



# HOUSE BILL No. 4547

March 8, 1995, Introduced by Reps. Oxender, Hammerstrom, Weeks, Goschka, DeLange, Bodem, Pitoniak, Johnson, McBryde, Byl, Hill and Gernaat and referred to the Committee on Human Resources and 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. 162 of the Public Acts of 1994 and section 28 as amended by Act No. 422 of the Public Acts of 1994, 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. 162 of the Public Acts of 1994 and section 28 as amended by  
4 Act No. 422 of the Public Acts of 1994, 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, for benefit years beginning before the conver-  
11 sion date prescribed in section 75, a new separation issue arises  
12 resulting from subsequent work.

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

16       (b)(1) Subject to subsection (f), the weekly benefit rate  
17 for an individual, with respect to benefit years beginning before  
18 the conversion date prescribed in section 75, shall be 70% of the  
19 individual's average after tax weekly wage, except that the  
20 individual's weekly benefit rate shall not exceed 58% of the  
21 state average weekly wage. However, the maximum weekly benefit  
22 amount established under this subsection shall not exceed \$293.00  
23 for benefit years beginning on or after January 2, 1994 but  
24 before January 5, 1997. However, with respect to benefit years  
25 beginning on or after January 5, 1997, the individual's weekly  
26 benefit rate shall not exceed 53% of the state average weekly  
27 wage, and with respect to benefit years beginning on or after

1 January 4, 1998, but before January 3, 1999, the individual's  
2 weekly benefit rate shall not exceed 55% of the state average  
3 weekly wage. With respect to benefit years beginning after the  
4 conversion date as prescribed in section 75, the individual's  
5 weekly benefit rate shall be 4.2% of the individual's wages paid  
6 in the calendar quarter of the base period in which the individ-  
7 ual was paid the highest total wages, plus \$6.00 for each depen-  
8 dent as defined in subdivision (3), up to a maximum of 5 depen-  
9 dents, claimed by the individual at the time the individual files  
10 a new claim for benefits. With respect to benefit years begin-  
11 ning on or after October 2, 1983, the weekly benefit rate shall  
12 be adjusted to the next lower multiple of \$1.00.

13       (2) For benefit years beginning before the conversion date  
14 prescribed in section 75, the state average weekly wage for a  
15 calendar year shall be computed on the basis of the 12 months  
16 ending the June 30 immediately preceding that calendar year. The  
17 commission shall prepare a table of weekly benefit rates based on  
18 an "average after tax weekly wage" calculated by subtracting,  
19 from an individual's average weekly wage as determined in accord-  
20 ance with section 51, a reasonable approximation of the weekly  
21 amount required to be withheld by the employer from the remunera-  
22 tion of the individual based on dependents and exemptions for  
23 income taxes under chapter 24 of subtitle C of the internal reve-  
24 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351  
25 of the income tax act of 1967, Act No. 281 of the Public Acts of  
26 1967, being section 206.351 of the Michigan Compiled Laws, and  
27 for old age and survivor's disability insurance taxes under the

1 federal insurance contributions act, chapter 21 of subtitle C of  
2 the internal revenue code of 1986, 26 U.S.C. 3128. For purposes  
3 of applying the table to an individual's claim, a dependent shall  
4 be as defined in subdivision (3). The table applicable to an  
5 individual's claim shall be the table reflecting the number of  
6 dependents claimed by the individual under subdivision (3). The  
7 commission shall adjust the tables based on changes in withhold-  
8 ing schedules published by the United States department of trea-  
9 sury, internal revenue service, and by the department of  
10 treasury. The number of dependents allowed shall be determined  
11 with respect to each week of unemployment for which an individual  
12 is claiming benefits.

13 (3) For benefit years beginning before the conversion date  
14 prescribed in section 75, a dependent means any of the following  
15 persons who is receiving and for at least 90 consecutive days  
16 immediately preceding the week for which benefits are claimed,  
17 or, in the case of a dependent husband, wife, or child, for the  
18 duration of the marital or parental relationship, if the rela-  
19 tionship has existed less than 90 days, has received more than  
20 half the cost of his or her support from the individual claiming  
21 benefits:

22 (a) A child, including stepchild, adopted child, or grand-  
23 child of the individual who is under 18 years of age, or 18 years  
24 of age or over if, because of physical or mental infirmity, the  
25 child is unable to engage in a gainful occupation, or is a  
26 full-time student as defined by the particular educational  
27 institution, at a high school, vocational school, community or

1 junior college, or college or university and has not attained the  
2 age of 22.

