

HOUSE BILL No. 5350

December 3, 1991, Introduced by Reps. Oxender, Scott, Jonker, Gnodtke, Bryant, Strand, Bobier, Brackenridge, McNutt, Middleton, Munsell and DeLange and referred to the Committee on Labor.

A bill to amend sections 27 and 28 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," section 27 as amended by Act No. 172 of the Public Acts of 1984 and section 28 as amended by Act No. 227 of the Public Acts of 1989, being sections 421.27 and 421.28 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 27 and 28 of Act No. 1 of the Public
2 Acts of the Extra Session of 1936, section 27 as amended by Act
3 No. 172 of the Public Acts of 1984 and section 28 as amended by
4 Act No. 227 of the Public Acts of 1989, being sections 421.27 and
5 421.28 of the Michigan Compiled Laws, are amended to read as
6 follows:

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

12 (2) Benefits shall be paid in person or by mail through
13 employment offices, in accordance with rules promulgated by the
14 commission.

15 (b)(1) Subject to subsection (f), the weekly benefit rate
16 for an individual, with respect to benefit years beginning on or
17 after January 2, 1983, but before January 4, 1987, shall be 65%
18 of the individual's average after tax weekly wage, except that
19 the individual's weekly benefit rate shall not exceed 58% of the
20 state average weekly wage. However, the maximum weekly benefit
21 amount established under this subsection shall not exceed \$197.00
22 for weeks of unemployment beginning on or after January 2, 1983
23 through weeks of unemployment beginning prior to January 4,
24 1987. With respect to benefit years beginning on or after
25 January 4, 1987, the individual's weekly benefit rate shall be
26 70% of the individual's average after tax weekly wage, except
27 that the individual's weekly benefit rate shall not exceed 53% of

1 the state average weekly wage, and with respect to benefit years
2 beginning on or after January 3, 1988, the individual's weekly
3 benefit rate shall not exceed 55% of the state average weekly
4 wage, and with respect to benefit years beginning on or after
5 January 1, 1989, the individual's weekly benefit rate shall not
6 exceed 58% of the state average weekly wage. With respect to
7 benefit years beginning before October 2, 1983, the weekly bene-
8 fit rate shall be adjusted to the next higher multiple of \$1.00.
9 With respect to benefit years beginning on or after October 2,
10 1983, the weekly benefit rate shall be adjusted to the next lower
11 multiple of \$1.00.

12 (2) The state average weekly wage for a calendar year shall
13 be computed on the basis of the 12 months ending the June 30 pre-
14 ceding that calendar year. The commission shall prepare a table
15 of weekly benefit rates based on an "average after tax weekly
16 wage" calculated by subtracting, from an individual's average
17 weekly wage as determined in accordance with section 51, a rea-
18 sonable approximation of the weekly amount required to be with-
19 held by the employer from the remuneration of the individual
20 based on dependents and exemptions for income taxes under
21 chapter 24, SECTIONS 3401 TO 3406 of the internal revenue code
22 and under section 351 of THE INCOME TAX ACT OF 1967, Act No. 281
23 of the Public Acts of 1967, being section 206.351 of the Michigan
24 Compiled Laws, and for old age and survivor's disability insur-
25 ance taxes under the federal insurance contributions act, 26
26 U.S.C. 3101 to 3126. For purposes of applying the table to an
27 individual's claim, a dependent shall be as defined in

1 subdivision (3). The table applicable to an individual's claim
2 shall be the table reflecting the number of dependents claimed by
3 the individual under subdivision (3). The commission shall
4 adjust the tables based on changes in withholding schedules pub-
5 lished by the United States department of treasury, internal rev-
6 enue service, and by the department of treasury. The number of
7 dependents allowed shall be determined with respect to each week
8 of unemployment for which an individual is claiming benefits.

9 (3) A dependent means any of the following persons who is
10 receiving and for at least 90 consecutive days immediately pre-
11 ceding the week for which benefits are claimed, or, in the case
12 of a dependent husband, wife, or child, for the duration of the
13 marital or parental relationship, if the relationship has existed
14 less than 90 days, has received more than half the cost of his or
15 her support from the individual claiming benefits:

16 (a) A child, including stepchild, adopted child, or grand-
17 child of the individual who is under 18 years of age, or 18 years
18 of age and over if, because of physical or mental infirmity, the
19 child is unable to engage in a gainful occupation, or is a
20 full-time student as defined by the particular educational insti-
21 tution, at a high school, vocational school, community or junior
22 college, or college or university and has not attained the age of
23 22.

