



HOUSE BILL No. 4189

February 9, 1993, Introduced by Reps. Oxender, Jamian, Walberg, Middaugh, Dolan, Baade, Johnson, Voorhees, Stille and Martin 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 ~~—~~
4 and continue to be payable to the unemployed individual, subject
5 to the limitations imposed by the individual's monetary entitle-
6 ment, as long as the individual continues to be unemployed and to
7 file claims for benefits, until the determination, redetermina-
8 tion, or decision is reversed, a determination, redetermination,
9 or decision on a new issue holding the individual disqualified or
10 ineligible is made, or a new separation issue arises resulting
11 from subsequent work.

12 (2) Benefits shall be paid in person or by mail through
13 employment offices ~~—~~ in accordance with rules promulgated by
14 the 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 THROUGH JANUARY 2, 1988, the individual's weekly
26 benefit rate shall be 70% of the individual's average after tax
27 weekly wage, except that the individual's weekly benefit rate

1 shall not exceed 53% of the state average weekly wage. ~~and~~
2 ~~with~~ WITH respect to benefit years beginning on or after
3 January 3, 1988 THROUGH DECEMBER 31, 1988, the individual's
4 weekly benefit rate shall not exceed 55% of the state average
5 weekly wage, and with respect to benefit years beginning on or
6 after January 1, 1989, the individual's weekly benefit rate shall
7 not exceed 58% of the state average weekly wage. With respect to
8 benefit years beginning before October 2, 1983, the weekly bene-
9 fit rate shall be adjusted to the next higher multiple of \$1.00.
10 With respect to benefit years beginning on or after October 2,
11 1983, the weekly benefit rate shall be adjusted to the next lower
12 multiple of \$1.00.

13 (2) The state average weekly wage for a calendar year shall
14 be computed on the basis of the 12 months ending the June 30
15 IMMEDIATELY preceding that calendar year. The commission shall
16 prepare a table of weekly benefit rates based on an "average
17 after tax weekly wage" calculated by subtracting, from an
18 individual's average weekly wage as determined in accordance with
19 section 51, a reasonable approximation of the weekly amount
20 required to be withheld by the employer from the remuneration of
21 the individual based on dependents and exemptions for income
22 taxes under chapter 24 OF SUBTITLE C of the internal revenue code
23 OF 1986, 26 U.S.C. 3401 TO 3406, and under section 351 of THE
24 INCOME TAX ACT OF 1967, Act No. 281 of the Public Acts of 1967,
25 being section 206.351 of the Michigan Compiled Laws, and for old
26 age and survivor's disability insurance taxes under the federal
27 insurance contributions act, CHAPTER 21 OF SUBTITLE C OF THE

1 INTERNAL REVENUE CODE OF 1986, 26 U.S.C. ~~3101 to 3126~~ 3128.

2 For purposes of applying the table to an individual's claim, a
3 dependent shall be as defined in subdivision (3). The table
4 applicable to an individual's claim shall be the table reflecting
5 the number of dependents claimed by the individual under
6 subdivision (3). The commission shall adjust the tables based on
7 changes in withholding schedules published by the United States
8 department of treasury, internal revenue service, and by the
9 department of treasury. The number of dependents allowed shall
10 be determined with respect to each week of unemployment for which
11 an individual is claiming benefits.

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

19 (a) A child, including stepchild, adopted child, or grand-
20 child of the individual who is under 18 years of age, or 18 years
21 of age ~~and~~ OR over if, because of physical or mental infirmity,
22 the child is unable to engage in a gainful occupation, or is a
23 full-time student as defined by the particular educational insti-
24 tution, at a high school, vocational school, community or junior
25 college, or college or university and has not attained the age of
26 22.

(b) The husband or wife of the individual.

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

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

(4) Dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual ~~shall~~ ~~continue~~ CONTINUES during the individual's benefit year until terminated. Dependency status of a dependent ~~shall terminate~~ TERMINATES at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce.

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

(6) Failure on the part of an individual, due to misinformation or lack of information, to furnish all information

1 material for determination of the individual's dependency class
2 when the individual files a claim for benefits with respect to a
3 week ~~—~~ shall be considered good cause for the issuance of a
4 redetermination as to the amount of benefits based on the
5 individual's dependency class as of the beginning date of that
6 week. Dependency status of a dependent, child or otherwise, once
7 established or fixed in favor of a person ~~—, shall~~ IS not ~~be~~
8 transferable to or ~~used~~ USABLE by another person with respect
9 to the same week.

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

1 WHICH CAUSED THE LAYOFF MINUS THE INDIVIDUAL'S GROSS WEEKLY WAGE
2 IN HIS OR HER CURRENT EMPLOYMENT, BUT NOT TO EXCEED ANY MAXIMUM
3 IN EFFECT PURSUANT TO SUBSECTION (B).