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

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

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

16 (4) For benefit years beginning after the conversion date  
17 prescribed in section 75, a dependent means any of the following  
18 persons who received for at least 90 consecutive days immediately  
19 preceding the first week of the benefit year or, in the case of a  
20 dependent husband, wife, or child, for the duration of the mari-  
21 tal or parental relationship if the relationship existed less  
22 than 90 days before the beginning of the benefit year, has  
23 received more than 1/2 the cost of his or her support from the  
24 individual claiming the benefits:

25 (a) A child, including stepchild, adopted child, or grand-  
26 child of the individual who is under 18 years of age, or 18 years  
27 of age and over if, because of physical or mental infirmity, the

1 child is unable to engage in a gainful occupation, or is a  
2 full-time student as defined by the particular educational insti-  
3 tution, at a high school, vocational school, community or junior  
4 college, or college or university and has not attained the age of  
5 22.

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

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

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

19 (5) For benefit years beginning before the conversion date  
20 prescribed in section 75, dependency status of a dependent, child  
21 or otherwise, once established or fixed in favor of an individual  
22 continues during the individual's benefit year until terminated.  
23 Dependency status of a dependent terminates at the end of the  
24 week in which the dependent ceases to be an individual described  
25 in subdivision (3)(a), (b), (c), or (d) because of age, death, or  
26 divorce. For benefit years beginning after the conversion date  
27 prescribed in section 75, the number of dependents established

1 for an individual at the beginning of the benefit year shall  
2 remain in effect during the entire benefit year.

3       (6) For benefit years beginning before the conversion date  
4 prescribed in section 75, failure on the part of an individual,  
5 due to misinformation or lack of information, to furnish all  
6 information material for determination of the number of the  
7 individual's dependents when the individual files a claim for  
8 benefits with respect to a week shall be considered good cause  
9 for the issuance of a redetermination as to the amount of bene-  
10 fits based on the number of the individual's dependents as of the  
11 beginning date of that week. Dependency status of a dependent,  
12 child or otherwise, once established or fixed in favor of a  
13 person is not transferable to or usable by another person with  
14 respect to the same week.

15       For benefit years beginning after the conversion date as  
16 prescribed in section 75, failure on the part of an individual,  
17 due to misinformation or lack of information, to furnish all  
18 information material for determination of the number of the  
19 individual's dependents shall be considered good cause for the  
20 issuance of a redetermination as to the amount of benefits based  
21 on the number of the individual's dependents as of the beginning  
22 of the benefit year.

23       (c) Subject to subsection (f) AND THIS SUBSECTION, each eli-  
24 gible individual shall be paid a weekly benefit rate with respect  
25 to the week for which the individual earns or receives no remu-  
26 nation or remuneration equal to less than 1/2 the individual's  
27 weekly benefit rate, or shall be paid 1/2 his or her weekly

1 benefit rate with respect to the week for which the individual  
2 earns or receives remuneration equal to at least 1/2 but less  
3 than the individual's weekly benefit rate. AN ELIGIBLE INDIVID-  
4 UAL WHO RECEIVES REMUNERATION FOR EMPLOYMENT ACCEPTED WITHIN  
5 8 WEEKS AFTER BECOMING ELIGIBLE FOR AND RECEIVING BENEFITS UNDER  
6 THIS ACT SHALL BE PAID A WEEKLY BENEFIT RATE EQUAL TO 50% OF THE  
7 DIFFERENCE BETWEEN THE INDIVIDUAL'S GROSS WEEKLY WAGE IN THE  
8 EMPLOYMENT WHICH CAUSED THE LAYOFF AND THE INDIVIDUAL'S GROSS  
9 WEEKLY WAGE IN HIS OR HER CURRENT EMPLOYMENT, BUT NOT TO EXCEED  
10 ANY MAXIMUM IN EFFECT PURSUANT TO SUBSECTION (B). AN ELIGIBLE  
11 INDIVIDUAL WHO IS REQUIRED TO ACCEPT SUITABLE WORK PURSUANT TO  
12 SECTION 28(6) SHALL BE PAID A WEEKLY BENEFIT RATE EQUAL TO 40% OF  
13 THE DIFFERENCE BETWEEN THE INDIVIDUAL'S GROSS WEEKLY WAGE IN THE  
14 EMPLOYMENT WHICH CAUSED THE LAYOFF MINUS THE INDIVIDUAL'S GROSS  
15 WEEKLY WAGE IN HIS OR HER CURRENT EMPLOYMENT, BUT NOT TO EXCEED  
16 ANY MAXIMUM IN EFFECT PURSUANT TO SUBSECTION (B). Notwithstanding  
17 the definition of week as contained in section 50, if within 2  
18 consecutive weeks in which an individual was not unemployed  
19 within the meaning of section 48 there was a period of 7 or more  
20 consecutive days for which the individual did not earn or receive  
21 remuneration, that period shall be considered a week for benefit  
22 purposes under this act if a claim for benefits for that period  
23 is filed not later than 30 days subsequent to the end of the  
24 period. All remuneration for work performed during a shift that  
25 terminates on 1 day but that began on the preceding day shall be  
26 considered to have been earned on the preceding day.