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

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

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

10 (4) Dependency status of a dependent, child or otherwise,
11 once established or fixed in favor of an individual, shall con-
12 tinue during the individual's benefit year until terminated.
13 Dependency status of a dependent shall terminate at the end of
14 the week in which the dependent ceases to be an individual
15 described in subdivision (3)(a), (b), (c), or (d) because of age,
16 death, or divorce.

17 (5) If an individual is assigned to a dependency class with
18 respect to a week by reason of having 1 or more dependents, and
19 any of those dependents files an application for benefits for
20 that week, that dependent shall be assigned to dependency class
21 "0" for that week.

22 (6) Failure on the part of an individual, due to misinforma-
23 tion or lack of information, to furnish all information material
24 for determination of the individual's dependency class when the
25 individual files a claim for benefits with respect to a week,
26 shall be considered good cause for the issuance of a
27 redetermination as to the amount of benefits based on the

1 individual's dependency class as of the beginning date of that
2 week. Dependency status of a dependent, child or otherwise, once
3 established or fixed in favor of a person, shall not be transfer-
4 able to or used by another person with respect to the same week.

5 (c) Subject to subsection (f) AND THIS SUBSECTION, each eli-
6 gible individual shall be paid a weekly benefit rate with respect
7 to the week for which the individual earns or receives no remu-
8 neration or remuneration equal to less than 1/2 the individual's
9 weekly benefit rate, or shall be paid 1/2 his or her weekly bene-
10 fit rate with respect to the week for which the individual earns
11 or receives remuneration equal to at least 1/2 but less than the
12 individual's weekly benefit rate. AN ELIGIBLE INDIVIDUAL WHO
13 RECEIVES REMUNERATION FOR EMPLOYMENT ACCEPTED WITHIN 8 WEEKS
14 AFTER BECOMING ELIGIBLE FOR AND RECEIVING BENEFITS UNDER THIS ACT
15 SHALL BE PAID A WEEKLY BENEFIT RATE EQUAL TO 50% OF THE DIFFER-
16 ENCE BETWEEN THE INDIVIDUAL'S GROSS WEEKLY WAGE IN THE EMPLOYMENT
17 WHICH CAUSED THE LAYOFF AND THE INDIVIDUAL'S GROSS WEEKLY WAGE IN
18 HIS OR HER CURRENT EMPLOYMENT, BUT NOT TO EXCEED ANY MAXIMUM IN
19 EFFECT PURSUANT TO SUBSECTION (B). AN ELIGIBLE INDIVIDUAL WHO IS
20 REQUIRED TO ACCEPT SUITABLE WORK PURSUANT TO SECTION 28(6) SHALL
21 BE PAID A WEEKLY BENEFIT RATE EQUAL TO 40% OF THE DIFFERENCE
22 BETWEEN THE INDIVIDUAL'S GROSS WEEKLY WAGE IN THE EMPLOYMENT
23 WHICH CAUSED THE LAYOFF MINUS THE INDIVIDUAL'S GROSS WEEKLY WAGE
24 IN HIS OR HER CURRENT EMPLOYMENT, BUT NOT TO EXCEED ANY MAXIMUM
25 IN EFFECT PURSUANT TO SUBSECTION (B).

26 Notwithstanding the definition of week as contained in
27 section 50, if within 2 consecutive weeks in which an individual

1 was not unemployed within the meaning of section 48 there was a
2 period of 7 or more consecutive days for which the individual did
3 not earn or receive remuneration, that period shall be considered
4 a week for benefit purposes under this act, if a claim for bene-
5 fits for that period is filed not later than 30 days subsequent
6 to the end of the period. All remuneration for work performed
7 during a shift which terminates on 1 day but which began on the
8 day preceding, shall be deemed to have been earned on the preced-
9 ing day.

