGENCY** for the most recent completed

1 calendar quarter, the ~~commission may~~ **UNEMPLOYMENT AGENCY SHALL**
2 obtain and use the claimant's statement of wages paid during the
3 calendar quarters for which the wage reports are missing to
4 establish a benefit year. **HOWEVER, THE CLAIMANT'S STATEMENT OF**
5 **WAGES SHALL ONLY BE USED TO ESTABLISH A BENEFIT YEAR IF THE**
6 **CLAIMANT ALSO PROVIDES TO THE UNEMPLOYMENT AGENCY DOCUMENTARY OR**
7 **OTHER EVIDENCE OF THOSE WAGES THAT IS SATISFACTORY TO THE**
8 **UNEMPLOYMENT AGENCY.** A determination based on the claimant's
9 statement of wages paid during any of these calendar quarters
10 shall be redetermined if the quarterly wage report from the
11 employer is later received and would result in a change in the
12 claimant's weekly benefit amount or duration, or both, or if the
13 quarterly wage report from the employer later becomes available
14 for use by the ~~commission~~ **UNEMPLOYMENT AGENCY** and would result in
15 a change in the claimant's benefit amount or duration, or both.
16 If the redetermination results from the employer's failure to
17 submit the quarterly wage report in a timely manner, the
18 redetermination shall be effective as to benefits payable for
19 weeks beginning after the receipt of information not previously
20 submitted by the employer.

21 (d) If an individual files a claim for a 7-day period under
22 section 27(c), his or her benefit year begins the calendar week
23 containing the first day of that 7-day period.

24 (e) If all or part of a claimant's right to benefits during
25 his or her benefit year is canceled under section 62(b), the
26 benefit year is terminated on the effective date of the
27 cancellation.

1 (f) An individual may request a redetermination of his or
2 her benefit rights and cancellation of a previously established
3 benefit year if he or she has not completed a compensable period.
4 Under circumstances described in this subsection, the benefit
5 year begins the first day of the first week in which the request
6 for redetermination of benefit rights is duly filed.

7 (g) Notwithstanding subsection (a), for services performed
8 on or after January 2, 1983, and with respect to benefit years
9 established before ~~the conversion date prescribed in section 75~~
10 **OCTOBER 1, 2000**, an individual ~~shall not be~~ **IS NOT** entitled to
11 establish a benefit year based in whole or in part on credit
12 weeks for service in the employ of an employing unit, not
13 otherwise excluded under section 43(g), in which more than 50% of
14 the proprietary interest is owned by the individual or his or her
15 son, daughter, or spouse, or any combination of these
16 individuals, or in which more than 50% of the proprietary
17 interest is owned by the mother or father of a child under the
18 age of 18, or mother and father combined, unless both the
19 individual and the employer notify the commission, in response to
20 the commission's request for information, of the individual's
21 relationship to the owners of the proprietary interest in the
22 employing unit. Upon timely notification to the commission, a
23 benefit year may be established for the individual, if the
24 individual meets all of the following conditions: (1) has earned
25 20 credit weeks in the 52 consecutive calendar weeks preceding
26 the week with respect to which the individual filed an
27 application for benefits; (2) with respect to the week for which

1 the individual is filing an application for benefits is
2 unemployed, and meets all of the other requirements of section
3 28; (3) with respect to the week for which the individual is
4 filing an application for benefits the individual is not
5 disqualified nor subject to disqualification, except in case of a
6 labor dispute under section 29(8), with respect to the most
7 recent period of employment with the most recent employer with
8 whom the individual earned a credit week. If an individual files
9 an application for a 7-day period as provided in section 27(c),
10 the benefit year with respect to the individual shall begin with
11 the calendar week which contains the first day of that 7-day
12 period.

13 (h) For benefit years established on or after July 1, 1983,
14 not more than 10 credit weeks based on services shall be used to
15 pay benefits. For the purpose of calculating the individual's
16 average weekly wage, all base period wages and credit weeks shall
17 be used. With respect to benefit years beginning **ON OR** after ~~the~~
18 ~~conversion date prescribed in section 75~~ **OCTOBER 1, 2000**, and
19 notwithstanding subsection ~~(a)~~ **(B)**, an individual ~~shall not be~~ **IS**
20 **NOT** entitled to establish a benefit year based in whole or in
21 part on wages earned in service, not otherwise excluded under
22 section 43(g), in the employ of an employing unit in which more
23 than 50% of the proprietary interest is owned by the individual
24 or his or her son, daughter, spouse, or any combination of these
25 individuals, or in which more than 50% of the proprietary
26 interest is owned by the mother or father of a child under the
27 age of 18, or mother and father combined, unless both the