1 (d) For benefit years beginning before the conversion date  
2 prescribed in section 75, and subject to subsection (f) and this  
3 subsection, the amount of benefits to which an individual who is  
4 otherwise eligible is entitled during a benefit year from an  
5 employer with respect to employment during the base period is the  
6 amount obtained by multiplying the weekly benefit rate with  
7 respect to that employment by  $\frac{3}{4}$  of the number of credit weeks  
8 earned in the employment. For the purpose of this subsection and  
9 section 20(c), if the resultant product is not an even multiple  
10 of  $\frac{1}{2}$  the weekly benefit rate, the product shall be raised to an  
11 amount equal to the next higher multiple of  $\frac{1}{2}$  the weekly bene-  
12 fit rate, and, for an individual who was employed by only 1  
13 employer in the individual's base period and earned 34 credit  
14 weeks with that employer, the product shall be raised to the next  
15 higher multiple of the weekly benefit rate. The maximum amount  
16 of benefits payable to an individual within a benefit year, with  
17 respect to employment by an employer, shall not exceed 26 times  
18 the weekly benefit rate with respect to that employment. The  
19 maximum amount of benefits payable to an individual within a ben-  
20 efit year shall not exceed the amount to which the individual  
21 would be entitled for 26 weeks of unemployment in which remunera-  
22 tion was not earned or received. The limitation of total bene-  
23 fits set forth in this subsection does not apply to claimants  
24 declared eligible for training benefits in accordance with sub-  
25 section (g). For benefit years beginning after the conversion  
26 date prescribed in section 75, and subject to subsection (f) and  
27 this subsection, the maximum benefit amount payable to an

1 individual in a benefit year for purposes of this section and  
2 section 20(c) is the number of weeks of benefits payable to an  
3 individual during the benefit year, multiplied by the  
4 individual's weekly benefit rate. The number of weeks of bene-  
5 fits payable to an individual shall be calculated by taking 40%  
6 of the individual's base period wages and dividing the result by  
7 the individual's weekly benefit rate. If the quotient is not a  
8 whole or half number, the result shall be rounded down to the  
9 nearest half number. However, not more than 26 weeks of benefits  
10 or less than 14 weeks of benefits shall be payable to an individ-  
11 ual in a benefit year. The limitation of total benefits set  
12 forth in this subsection shall not apply to claimants declared  
13 eligible for training benefits in accordance with  
14 subsection (g).

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

24 (f)(1) For benefit years beginning before the conversion  
25 date prescribed in section 75, and notwithstanding any inconsis-  
26 tent provisions of this act, the weekly benefit rate of each  
27 individual who is receiving or will receive a "retirement

1 benefit", as defined in subdivision (4), shall be adjusted as  
2 provided in subparagraphs (a), (b), and (c). However, an  
3 individual's extended benefit account and an individual's weekly  
4 extended benefit rate under section 64 shall be established with-  
5 out reduction under this subsection unless subdivision (5) is in  
6 effect. Except as otherwise provided in this subsection, all  
7 other provisions of this act continue to apply in connection with  
8 the benefit claims of those retired persons.

9       (a) 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 equal to or larger than the  
14 claimant's weekly benefit rate as otherwise established under  
15 this act, the claimant shall not receive unemployment benefits  
16 that would be chargeable to the employer under this act.

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

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

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

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

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

1 information on which the reconsideration is based was received by  
2 the commission.