10 (d) Subject to subsection (f) and this subsection, the
11 amount of benefits to which an individual who is otherwise eligi-
12 ble shall be entitled during a benefit year from an employer with
13 respect to employment during the base period, is the amount
14 obtained by multiplying the weekly benefit rate with respect to
15 that employment by $3/4$ of the number of credit weeks earned in
16 the employment. For the purpose of this subsection and section
17 20(c), should the resultant product not be an even multiple of
18 $1/2$ the weekly benefit rate, the product shall be raised to an
19 amount equal to the next higher multiple of $1/2$ the weekly bene-
20 fit rate, and, when an individual who was employed by only 1
21 employer in the individual's base period and earned 34 credit
22 weeks with that employer, the product shall be raised to the next
23 higher multiple of the weekly benefit rate. The maximum amount
24 of benefits payable to an individual, within a benefit year, with
25 respect to employment by an employer shall not exceed 26 times
26 the weekly benefit rate with respect to that employment. The
27 maximum amount of benefits payable to an individual within a

1 benefit year shall not exceed the amount to which the individual
2 would be entitled for 26 weeks of unemployment in which remunera-
3 tion was not earned or received. The limitation of total bene-
4 fits set forth in this subsection shall not apply to claimants
5 declared eligible for training benefits in accordance with sub-
6 section (g).

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

17 (f)(1) Notwithstanding any inconsistent provisions of this
18 act, the weekly benefit rate of each individual who is receiving
19 or will receive a "retirement benefit", as defined in subdivision
20 (4), shall be adjusted as provided in subparagraphs (a), (b), and
21 (c). However, an individual's extended benefit account and an
22 individual's weekly extended benefit rate under section 64 shall
23 be established without reduction under this subsection, unless
24 subdivision (5) is in effect. Except as otherwise provided in
25 this subsection, all the other provisions of this act shall con-
26 tinue to be applicable in connection with the benefit claims of
27 those retired persons.

1 (a) If and to the extent that unemployment benefits payable
2 under this act would be chargeable to an employer who has con-
3 tributed to the financing of a retirement plan under which the
4 claimant is receiving or will receive a retirement benefit yield-
5 ing a pro rata weekly amount equal to or larger than the
6 claimant's weekly benefit rate as otherwise established under
7 this act, the claimant shall not receive unemployment benefits
8 which would be chargeable to the employer under this act.

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

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

26 (d) If the unemployment benefit payable under this act is
27 computed on the basis of multiemployer credit weeks and a portion

1 of the benefit is allocable under section 20(d) to an employer
2 who has contributed to the financing of a retirement plan under
3 which the claimant is receiving or will receive a retirement ben-
4 efit, the adjustments required by subparagraph (a) or (b) shall
5 be applied only to that portion of the weekly benefit rate which
6 would otherwise be allocable and chargeable to the employer.

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

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

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

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

1 (ii) Payable to an individual because the individual has
2 qualified on the basis of attained age, length of service, or
3 disability, whether or not the individual retired or was retired
4 from employment. Amounts paid to individuals in the course of
5 liquidation of a private pension or retirement fund because of
6 termination of the business or of a plant or department of the
7 business of the employer involved shall not be considered to be
8 retirement benefits.

9 (b) If a benefit such as described in subparagraph (a) is
10 payable or paid to the individual under a plan to which the indi-
11 vidual has contributed:

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

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

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

20 (5) Notwithstanding any other provision of this subsection,
21 for any week which begins after March 31, 1980, and with respect
22 to which an individual is receiving a governmental or other pen-
23 sion and claiming unemployment compensation, the weekly benefit
24 amount payable to the individual for those weeks shall be
25 reduced, but not below zero, by the entire prorated weekly amount
26 of any governmental or other pension, retirement or retired pay,
27 annuity, or any other similar payment which is based on any

1 previous work of the individual. This reduction shall be made
2 only if it is required as a condition for full tax credit against
3 the tax imposed by the federal unemployment tax act, 26
4 U.S.C. 3301 to 3311.

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

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

24 (i) Benefits based on service in employment described in
25 section 42(8), (9), and (10) shall be payable in the same amount,
26 on the same terms, and subject to the same conditions as

1 compensation payable on the basis of other service subject to
2 this act, except that:

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

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

1 individual if that individual performs the service in the first
2 of the academic years or terms and if there is a reasonable
3 assurance that the individual will perform the service for an
4 institution of higher education or an educational institution
5 other than an institution of higher education in the second of
6 the academic years or terms.

7 (3) With respect to any service described in subdivision (1)
8 or (2), benefits shall not be paid to an individual based upon
9 service for any week of unemployment which commences during an
10 established and customary vacation period or holiday recess if
11 the individual performs the service in the period immediately
12 before the vacation period or holiday recess and there is a con-
13 tract or reasonable assurance that the individual will perform
14 the service in the period immediately following the vacation
15 period or holiday recess.