Senate Bill No. 806 (H-1) as amended December 14, 2011

1 individual and the employer notify the commission, in response to
 2 the commission's request for information, of the individual's
 3 relationship to the owners of the proprietary interest in the
 4 employing unit. Upon timely notification to the commission, a
 5 benefit year may be established for the individual if the
 6 individual meets the requirements of subsection ~~(a)~~-(B). If wages
 7 in an individual's base period were earned in service in the
 8 employ of such an employing unit, the individual's weekly benefit
 9 rate shall be calculated in accordance with section 27(b)(1) but
 10 the portion of the benefit rate attributable to this service
 11 shall be payable for not more than 7 weeks. The weekly benefit
 12 payment shall be reduced thereafter by the percentage of charge
 13 attributable to service with this employer, in accordance with
 14 section 20.

15 Sec. 48. (1) An individual shall be considered unemployed
 16 for any week during which he or she performs no services and for
 17 which remuneration is not payable to the individual, or for any
 18 week of less than full-time work if the remuneration payable to
 19 the individual is less than 1-1/2 **TIMES** his or her weekly benefit
 20 rate[, **EXCEPT THAT FOR PAYABLE WEEKS OF BENEFITS BEGINNING AFTER THE
 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 15A AND BEFORE
 OCTOBER 1, 2015, AN INDIVIDUAL IS CONSIDERED UNEMPLOYED FOR ANY WEEK OR
 LESS OF FULL-TIME WORK IF THE REMUNERATION PAYABLE TO THE INDIVIDUAL IS
 LESS THAN 1-3/5 TIMES HIS OR HER WEEKLY BENEFIT RATE**]. However, any loss
 of remuneration incurred by an individual
 21 during any week resulting from any cause other than the failure
 22 of the individual's employing unit to furnish full-time, regular
 23 employment shall be included as remuneration earned for purposes
 24 of this section and section 27(c). The total amount of
 25 remuneration lost shall be determined pursuant to regulations
 26 prescribed by the ~~commission~~-**UNEMPLOYMENT AGENCY**. For the
 27 purposes of this act, an individual's weekly benefit rate means

1 the weekly benefit rate determined pursuant to section 27(b) .

2 (2) All amounts paid to a claimant by an employing unit or
3 former employing unit for a vacation or a holiday, and amounts
4 paid in the form of retroactive pay, pay in lieu of notice,
5 severance payments, salary continuation, or other remuneration
6 intended by the employing unit as continuing wages or other
7 monetary consideration as the result of the separation, excluding
8 SUB payments as described in section 44, shall be considered
9 remuneration in determining whether an individual is unemployed
10 under this section and also in determining his or her benefit
11 payments under section 27(c), for the period designated by the
12 contract or agreement providing for the payment, or if there is
13 no contractual specification of the period to which payments
14 shall be allocated, then for the period designated by the
15 employing unit or former employing unit. However, payments for a
16 vacation or holiday, or the right to which has irrevocably
17 vested, after 14 days following a vacation or holiday shall not
18 be considered wages or remuneration within the meaning of this
19 section.

20 (3) An individual shall not be considered to be unemployed
21 during any leave of absence from work granted by an employer
22 either at the request of the individual or pursuant to an
23 agreement with the individual's duly authorized bargaining agent,
24 or in accordance with law. An individual shall neither be
25 considered not unemployed nor on a leave of absence solely
26 because the individual elects to be laid off, pursuant to an
27 option provided under a collective bargaining agreement or

1 written employer plan that permits an election, if there is a
2 temporary layoff because of lack of work and the employer has
3 consented to the election.

4 **SEC. 48A. A REFERENCE IN THIS ACT TO TRANSMISSION OR RECEIPT**
5 **BY MAIL SHALL INCLUDE ANY FORM OF ELECTRONIC TRANSMISSION OR**
6 **RECEIPT APPROVED BY THE AGENCY.**

7 Sec. 50. ~~(a)~~ "Week" means calendar week, ending at midnight
8 Saturday, but all work performed and wages earned during a
9 working shift which starts before midnight Saturday shall be
10 included in the week in which that shift begins.