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

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

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

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

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

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

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

1       (5) Notwithstanding any other provision of this subsection,  
2 for any week that begins after March 31, 1980, and with respect  
3 to which an individual is receiving a governmental or other pen-  
4 sion and claiming unemployment compensation, the weekly benefit  
5 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 that is based on any previ-  
9 ous work of the individual. This reduction shall be made only if  
10 it is required as a condition for full tax credit against the tax  
11 imposed by the federal unemployment tax act, chapter 23 of  
12 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301  
13 to 3311.

14       (6) For benefit years beginning after the conversion date  
15 prescribed in section 75, notwithstanding any inconsistent provi-  
16 sions of this act, the weekly benefit rate of each individual who  
17 is receiving or will receive a retirement benefit, as defined in  
18 subdivision (4), shall be adjusted as provided in  
19 subparagraphs (a), (b), and (c). However, an individual's  
20 extended benefit account and an individual's weekly extended ben-  
21 efit rate under section 64 shall be established without reduction  
22 under this subsection, unless subdivision (5) is in effect.  
23 Except as otherwise provided in this subsection, all the other  
24 provisions of this act shall continue to be applicable in connec-  
25 tion with the benefit claims of those retired persons.

26       (a) If any base period or chargeable employer has  
27 contributed to the financing of a retirement plan under which the

1 claimant is receiving or will receive a retirement benefit  
2 yielding a pro rata weekly amount equal to or larger than the  
3 claimant's weekly benefit rate as otherwise established under  
4 this act, the claimant shall not receive unemployment benefits.

5 (b) If any base period employer or chargeable employer has  
6 contributed to the financing of a retirement plan under which the  
7 claimant is receiving or will receive a retirement benefit yield-  
8 ing a pro rata weekly amount less than the claimant's weekly ben-  
9 efit rate as otherwise established under this act, then the  
10 weekly benefit rate otherwise payable to the claimant shall be  
11 reduced by an amount equal to the pro rata weekly amount,  
12 adjusted to the next lower multiple of \$1.00, which the claimant  
13 is receiving or will receive as a retirement benefit.

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

19 (g) Notwithstanding any other provision of this act, an  
20 individual pursuing vocational training or retraining pursuant to  
21 section 28(2) who has exhausted all benefits available under sub-  
22 section (d) may be paid for each week of approved vocational  
23 training pursued beyond the date of exhaustion a benefit amount  
24 in accordance with subsection (c), but not in excess of the  
25 individual's most recent weekly benefit rate. However, an indi-  
26 vidual shall not be paid training benefits totaling more than 18  
27 times the individual's most recent weekly benefit rate. The

1 expiration or termination of a benefit year shall not stop or  
2 interrupt payment of training benefits if the training for which  
3 the benefits were granted began before expiration or termination  
4 of the benefit year.

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

11       (i) Benefits based on service in employment described in  
12 section 42(8), (9), and (10) are payable in the same amount, on  
13 the same terms, and subject to the same conditions as compensa-  
14 tion payable on the basis of other service subject to this act,  
15 except that:

16       (1) With respect to service performed in an instructional,  
17 research, or principal administrative capacity for an institution  
18 of higher education as defined in section 53(2), or for an educa-  
19 tional institution other than an institution of higher education  
20 as defined in section 53(3), benefits shall not be paid to an  
21 individual based on those services for any week of unemployment  
22 beginning after December 31, 1977 that commences during the  
23 period between 2 successive academic years or during a similar  
24 period between 2 regular terms, whether or not successive, or  
25 during a period of paid sabbatical leave provided for in the  
26 individual's contract, to an individual if the individual  
27 performs the service in the first of the academic years or terms



1 and if there is a contract or a reasonable assurance that the  
2 individual will perform service in an instructional, research, or  
3 principal administrative capacity for an institution of higher  
4 education or an educational institution other than an institution  
5 of higher education in the second of the academic years or terms,  
6 whether or not the terms are successive.

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

21       (3) With respect to any service described in subdivision (1)  
22 or (2), benefits shall not be paid to an individual based upon  
23 service for any week of unemployment that commences during an  
24 established and customary vacation period or holiday recess if  
25 the individual performs the service in the period immediately  
26 before the vacation period or holiday recess and there is a  
27 contract or reasonable assurance that the individual will perform

1 the service in the period immediately following the vacation  
2 period or holiday recess.