16 (4) If benefits are denied to an individual for any week
17 solely as a result of subdivision (2) and the individual was not
18 offered an opportunity to perform in the second academic year or
19 term the service for which reasonable assurance had been given,
20 the individual shall be entitled to a retroactive payment of ben-
21 efits for each week for which the individual had previously filed
22 a timely claim for benefits. An individual entitled to benefits
23 under this subdivision may apply for those benefits by mail in
24 accordance with R 421.210 as promulgated by the commission.

25 (5) The amendments to subdivision (2) made by Act No. 219 of
26 the Public Acts of 1983 apply to all claims for unemployment
27 compensation which are filed on and after October 31, 1983.

1 However, the amendments shall be retroactive to September 5, 1982
2 only if, as a condition for full tax credit against the tax
3 imposed by the federal unemployment tax act, 26 U.S.C. 3301 to
4 3311, the United States secretary of labor determines that retro-
5 activity is required by federal law.

6 (6) Notwithstanding subdivision (2), on and after April 1,
7 1984 benefits based upon services in other than an instructional,
8 research, or principal administrative capacity for an institution
9 of higher education shall not be denied for any week of unemploy-
10 ment commencing during the period between 2 successive academic
11 years or terms solely because the individual had performed the
12 service in the first of the academic years or terms and there is
13 reasonable assurance that the individual will perform the service
14 for an institution of higher education or an educational institu-
15 tion other than an institution of higher education in the second
16 of the academic years or terms, unless such denial is required as
17 a condition for full tax credit against the tax imposed by the
18 federal unemployment tax act, 26 U.S.C. 3301 to 3311.

19 (7) Notwithstanding subdivisions (1), (2), and (3), the
20 denial of benefits shall not prevent an individual from complet-
21 ing requalifying weeks in accordance with section 29(3) nor shall
22 the denial prevent an individual from receiving benefits based on
23 service with an employer other than an educational institution
24 for any week of unemployment occurring between academic years or
25 terms, whether or not successive, or during an established and
26 customary vacation period or holiday recess, even though the
27 employer is not the most recent chargeable employer in the

1 individual's base period. However, in that case section 20(b)
2 shall apply to the sequence of benefit charging, except for the
3 employment with the educational institution, and section 50(b)
4 shall apply to the calculation of credit weeks. When a denial of
5 benefits under subdivision (1) is no longer applicable, benefits
6 shall be charged in accordance with the normal sequence of charg-
7 ing as provided in section 20(b).

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

14 (9) Benefits shall be denied, as provided in subdivisions
15 (1), (2), and (3), for any week of unemployment beginning on and
16 after April 1, 1984, to an individual who performed those serv-
17 ices in an educational institution while in the employ^r of an edu-
18 cational service agency. For the purpose of this subdivision,
19 "educational service agency" means a governmental agency or gov-
20 ernmental entity that is established and operated exclusively for
21 the purpose of providing the services to 1 or more educational
22 institutions.

23 (j) For weeks of unemployment beginning after December 31,
24 1977, benefits shall not be paid to an individual on the basis of
25 any base period services, substantially all of which consist of
26 participating in sports or athletic events or training or
27 preparing to so participate, for a week which commences during

1 the period between 2 successive sport seasons or similar periods,
2 if the individual performed the services in the first of the sea-
3 sons or similar periods and there is a reasonable assurance that
4 the individual will perform the services in the later of the sea-
5 sons or similar periods.

6 (k)(1) For weeks of unemployment beginning after
7 December 31, 1977, benefits shall not be payable on the basis of
8 services performed by an alien unless the alien is an individual
9 who was lawfully admitted for permanent residence at the time the
10 services were performed, was lawfully present for the purpose of
11 performing the services, or was permanently residing in the
12 United States under color of law at the time the services were
13 performed, including an alien who was lawfully present in the
14 United States under section 203(a)(7) or section 212(d)(5) of the
15 immigration and nationality act, 8 U.S.C. 1153 or 1182.

16 (2) Any data or information required of individuals applying
17 for benefits, to determine whether benefits are payable because
18 of their alien status, shall be uniformly required from all
19 applicants for benefits.

20 (3) Where an individual whose application for benefits would
21 otherwise be approved, a determination that benefits to such an
22 individual are not payable because of the individual's alien
23 status shall not be made except upon a preponderance of the
24 evidence.

25 (m)(1) An individual filing a new claim for unemployment
26 compensation under this act after September 30, 1982 shall, at
27 the time of filing the claim, disclose whether the individual

1 owes child support obligations as defined in this subsection. If
2 an individual discloses that he or she owes child support obliga-
3 tions, and is determined to be eligible for unemployment compen-
4 sation, the commission shall notify the state or local child sup-
5 port enforcement agency enforcing the obligation that the indi-
6 vidual has been determined to be eligible for unemployment
7 compensation.