11 ~~—— (b) Subject to subdivisions (1) and (2), for benefit years~~
12 ~~established before January 1, 1996, "credit week" means a~~
13 ~~calendar week of an individual's base period during which the~~
14 ~~individual earned wages equal to or greater than 20 times the~~
15 ~~state minimum hourly wage in effect on the first day of the~~
16 ~~calendar week in which the individual filed an application for~~
17 ~~benefits. However, for benefit years established on or after~~
18 ~~January 1, 1996 and before the conversion date prescribed in~~
19 ~~section 75, "credit week" means a calendar week of an~~
20 ~~individual's base period during which the individual earned wages~~
21 ~~equal to or greater than 30 times the state minimum hourly wage~~
22 ~~in effect on the first day of the calendar week in which the~~
23 ~~individual filed an application for benefits. This subsection is~~
24 ~~subject to the following:~~

25 ~~—— (1) If an individual earns wages from more than 1 employer~~
26 ~~in a credit week, that week shall be counted as 1 multiemployer~~
27 ~~credit week and shall be governed by the provisions of section~~

~~20(c), unless the individual has earned sufficient wages in the base period with only 1 of the employers for whom the individual performed services in the week of concurrent employment to entitle the individual to a maximum weekly benefit rate, in which case, the week shall be a credit week with respect to that employer only and not a multiemployer credit week.~~

~~———— (2) Not more than 35 uncanceled and uncharged credit weeks shall be counted as credit weeks. In determining the 35 credit weeks to be used for computing and paying benefits, credit weeks shall be counted in the following sequence:~~

~~———— (a) First, all credit weeks which are not multiemployer credit weeks and which were earned with employers not involved in a disqualifying act or discharge under section 29(1), and all credit weeks earned with an employer involved in such a disqualifying act or discharge which were earned subsequent to the last act or discharge in which the employer was involved, shall be counted in inverse order of most recent employment with each employer.~~

~~———— (b) Second, if the credit weeks counted under subparagraph (a) total less than 35, all credit weeks which are not multiemployer credit weeks and which were earned with each employer before a disqualifying act or discharge shall be counted, in inverse order to that in which the most recent disqualifying act or discharge with each employer occurred, to the extent necessary to use all available credit weeks with respect to the employers, or a total of 35 credit weeks, whichever is less.~~

~~1 (c) Third, if the credit weeks counted under subparagraphs~~
~~2 (a) and (b) total less than 35, all multiemployer credit weeks~~
~~3 shall be counted, in inverse chronological order of their~~
~~4 occurrence, to the extent necessary to count all available credit~~
~~5 weeks, or a total of 35 credit weeks, whichever is less.~~

~~6 (3) As used in this subsection:~~

~~7 (a) "Uncharged credit week" means a credit week which has~~
~~8 not been used as a basis for a benefit payment, a reduction of~~
~~9 benefits under section 29(4), or a penalty disqualification under~~
~~10 section 62(b).~~

~~11 (b) "Uncanceled credit week" means a credit week which is~~
~~12 not canceled in accordance with section 62(b).~~

~~13 (4) There shall not be counted toward the wages required to~~
~~14 establish a credit week under this subsection payments in the~~
~~15 form of termination, separation, severance, or dismissal~~
~~16 allowances, or any payments for a vacation or a holiday unless~~
~~17 the payment has been made, or the right to receive it has~~
~~18 irrevocably vested, within 14 days following the vacation or~~
~~19 holiday.~~

20 Sec. 54. (a) A person, **INCLUDING A CLAIMANT FOR UNEMPLOYMENT**
21 **BENEFITS, AN EMPLOYING ENTITY, OR AN OWNER, DIRECTOR, OR OFFICER**
22 **OF AN EMPLOYING ENTITY,** who willfully violates or intentionally
23 fails to comply with any of the provisions of this act, or a
24 regulation of the unemployment agency promulgated under the
25 authority of this act for which a penalty is not otherwise
26 provided by this act is subject to the following sanctions,
27 notwithstanding any other statute of this state or of the United

1 States:

2 (i) If the unemployment agency determines that an amount has
3 been obtained or withheld as a result of the intentional failure
4 to comply with this act, the unemployment agency may recover the
5 amount obtained as a result of the intentional failure to comply
6 plus damages equal to 3 times that amount.

7 (ii) The unemployment agency may refer the matter to the
8 prosecuting attorney of the county in which the alleged violation
9 occurred for prosecution. If the unemployment agency has not made
10 its own determination under subdivision (i), the recovery sought
11 by the prosecutor shall include the amount described in
12 subdivision (i) and shall also include 1 or more of the following
13 penalties:

14 (A) ~~If~~ **SUBJECT TO REDESIGNATION UNDER SUBSECTION (M), IF** the
15 amount obtained or withheld from payment as a result of the
16 intentional failure to comply is less than \$25,000.00, then 1 of
17 the following:

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

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

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

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

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

27 (II) The performance of community service of not more than 2

1 years but not to exceed 4,160 hours.

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

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

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

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

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

12 (iii) If the unemployment agency determines that an amount has
13 been obtained or withheld as a result of a knowing violation of
14 this act, the unemployment agency may recover the amount obtained
15 as a result of the knowing violation and may also recover damages
16 equal to 3 times that amount.