4 Notwithstanding the definition of week as contained in sec-
5 tion 50, if within 2 consecutive weeks in which an individual was
6 not unemployed within the meaning of section 48 there was a
7 period of 7 or more consecutive days for which the individual did
8 not earn or receive remuneration, that period shall be considered
9 a week for benefit purposes under this act ~~—~~ if a claim for
10 benefits for that period is filed not later than 30 days subse-
11 quent to the end of the period. All remuneration for work per-
12 formed during a shift ~~—which—~~ THAT terminates on 1 day but
13 ~~—which—~~ THAT began on the PRECEDING day ~~—preceding—~~ shall be
14 ~~—deemed—~~ CONSIDERED to have been earned on the preceding day.

15 (d) Subject to subsection (f) and this subsection, the
16 amount of benefits to which an individual who is otherwise eligi-
17 ble ~~—shall be—~~ IS entitled during a benefit year from an employer
18 with respect to employment during the base period ~~—~~ is the
19 amount obtained by multiplying the weekly benefit rate with
20 respect to that employment by $\frac{3}{4}$ of the number of credit weeks
21 earned in the employment. For the purpose of this subsection and
22 section 20(c), ~~—should—~~ IF the resultant product IS not ~~—be—~~ an
23 even multiple of $\frac{1}{2}$ the weekly benefit rate, the product shall
24 be raised to an amount equal to the next higher multiple of $\frac{1}{2}$
25 the weekly benefit rate, and, ~~—when—~~ FOR an individual who was
26 employed by only 1 employer in the individual's base period and
27 earned 34 credit weeks with that employer, the product shall be

1 raised to the next higher multiple of the weekly benefit rate.
2 The maximum amount of benefits payable to an individual ~~—~~
3 within a benefit year, with respect to employment by an employer,
4 shall not exceed 26 times the weekly benefit rate with respect to
5 that employment. The maximum amount of benefits payable to an
6 individual within a benefit year shall not exceed the amount to
7 which the individual would be entitled for 26 weeks of unemploy-
8 ment in which remuneration was not earned or received. The limi-
9 tation of total benefits set forth in this subsection ~~shall~~
10 DOES not apply to claimants declared eligible for training bene-
11 fits in accordance with subsection (g).

12 (e) When a claimant dies ~~—~~ or is judicially declared
13 insane ~~—~~ or mentally incompetent, unemployment compensation
14 benefits accrued and payable to that person for weeks of unem-
15 ployment before death, insanity, or incompetency, but not paid,
16 shall ~~by operation of this section~~ become due and payable to
17 the person who is the legal heir or guardian of the claimant ~~—~~
18 or to any other person found by the commission to be equitably
19 entitled to the benefits by reason of having incurred expense in
20 behalf of the claimant for the claimant's burial or other neces-
21 sary expenses.

22 (f)(1) Notwithstanding any inconsistent provisions of this
23 act, the weekly benefit rate of each individual who is receiving
24 or will receive a "retirement benefit", as defined in subdivision
25 (4), shall be adjusted as provided in subparagraphs (a), (b), and
26 (c). However, an individual's extended benefit account and an
27 individual's weekly extended benefit rate under section 64 shall

1 be established without reduction under this subsection ~~—~~ unless
2 subdivision (5) is in effect. Except as otherwise provided in
3 this subsection, all ~~the~~ other provisions of this act ~~shall~~
4 continue to ~~be applicable~~ APPLY in connection with the benefit
5 claims of those retired persons.

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

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

25 (c) If the unemployment benefit payable under this act would
26 be chargeable to an employer who has not contributed to the
27 financing of a retirement plan under which the claimant is

1 receiving or will receive a retirement benefit, then the weekly
2 benefit rate of the claimant as otherwise established under this
3 act shall not be reduced due to receipt of a retirement benefit.

4 (d) If the unemployment benefit payable under this act is
5 computed on the basis of multiemployer credit weeks and a portion
6 of the benefit is allocable under section 20(d) to an employer
7 who has contributed to the financing of a retirement plan under
8 which the claimant is receiving or will receive a retirement ben-
9 efit, the adjustments required by subparagraph (a) or (b) ~~shall~~
10 ~~be applied~~ APPLY only to that portion of the weekly benefit rate
11 ~~which~~ THAT would otherwise be allocable and chargeable to the
12 employer.