8 (2) Notwithstanding section 30, the commission shall deduct
9 and withhold from any unemployment compensation payable to an
10 individual who owes child support obligations by 1 of the follow-
11 ing methods:

12 (a) The amount, if any, specified by the individual to be
13 deducted and withheld under this subdivision, if neither
14 subparagraph (b) nor (c) is applicable.

15 (b) The amount, if any, determined pursuant to an agreement
16 submitted to the commission under section ~~454(20)(b)(i)~~
17 454(19)(B)(i) of the social security act, 42 U.S.C.

18 ~~654(20)(b)(i)~~ 654(19)(B)(i), by the state or local child sup-
19 port enforcement agency, unless subparagraph (c) is applicable.

20 (c) Any amount otherwise required to be so deducted and
21 withheld from unemployment compensation pursuant to legal pro-
22 cess, as that term is defined in section ~~462(e)~~ 463(e) of the
23 social security act, 42 U.S.C. 662(e), properly served upon the
24 commission.

25 (3) The amount of unemployment compensation subject to
26 deduction under subdivision (2) shall be that portion that
27 remains payable to the individual after application of the

1 recoupment provisions of section 62(a) and the reduction
2 provisions of subsections (c) and (f).

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

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

11 (6) This subsection applies only if the state or local child
12 support enforcement agency agrees in writing to reimburse the
13 commission, and in fact reimburses the commission, for the admin-
14 istrative costs incurred by the commission under this subsection
15 which are attributable to child support obligations being
16 enforced by the state or local child support enforcement agency.
17 The administrative costs incurred shall be determined by the
18 commission. The commission may, in its discretion, require pay-
19 ment of administrative costs in advance.

20 (7) As used in this subsection:

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

26 (b) "Child support obligations" includes only obligations
27 which are being enforced pursuant to a plan described in

1 section 454 of the social security act, 42 U.S.C. 654, which has
2 been approved by the secretary of health and human services under
3 part d of title IV of the social security act, 42 U.S.C. 651 to
4 ~~664~~ 669.

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

8 (n) The provisions of subsection (i)(2) shall be applicable
9 to services performed by school bus drivers employed by a private
10 contributing employer holding a contractual relationship with an
11 educational institution, but only if at least 75% of the
12 individual's base period wages with that employer are attribut-
13 able to services performed as a school bus driver.

14 Sec. 28. (1) An unemployed individual shall be eligible to
15 receive benefits with respect to any week only if the commission
16 finds that:

17 (a) The individual has registered for work at and thereafter
18 has continued to report at an employment office in accordance
19 with such rules as the commission may prescribe and is seeking
20 work. (1) The requirements that the individual must report at an
21 employment office, must register for work, must be available to
22 perform suitable full-time work, and must seek work may be waived
23 by the commission if the individual is laid off and the employer
24 who laid the individual off notifies the commission in writing or
25 by computerized data exchange that the layoff is temporary and
26 that work is expected to be available for the individual within a
27 declared number of days, not to exceed 45 calendar days following

1 the last day the individual worked. This waiver shall not be
2 effective unless the notification from the employer has been
3 received by the commission before the individual has completed
4 his or her first compensable week following layoff. If the indi-
5 vidual is not recalled within the specified period, the waiver
6 shall cease to be operative with respect to that layoff. (2)
7 Except for a period of disqualification, the requirement that the
8 individual shall seek work may be waived by the commission where
9 it finds that suitable work is unavailable both in the locality
10 where the individual resides and in those localities in which the
11 individual has earned base period credit weeks. This waiver
12 shall not apply, for weeks of unemployment beginning on or after
13 March 1, 1981, to a claimant enrolled and attending classes as a
14 full-time student. (3) An individual shall be deemed to have
15 satisfied the requirement of personal reporting at an employment
16 office, as applied to a week in a period during which the
17 requirements of registration and seeking work have been waived by
18 the commission under subparagraph (1), if (i) the individual has
19 satisfied the personal reporting requirement with respect to a
20 preceding week in that period and (ii) the individual has
21 reported with respect to the week by mail in accordance with the
22 rules promulgated by the commission. AS USED IN THIS SECTION,
23 "SEEKING WORK" MEANS AN INDIVIDUAL OTHERWISE ELIGIBLE FOR BENE-
24 FITS WHO MAKES NOT LESS THAN 3 JOB APPLICATIONS WITH DIFFERENT
25 EMPLOYERS EVERY 2 WEEKS. AN INDIVIDUAL SHALL NOT MAKE AN APPLI-
26 CATION WITH THE SAME EMPLOYER TO COMPLY WITH THIS REQUIREMENT
27 MORE OFTEN THAN ONCE EVERY 3 CALENDAR MONTHS.