17 (iv) The unemployment agency may refer a matter under
18 subdivision (iii) to the prosecuting attorney of the county in
19 which the alleged violation occurred for prosecution. If the
20 unemployment agency has not made its own determination under
21 subdivision (iii), the recovery sought by the prosecutor shall
22 include the amount described in subdivision (iii) and shall also
23 include 1 or more of the following penalties:

24 (A) ~~If~~ **SUBJECT TO REDESIGNATION UNDER SUBSECTION (M), IF** the
25 amount obtained or withheld from payment as a result of the
26 knowing violation is \$100,000.00 or less, then 1 of the
27 following:

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

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

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

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

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

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

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

14 (b) Any employing unit or an **OWNER, DIRECTOR,** officer, or
15 agent of an employing unit, a claimant, an employee of the
16 unemployment agency, or any other person who makes a false
17 statement or representation knowing it to be false, or knowingly
18 and willfully with intent to defraud fails to disclose a material
19 fact, to obtain or increase a benefit or other payment under this
20 act or under the unemployment compensation law of any state or of
21 the federal government, either for himself or herself or any
22 other person, to prevent or reduce the payment of benefits to an
23 individual entitled thereto or to avoid becoming or remaining a
24 subject employer, or to avoid or reduce a contribution or other
25 payment required from an employing unit under this act or under
26 the unemployment compensation law of any state or of the federal
27 government, as applicable, is subject to administrative fines and

1 is punishable as follows, notwithstanding any other penalties
2 imposed under any other statute of this state or of the United
3 States:

4 (i) If the amount obtained as a result of the knowing false
5 statement or representation or the knowing and willful failure to
6 disclose a material fact is less than \$500.00, the unemployment
7 agency may recover the amount obtained as a result of the knowing
8 false statement or representation or the knowing and willful
9 failure to disclose a material fact and may also recover damages
10 equal to 2 times that amount. For a second or subsequent
11 violation described in this subdivision, the unemployment agency
12 may recover damages equal to 4 times the amount obtained.

13 (ii) If the amount obtained as a result of the knowing false
14 statement or representation or the knowing and willful failure to
15 disclose a material fact is \$500.00 or more, the unemployment
16 agency shall attempt to recover the amount obtained as a result
17 of the knowing false statement or representation or the knowing
18 and willful failure to disclose a material fact and may also
19 recover damages equal to 4 times that amount. The unemployment
20 agency may refer the matter to the prosecuting attorney of the
21 county in which the alleged violation occurred for prosecution.
22 If the unemployment agency has not made its own determination
23 under this subdivision, the recovery sought by the prosecutor
24 shall include the amount described in this subdivision and shall
25 also include 1 or more of the following penalties if the amount
26 obtained is \$1,000.00 or more:

27 (A) ~~If~~ **SUBJECT TO REDESIGNATION UNDER SUBSECTION (M), IF** the

1 amount obtained or withheld from payment as a result of the
2 knowing false statement or representation or the knowing and
3 willful failure to disclose a material fact is \$1,000.00 or more
4 but less than \$25,000.00, then 1 of the following:

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

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

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

10 (B) If the amount obtained or withheld from payment as a
11 result of the knowing false statement or representation or the
12 knowing and willful failure to disclose a material fact is
13 \$25,000.00 or more, then 1 of the following:

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

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

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

19 (C) If the knowing false statement or representation or the
20 knowing and willful failure to disclose a material fact made to
21 obtain or withhold an amount from payment does not result in a
22 loss to the commission, then a recovery shall be sought equal to
23 3 times the amount that would have been obtained by the knowing
24 false statement or representation or the knowing and willful
25 failure to disclose a material fact, but not less than \$1,000.00,
26 and 1 of the following:

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

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

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

5 (c) (1) Any employing unit or an **OWNER, DIRECTOR**, officer,
6 or agent of an employing unit or any other person failing to
7 submit, when due, any contribution report, wage and employment
8 report, or other reports lawfully prescribed and required by the
9 unemployment agency shall be subject to the assessment of an
10 administrative fine for each report not submitted within the time
11 prescribed by the unemployment agency, as follows: In the case of
12 contribution reports not received within 10 days after the end of
13 the reporting month the fine shall be 10% of the contributions
14 due on the reports but not less than \$5.00 or more than \$25.00
15 for a report. However, if the tenth day falls on a Saturday,
16 Sunday, legal holiday, or other unemployment agency nonwork day,
17 the 10-day period shall run until the end of the next day which
18 is not a Saturday, Sunday, legal holiday, or other unemployment
19 agency nonwork day. In the case of all other reports referred to
20 in this subsection, the fine shall be \$10.00 for a report.