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

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

1 (4)(a) As used in this subdivision, "retirement benefit"
2 means a benefit, ~~or~~ annuity, or pension of any type or that
3 part thereof ~~which~~ THAT is described in subparagraph (b)
4 ~~which~~ THAT is:

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

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

16 (b) If a benefit ~~such~~ as described in subparagraph (a) is
17 payable or paid to the individual under a plan to which the indi-
18 vidual has contributed:

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

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

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

1 (5) Notwithstanding any other provision of this subsection,
2 for any week ~~which~~ THAT begins after March 31, 1980, and with
3 respect to which an individual is receiving a governmental or
4 other pension and claiming unemployment compensation, the weekly
5 benefit amount payable to the individual for those weeks shall be
6 reduced, but not below zero, by the entire prorated weekly amount
7 of any governmental or other pension, retirement or retired pay,
8 annuity, or any other similar payment ~~which~~ THAT is based on
9 any previous work of the individual. This reduction shall be
10 made only if it is required as a condition for full tax credit
11 against the tax imposed by the federal unemployment tax act,
12 CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986, 26
13 U.S.C. 3301 to 3311.

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

1 (h) A payment of accrued unemployment benefits shall not be
2 made to an eligible individual ~~—~~ or in behalf of that
3 individual as provided in subsection (e) ~~—~~ more than 6 years
4 after the ending date of the benefit year covering the payment or
5 2 calendar years after the calendar year in which there is final
6 disposition of a contested case, whichever is later.

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

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

1 in the second of the academic years or terms, whether or not the
2 terms are successive.

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

17 (3) With respect to any service described in subdivision (1)
18 or (2), benefits shall not be paid to an individual based upon
19 service for any week of unemployment ~~which~~ THAT commences
20 during an established and customary vacation period or holiday
21 recess if the individual performs the service in the period imme-
22 diately before the vacation period or holiday recess and there is
23 a contract or reasonable assurance that the individual will per-
24 form the service in the period immediately following the vacation
25 period or holiday recess.

26 (4) If benefits are denied to an individual for any week
27 solely as a result of subdivision (2) and the individual was not

1 offered an opportunity to perform in the second academic year or
2 term the service for which reasonable assurance had been given,
3 the individual ~~shall be~~ IS entitled to a retroactive payment of
4 benefits for each week for which the individual had previously
5 filed a timely claim for benefits. An individual entitled to
6 benefits under this subdivision may apply for those benefits by
7 mail in accordance with R 421.210 as promulgated by the
8 commission.

9 (5) The amendments to subdivision (2) made by Act No. 219 of
10 the Public Acts of 1983 apply to all claims for unemployment com-
11 pensation ~~which~~ THAT are filed on and after October 31, 1983.
12 However, the amendments ~~shall be~~ ARE retroactive to September
13 5, 1982 only if, as a condition for full tax credit against the
14 tax imposed by the federal unemployment tax act, CHAPTER 23 OF
15 SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301
16 to 3311, the United States secretary of labor determines that
17 retroactivity is required by federal law.

18 (6) Notwithstanding subdivision (2), on and after April 1,
19 1984 benefits based upon services in other than an instructional,
20 research, or principal administrative capacity for an institution
21 of higher education shall not be denied for any week of unemploy-
22 ment commencing during the period between 2 successive academic
23 years or terms solely because the individual had performed the
24 service in the first of the academic years or terms and there is
25 reasonable assurance that the individual will perform the service
26 for an institution of higher education or an educational
27 institution other than an institution of higher education in the

1 second of the academic years or terms, unless ~~such~~ A denial is
2 required as a condition for full tax credit against the tax
3 imposed by the federal unemployment tax act, CHAPTER 23 OF
4 SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301
5 to 3311.

6 (7) Notwithstanding subdivisions (1), (2), and (3), the
7 denial of benefits ~~shall~~ DOES not prevent an individual from
8 completing requalifying weeks in accordance with section 29(3)
9 nor ~~shall~~ DOES the denial prevent an individual from receiving
10 benefits based on service with an employer other than an educa-
11 tional institution for any week of unemployment occurring between
12 academic years or terms, whether or not successive, or during an
13 established and customary vacation period or holiday recess, even
14 though the employer is not the most recent chargeable employer in
15 the individual's base period. However, in that case section
16 20(b) ~~shall apply~~ APPLIES to the sequence of benefit charging,
17 except for the employment with the educational institution, and
18 section 50(b) ~~shall apply~~ APPLIES to the calculation of credit
19 weeks. When a denial of benefits under subdivision (1) ~~is~~ no
20 longer ~~applicable~~ APPLIES, benefits shall be charged in accord-
21 ance with the normal sequence of charging as provided in section
22 20(b).

23 (8) For the purposes of this subsection, "academic year"
24 means that period, as defined by the educational institution,
25 when classes are in session for that length of time required for
26 students to receive sufficient instruction or earn sufficient

1 credit to complete academic requirements for a particular grade
2 level or to complete instruction in a noncredit course.