1 (b) The individual has made a claim for benefits in
2 accordance with the provisions of section 32 and has provided the
3 commission with his or her social security number.

4 (c) The individual is able and available to perform suitable
5 full-time work of a character which the individual is qualified
6 to perform by past experience or training, which is of a charac-
7 ter generally similar to work for which the individual has previ-
8 ously received wages, and for which the individual is available,
9 full time, either at a locality at which the individual earned
10 wages for insured work during his or her base period or at a
11 locality where it is found by the commission that such work is
12 available.

13 (d) In the event of the death of an individual's immediate
14 family member, the eligibility requirements of availability and
15 reporting shall be waived for the day of the death and for 4 con-
16 secutive calendar days thereafter. As used in this subdivision,
17 "immediate family member" means a spouse, child, stepchild,
18 adopted child, grandchild, parent, grandparent, brother, or
19 sister of the individual or his or her spouse. It shall also
20 include the spouse of any of the persons specified in the previ-
21 ous sentence.

22 (2) The commission may authorize an individual with an unex-
23 pired benefit year to pursue vocational training or retraining
24 only if the commission finds that:

25 (a) Reasonable opportunities for employment, in occupations
26 for which the individual is fitted by training and experience, do

1 not exist in the locality in which the individual is claiming
2 benefits.

3 (b) The vocational training course relates to an occupation
4 or skill for which there are, or are expected to be in the imme-
5 diate future, reasonable employment opportunities.

6 (c) The training course has been approved by a local
7 advisory council on which both management and labor are repre-
8 sented, or if there is no local advisory council, by the
9 commission.

10 (d) The individual has the required qualifications and apti-
11 tudes to complete the course successfully.

12 (e) The vocational training course has been approved by the
13 state board of education and is maintained by a public or private
14 school or by the commission.

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

1 (4) The waiver of the requirement that a claimant seek work,
2 as provided in subsection (1)(a)(1) and (a)(2), shall not be
3 applicable to weeks of unemployment for which the claimant is
4 claiming extended benefits if section 64(8)(a)(ii) is in effect,
5 unless the individual is participating in training approved by
6 the commission.

7 (5) Notwithstanding any other provisions of this act, an
8 otherwise eligible individual shall not be denied benefits for
9 any week beginning after October 30, 1982 solely because the
10 individual is in training approved under section 236(a)(1) of the
11 trade act of 1974, as amended, 19 U.S.C. 2296, nor shall the
12 individual be denied benefits by reason of leaving work to enter
13 such training if the work left is not suitable employment.
14 Furthermore, an otherwise eligible individual shall not be denied
15 benefits because of the application to any such week in training
16 of provisions of this act, or any applicable federal unemployment
17 compensation law, relating to availability for work, active
18 search for work, or refusal to accept work. For purposes of this
19 subsection, "suitable employment" means, with respect to an indi-
20 vidual, work of a substantially equal or higher skill level than
21 the individual's past adversely affected employment, as defined
22 for purposes of the trade act of 1974, 19 U.S.C. 2101 to 2495,
23 and wages for that work at not less than 80% of the individual's
24 average weekly wage as determined for the purposes of the trade
25 act of 1974.

26 (6) NOTWITHSTANDING SUBSECTION (1)(C), IN THE CASE OF AN
27 OTHERWISE ELIGIBLE INDIVIDUAL WHO IS CURRENTLY RECEIVING BENEFITS

1 AND WHO HAS RECEIVED AT LEAST 8 WEEKS OF BENEFITS, "SUITABLE
2 WORK" MEANS EMPLOYMENT WHICH WILL PAY WAGES ON A WEEKLY BASIS TO
3 THE INDIVIDUAL OF NOT LESS THAN 50% OF THE WEEKLY WAGES PAID TO
4 THE INDIVIDUAL FROM THE EMPLOYER WHO LAID OFF THE INDIVIDUAL.

5 Section 2. This amendatory act shall not take effect unless
6 Senate Bill No. _____ or House Bill No. 5351 (request
7 no. 01248'91 a) of the 86th Legislature is enacted into law.