21 (2) Notwithstanding subdivision (1), any employer or an
22 **OWNER, DIRECTOR**, officer, or agent of an employer or any other
23 person failing to submit, when due, any quarterly wage detail
24 report required by section 13(2), **OR SUBMITTING AN INCOMPLETE OR**
25 **ERRONEOUS REPORT**, is subject to an administrative fine of ~~\$25.00~~
26 **\$50.00** for each untimely report, **INCOMPLETE REPORT, OR ERRONEOUS**
27 **REPORT IF THE REPORT IS FILED NOT LATER THAN 30 DAYS AFTER THE**

1 DATE THE REPORT IS DUE, \$250.00 IF THE REPORT IS FILED MORE THAN
2 1 CALENDAR QUARTER AFTER THE DATE THE REPORT IS DUE, AND AN
3 ADDITIONAL \$250.00 FOR EACH ADDITIONAL CALENDAR QUARTER THAT THE
4 REPORT IS LATE, EXCEPT THAT NO PENALTY SHALL APPLY IF THE
5 EMPLOYER FILES A CORRECTED REPORT WITHIN 14 DAYS AFTER
6 NOTIFICATION OF AN ERROR BY THE AGENCY.

7 (3) If a report is filed after the prescribed time and it is
8 shown to the satisfaction of the commission that the failure to
9 submit the report was due to reasonable cause, a fine shall not
10 be imposed. The assessment of a fine as provided in this
11 subsection constitutes a final determination unless the employer
12 files an application with the unemployment agency for a
13 redetermination of the assessment in accordance with section 32a.

14 (d) If any employee or agent of the unemployment agency or
15 member of the ~~appeal board~~ **MICHIGAN COMPENSATION APPELLATE**
16 **COMMISSION** willfully discloses confidential information obtained
17 from any employing unit or individual in the administration of
18 this act for any purpose inconsistent with or contrary to the
19 purposes of this act, or a person who obtains a list of
20 applicants for work or of claimants or recipients of benefits
21 under this act uses or permits use of that list for a political
22 purpose or for a purpose inconsistent with or contrary to the
23 purposes of this act, he or she is guilty of a misdemeanor
24 punishable by imprisonment for not more than 90 days or a fine of
25 not more than \$1,000.00, or both. Notwithstanding the preceding
26 sentence, if any unemployment agency employee, agent of the
27 unemployment agency, or member of the ~~board of review~~ **MICHIGAN**

1 **COMPENSATION APPELLATE COMMISSION** knowingly, intentionally, and
2 for financial gain, makes an illegal disclosure of confidential
3 information obtained under section 13(2), he or she is guilty of
4 a felony, punishable by imprisonment for not more than 1 year and
5 1 day.

6 (e) A person who, without proper authority from the
7 unemployment agency, represents himself or herself to be an
8 employee of the unemployment agency for the purpose of securing
9 information regarding the unemployment or employment record of an
10 individual is guilty of a misdemeanor punishable by imprisonment
11 for not more than 90 days or a fine of not more than \$1,000.00,
12 or both.

13 (f) A person associated with a college, university, or
14 public agency of this state who makes use of any information
15 obtained from the unemployment agency in connection with a
16 research project of a public service nature, in a manner as to
17 reveal the identity of any individual or employing unit from or
18 concerning whom the information was obtained by the unemployment
19 agency, or for any purpose other than use in connection with that
20 research project, is guilty of a misdemeanor punishable by
21 imprisonment for not more than 90 days or a fine of not more than
22 \$1,000.00, or both.

23 (g) As used in this section, "person" includes an
24 individual; ~~—OWNER, DIRECTOR, OR OFFICER OF AN EMPLOYING ENTITY;~~
25 copartnership; ~~—~~joint venture; ~~—~~corporation; ~~—~~receiver; ~~—~~or
26 trustee in bankruptcy.

27 (h) This section applies even if the amount obtained or

1 withheld from payment has been reported or reported and paid by
2 an individual involved in a violation of subsection (a) or (b).

3 (i) If a determination is made that an individual has
4 violated this section, the individual is subject to the sanctions
5 of this section and, if applicable, the requirements of section
6 62.

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

16 (k) Amounts recovered by the unemployment agency under
17 subsection (b) shall be credited as follows:

18 (i) Deductions from unemployment insurance benefits shall be
19 applied solely to the amount of the benefits liable to be repaid
20 under this section.