3 (9) Benefits shall be denied, as provided in subdivisions
4 (1), (2), and (3), for any week of unemployment beginning on and
5 after April 1, 1984, to an individual who performed those serv-
6 ices in an educational institution while in the employ of an edu-
7 cational service agency. For the purpose of this subdivision,
8 "educational service agency" means a governmental agency or gov-
9 ernmental entity that is established and operated exclusively for
10 the purpose of providing the services to 1 or more educational
11 institutions.

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

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

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

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

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

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

24 (2) Notwithstanding section 30, the commission shall deduct
25 and withhold from any unemployment compensation payable to an
26 individual who owes child support obligations by 1 of the
27 following methods:

1 (a) The amount, if any, specified by the individual to be
 2 deducted and withheld under this subdivision, if neither
 3 subparagraph (b) nor (c) ~~is applicable~~ APPLIES.

4 (b) The amount, if any, determined pursuant to an agreement
 5 submitted to the commission under section ~~454(20)(b)(i)~~
 6 454(19)(B)(i) of PART D OF TITLE IV OF the social security act,
 7 CHAPTER 531, 49 STAT. 620, 42 U.S.C. ~~654(20)(b)(i)~~ 654, by the
 8 state or local child support enforcement agency, unless
 9 subparagraph (c) ~~is applicable~~ APPLIES.

10 (c) Any amount otherwise required to be so deducted and
 11 withheld from unemployment compensation pursuant to legal pro-
 12 cess, as that term is defined in section 462(e) OF PART D OF
 13 TITLE IV of the social security act, CHAPTER 531, 49 STAT. 620,
 14 42 U.S.C. ~~662(e)~~ 662, properly served upon the commission.

15 (3) The amount of unemployment compensation subject to
 16 deduction under subdivision (2) ~~shall be~~ IS that portion that
 17 remains payable to the individual after application of the
 18 recoupment provisions of section 62(a) and the reduction provi-
 19 sions of subsections (c) and (f).

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

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

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

3 (6) This subsection applies only if the state or local child
4 support enforcement agency agrees in writing to reimburse AND
5 DOES REIMBURSE the commission ~~and in fact reimburses the~~
6 ~~commission~~ for the administrative costs incurred by the commis-
7 sion under this subsection ~~which~~ THAT are attributable to child
8 support obligations being enforced by the state or local child
9 support enforcement agency. The administrative costs incurred
10 shall be determined by the commission. The commission, ~~may~~ in
11 its discretion, MAY require payment of administrative costs in
12 advance.

13 (7) As used in this subsection:

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

19 (b) "Child support obligations" includes only obligations
20 ~~which~~ THAT are being enforced pursuant to a plan described in
21 section 454 of PART D OF TITLE IV OF the social security act,
22 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 654, ~~which~~ THAT has been
23 approved by the secretary of health and human services under
24 part ~~d~~ D of title IV of the social security act, CHAPTER 531,
25 49 STAT. 620, 42 U.S.C. 651 to ~~664~~ 669.

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

4 (n) ~~The provisions of subsection (i)(2) shall be~~
5 ~~applicable~~ SUBSECTION (I)(2) APPLIES to services performed by
6 school bus drivers employed by a private contributing employer
7 holding a contractual relationship with an educational institu-
8 tion, but only if at least 75% of the individual's base period
9 wages with that employer are attributable to services performed
10 as a school bus driver.

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

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

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

25 (b) The individual has made a claim for benefits in accord-
26 ance with the provisions of section 32 and has provided the
27 commission with his or her social security number.

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

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

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

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

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

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

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

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

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

26 (4) The waiver of the requirement that a claimant seek work,
27 as provided in subsection (1)(a)(1) and (a)(2), shall not be

1 applicable to weeks of unemployment for which the claimant is
2 claiming extended benefits if section 64(8)(a)(ii) is in effect,
3 unless the individual is participating in training approved by
4 the commission.

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

24 (6) NOTWITHSTANDING SUBSECTION (1)(C), IN THE CASE OF AN
25 OTHERWISE ELIGIBLE INDIVIDUAL WHO IS CURRENTLY RECEIVING BENEFITS
26 AND WHO HAS RECEIVED AT LEAST 8 WEEKS OF BENEFITS, "SUITABLE
27 WORK" MEANS EMPLOYMENT WHICH WILL PAY WAGES ON A WEEKLY BASIS TO

1 THE INDIVIDUAL OF NOT LESS THAN 50% OF THE WEEKLY WAGES PAID TO
2 THE INDIVIDUAL FROM THE EMPLOYER WHO LAID OFF THE INDIVIDUAL.

3 Section 2. This amendatory act shall not take effect unless
4 Senate Bill No. _____ or House Bill No. 4190 (request
5 no. 01418'93a) of the 87th Legislature is enacted into law.