21 (ii) All other recoveries shall be applied first to **REPAYMENT**
22 **AMOUNTS OWED, WHICH SHALL BE DEPOSITED IN THE UNEMPLOYMENT**
23 **COMPENSATION FUND; THEN TO** administrative sanctions and damages;
24 ~~, AND then to interest. , and then to the amount liable to be~~
25 ~~repaid.~~ The amounts applied to administrative sanctions, damages,
26 and interest shall be credited to the ~~special fraud control fund~~
27 ~~created in section 10.~~ **CONTINGENT FUND.**

1 (l) The revisions in the penalties in subsections (a) and (b)
2 provided by the 1991 amendatory act that added this subsection
3 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 (M) A PERSON WHO OBTAINS OR WITHHOLDS AN AMOUNT OF
7 UNEMPLOYMENT BENEFITS OR PAYMENTS EXCEEDING \$3,500.00 BUT LESS
8 THAN \$25,000.00 AS A RESULT OF A KNOWING FALSE STATEMENT OR
9 REPRESENTATION OR THE KNOWING AND WILLFUL FAILURE TO DISCLOSE A
10 MATERIAL FACT IS GUILTY OF A FELONY PUNISHABLE AS PROVIDED IN
11 SECTION (A) (ii) (A) OR (iv) (A) OR SECTION (B) (ii) (A) .

12 Sec. 62. (a) If the unemployment agency determines that a
13 person has obtained benefits to which that person is not
14 entitled, it may recover a sum equal to the amount received plus
15 interest by 1 or more of the following methods: deduction from
16 benefits or wages payable to the individual, payment by the
17 individual in cash, or deduction from a tax refund payable to the
18 individual as provided under section 30a of 1941 PA 122, MCL
19 205.30a. Deduction from benefits or wages payable to the
20 individual is limited to not more than ~~20%~~50% of each payment
21 due the claimant. **THE UNEMPLOYMENT AGENCY SHALL ISSUE A**
22 **DETERMINATION REQUIRING RESTITUTION WITHIN 3 YEARS AFTER THE DATE**
23 **OF FINALITY OF A DETERMINATION, REDETERMINATION, OR DECISION**
24 **REVERSING A PREVIOUS FINDING OF BENEFIT ENTITLEMENT.** The
25 unemployment agency shall not **INITIATE ADMINISTRATIVE OR COURT**
26 **ACTION TO** recover improperly paid benefits from an individual
27 more than 3 years ~~, or more than 6 years in the case of a~~

1 ~~violation of section 54(a) or (b) or sections 54a to 54c, after~~
2 ~~the date of~~ **THAT THE LAST DETERMINATION, REDETERMINATION, OR**
3 **DECISION ESTABLISHING RESTITUTION IS FINAL. THE UNEMPLOYMENT**
4 **AGENCY SHALL ISSUE A DETERMINATION ON AN ISSUE WITHIN 3 YEARS**
5 **FROM THE DATE THE CLAIMANT FIRST RECEIVED BENEFITS IN THE BENEFIT**
6 **YEAR IN WHICH THE ISSUE AROSE, OR IN THE CASE OF AN ISSUE OF**
7 **INTENTIONAL FALSE STATEMENT, MISREPRESENTATION, OR CONCEALMENT OF**
8 **MATERIAL INFORMATION IN VIOLATION OF SECTION 54(A) OR (B) OR**
9 **SECTIONS 54A TO 54C, WITHIN 6 YEARS AFTER THE** receipt of the
10 improperly paid benefits unless the unemployment agency filed a
11 civil action in a court within the 3-year or 6-year period; the
12 individual made an intentional false statement,
13 misrepresentation, or concealment of material information to
14 obtain the benefits; or the unemployment agency issued a
15 determination requiring restitution within the 3-year or 6-year
16 period. Except in a case of an intentional false statement,
17 misrepresentation, or concealment of material information, the
18 unemployment agency may waive recovery of an improperly paid
19 benefit if the payment was not the fault of the individual and if
20 repayment would be contrary to equity and good conscience and
21 shall waive any interest. **IF THE AGENCY OR AN APPELLATE AUTHORITY**
22 **WAIVES COLLECTION OF RESTITUTION AND INTEREST, THE WAIVER IS**
23 **PROSPECTIVE AND DOES NOT APPLY TO RESTITUTION AND INTEREST**
24 **PAYMENTS ALREADY MADE BY THE INDIVIDUAL.**

25 (b) For benefit years beginning before October 1, 2000, if
26 the unemployment agency determines that a person has
27 intentionally made a false statement or misrepresentation or has

1 concealed material information to obtain benefits, whether or not
2 the person obtains benefits by or because of the intentional
3 false statement, misrepresentation, or concealment of material
4 information, the person shall, in addition to any other
5 applicable interest and penalties, have all of his or her
6 uncharged credit weeks with respect to the benefit year in which
7 the act occurred canceled as of the date the unemployment agency
8 receives notice of, or initiates investigation of, the possible
9 false statement, misrepresentation, or concealment of material
10 information, whichever date is earlier. Before receiving benefits
11 in a benefit year established within 2 years after cancellation
12 of uncharged credit weeks under this subsection, the individual,
13 in addition to making the restitution of benefits established
14 under subsection (a), may be liable for an additional amount as
15 determined by the unemployment agency under this act, which may
16 be paid by cash, deduction from benefits, or deduction from a tax
17 refund. Restitution resulting from the intentional false
18 statement, misrepresentation, or concealment of material
19 information is not subject to the ~~20%~~ 50% limitation provided in
20 subsection (a). For benefit years beginning on or after October
21 1, 2000, if the unemployment agency determines that a person has
22 intentionally made a false statement or misrepresentation or has
23 concealed material information to obtain benefits, whether or not
24 the person obtains benefits by or because of the intentional
25 false statement, misrepresentation, or concealment of material
26 information, the person shall, in addition to any other
27 applicable interest and penalties, have his or her rights to

1 benefits for the benefit year in which the act occurred canceled
2 as of the date the unemployment agency receives notice of, or
3 initiates investigation of, a possible false statement,
4 misrepresentation, or concealment of material information,
5 whichever date is earlier, and wages used to establish that
6 benefit year shall not be used to establish another benefit year.
7 Before receiving benefits in a benefit year established within ~~2~~
8 **4** years after cancellation of rights to benefits under this
9 subsection, the individual, in addition to making the restitution
10 of benefits established under subsection (a), may be liable for
11 an additional amount as otherwise determined by the unemployment
12 agency under this act, which may be paid by cash, deduction from
13 benefits, or deduction from a tax refund. Restitution resulting
14 from the intentional false statement, misrepresentation, or
15 concealment of material information is not subject to the ~~20%~~**50%**
16 limitation provided in subsection (a).

17 (c) Any determination made by the unemployment agency under
18 this section is final unless an application for a redetermination
19 is filed in accordance with section 32a.

20 (d) The unemployment agency shall take the action necessary
21 to recover all benefits improperly obtained or paid under this
22 act, and to enforce all interest and penalties under subsection
23 (b). **THE UNEMPLOYMENT AGENCY MAY CONDUCT AN AMNESTY PROGRAM FOR A**
24 **DESIGNATED PERIOD UNDER WHICH PENALTIES AND INTEREST ASSESSED**
25 **AGAINST AN INDIVIDUAL OWING RESTITUTION FOR IMPROPERLY PAID**
26 **BENEFITS MAY BE WAIVED IF THE INDIVIDUAL PAYS THE FULL AMOUNT OF**
27 **RESTITUTION OWING WITHIN THE PERIOD SPECIFIED BY THE AGENCY.**

1 (e) Interest recovered under this section shall be deposited
2 in the ~~special fraud control fund created in section~~
3 ~~10.~~ **CONTINGENT FUND.**

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

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

1 (ii) When the right to the benefits has terminated before
2 that week by reason of the expiration or termination of the
3 benefit year with respect to which the right existed; and the
4 individual has no, or insufficient, wages or employment to
5 establish a new benefit year. However, for purposes of this
6 subsection, an individual shall be considered to have exhausted
7 the right to regular benefits with respect to any week of
8 unemployment in his or her eligibility period when the individual
9 may become entitled to regular benefits with respect to that week
10 or future weeks, but the benefits are not payable at the time the
11 individual claims extended benefits because final action on a
12 pending redetermination or on an appeal has not yet been taken
13 with respect to eligibility or qualification for the regular
14 benefits or when the individual may be entitled to regular
15 benefits with respect to future weeks of unemployment, but
16 regular benefits are not payable with respect to any week of
17 unemployment in his or her eligibility period by reason of
18 seasonal limitations in any state unemployment compensation law.

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

24 (c) An individual shall not be paid additional compensation
25 and extended compensation with respect to the same week. If an
26 individual is potentially eligible for both types of compensation
27 in this state with respect to the same week, the ~~bureau~~

1 **UNEMPLOYMENT AGENCY** may pay extended compensation instead of
2 additional compensation with respect to the week. If an
3 individual is potentially eligible for extended compensation in 1
4 state and potentially eligible for additional compensation for
5 the same week in another state, the individual may elect which of
6 the 2 types of compensation to claim.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) The period is at least 13 consecutive weeks long, and
16 does not begin by reason of a Michigan "on" indicator before the
17 fourteenth week after the close of a prior extended benefit
18 period under this section. However, an extended benefit period
19 terminates with the week preceding the week for which no extended
20 benefit payments are considered to be shareable compensation
21 under the federal-state extended unemployment compensation act of
22 1970, section 3304 nt of the internal revenue code of 1986, 26
23 USC 3304 nt.

24 (4) An individual's "eligibility period" consists of the
25 weeks in his or her benefit year that begin in an extended
26 benefit period, and if his or her benefit year ends within the
27 extended benefit period, any weeks thereafter that begin in the

1 period.

2 (5) (a) With respect to weeks beginning after September 25,
3 1982, a national "on" indicator for a week shall be determined by
4 the United States secretary of labor.

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

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

9 (i) The rate of insured unemployment under this act for the
10 period consisting of that week and the immediately preceding 12
11 weeks equaled or exceeded 120% of the average of the insured
12 unemployment rates for the corresponding 13-week period ending in
13 each of the preceding 2 calendar years, and equaled or exceeded
14 5%. With respect to compensation for each week of unemployment
15 beginning after December 17, 2010 and ending December 31, 2011,
16 the rate of insured unemployment under this act for the period
17 consisting of that week and the immediately preceding 12 weeks
18 equaled or exceeded 120% of the average of the insured
19 unemployment rates for the corresponding 13-week period ending in
20 each of the preceding 3 calendar years, and equaled or exceeded
21 5%.

22 (ii) For weeks beginning after December 17, 2010 and ending
23 with the week ending 4 weeks before the last week of unemployment
24 for which 100% federal sharing is available under section 2005(a)
25 of Public Law 111-5, without regard to the extension of federal
26 sharing for certain claims as provided under section 2005(c) of
27 that law, the average rate of total unemployment in this state,

1 seasonally adjusted, as determined by the United States secretary
2 of labor, for the period consisting of the most recent 3 months
3 for which data for all states are published before the close of
4 the week equaled or exceeded both of the following:

5 (A) Six and one-half percent.

6 (B) One hundred ten percent of the average rate of total
7 unemployment in this state, seasonally adjusted, for the period
8 consisting of the corresponding 3-month period in any or all of
9 the preceding 3 calendar years.

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

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

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

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

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

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

14 (g) Calculations under subdivisions (c) and (d) shall be
15 made by the ~~bureau~~**UNEMPLOYMENT AGENCY** and shall conform to
16 regulations, if any, prescribed by the United States secretary of
17 labor under section 3304 nt of the internal revenue code of 1986,
18 26 USC 3304 nt.

19 (6) As used in this section:

20 (a) "Regular benefits" means benefits payable to an
21 individual under this act and, unless otherwise expressly
22 provided, under any other state unemployment compensation law,
23 including unemployment benefits payable pursuant to 5 USC 8501 to
24 8525, other than extended benefits, and other than additional
25 benefits which includes training benefits under section 27(g).

26 (b) "Extended benefits" means benefits, including additional
27 benefits and unemployment benefits payable pursuant to 5 USC 8501

1 to 8525, payable for weeks of unemployment beginning in an
2 extended benefit period to an individual as provided under this
3 section.

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

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

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

25 (7) (a) Notwithstanding the provisions of subsection (1)(b),
26 an individual is ineligible for payment of extended benefits for
27 any week of unemployment if the ~~bureau~~ **UNEMPLOYMENT AGENCY** finds

1 that during that period either of the following occurred:

2 (i) The individual failed to accept any offer of suitable
3 work or failed to apply for any suitable work to which the
4 individual was referred by the ~~bureau~~ **UNEMPLOYMENT AGENCY**.

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

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

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

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

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

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

26 (ii) The employer pays wages not less than the higher of the
27 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 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~~ **UNEMPLOYMENT AGENCY** 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 in subdivision (c).

(e) Notwithstanding subsection (1)(b), work 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

1 following are true:

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

4 (ii) The individual furnishes tangible evidence to the ~~bureau~~
5 **UNEMPLOYMENT AGENCY** that he or she has engaged in a systematic
6 and sustained effort during that week.

7 (g) The ~~bureau~~**UNEMPLOYMENT AGENCY** shall refer any applicant
8 for extended benefits to any suitable work that meets the
9 criteria prescribed in subdivisions (c) and (d).

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

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

26 (b) Subdivision (a) does not apply with respect to the first
27 2 weeks for which extended benefits are payable, pursuant to an

1 interstate claim, to the individual from the extended benefit
2 account established for the individual.

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

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

21 Enacting section 1. Sections 35 and 36 of 1936 (Ex Sess) PA
22 1, MCL 421.35 and 421.36, are repealed.