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

12 (5) The amendments to subdivision (2) made by Act No. 219 of  
13 the Public Acts of 1983 apply to all claims for unemployment com-  
14 pensation that are filed on and after October 31, 1983. However,  
15 the amendments are retroactive to September 5, 1982 only if, as a  
16 condition for full tax credit against the tax imposed by the fed-  
17 eral unemployment tax act, chapter 23 of subtitle C of the inter-  
18 nal revenue code of 1986, 26 U.S.C. 3301 to 3311, the United  
19 States secretary of labor determines that retroactivity is  
20 required by federal law.

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

1 reasonable assurance that the individual will perform the service  
2 for an institution of higher education or an educational institu-  
3 tion other than an institution of higher education in the second  
4 of the academic years or terms, unless a denial is required as a  
5 condition for full tax credit against the tax imposed by the fed-  
6 eral unemployment tax act, chapter 23 of subtitle C of the inter-  
7 nal revenue code of 1986, 26 U.S.C. 3301 to 3311.

8       (7) For benefit years established before the conversion date  
9 prescribed in section 75, and notwithstanding subdivisions (1),  
10 (2), and (3), the denial of benefits does not prevent an individ-  
11 ual from completing requalifying weeks in accordance with section  
12 29(3) nor does the denial prevent an individual from receiving  
13 benefits based on service with an employer other than an educa-  
14 tional institution for any week of unemployment occurring between  
15 academic years or terms, whether or not successive, or during an  
16 established and customary vacation period or holiday recess, even  
17 though the employer is not the most recent chargeable employer in  
18 the individual's base period. However, in that case section  
19 20(b) applies to the sequence of benefit charging, except for the  
20 employment with the educational institution, and section 50(b)  
21 applies to the calculation of credit weeks. When a denial of  
22 benefits under subdivision (1) no longer applies, benefits shall  
23 be charged in accordance with the normal sequence of charging as  
24 provided in section 20(b).

25       (8) For benefit years beginning after the conversion date  
26 prescribed in section 75, and notwithstanding subdivisions (1),  
27 (2), and (3), the denial of benefits shall not prevent an

1 individual from completing requalifying weeks in accordance with  
2 section 29(3) nor shall the denial prevent an individual from  
3 receiving benefits based on service with another base period  
4 employer other than an educational institution for any week of  
5 unemployment occurring between academic years or terms, whether  
6 or not successive, or during an established and customary vaca-  
7 tion period or holiday recess. However, when benefits are paid  
8 based on service with 1 or more base period employers other than  
9 an educational institution, the individual's weekly benefit rate  
10 shall be calculated in accordance with subsection (b)(1) but  
11 during the denial period the individual's weekly benefit payment  
12 shall be reduced by the portion of the payment attributable to  
13 base period wages paid by an educational institution and the  
14 account or experience account of the educational institution  
15 shall not be charged for benefits payable to the individual.  
16 When a denial of benefits under subdivision (1) is no longer  
17 applicable, benefits shall be paid and charged on the basis of  
18 base period wages with each of the base period employers includ-  
19 ing the educational institution.

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

26 (10) Benefits shall be denied, as provided in subdivisions  
27 (1), (2), and (3), for any week of unemployment beginning on and

1 after April 1, 1984, to an individual who performed those  
2 services in an educational institution while in the employ of an  
3 educational service agency. For the purpose of this subdivision,  
4 "educational service agency" means a governmental agency or gov-  
5 ernmental entity that is established and operated exclusively for  
6 the purpose of providing the services to 1 or more educational  
7 institutions.

8 (j) For weeks of unemployment beginning after December 31,  
9 1977, benefits shall not be paid to an individual on the basis of  
10 any base period services, substantially all of which consist of  
11 participating in sports or athletic events or training or prepar-  
12 ing to so participate, for a week that commences during the  
13 period between 2 successive sport seasons or similar periods if  
14 the individual performed the services in the first of the seasons  
15 or similar periods and there is a reasonable assurance that the  
16 individual will perform the services in the later of the seasons  
17 or similar periods.

18 (k)(1) For weeks of unemployment beginning after  
19 December 31, 1977, benefits shall not be payable on the basis of  
20 services performed by an alien unless the alien is an individual  
21 who was lawfully admitted for permanent residence at the time the  
22 services were performed, was lawfully present for the purpose of  
23 performing the services, or was permanently residing in the  
24 United States under color of law at the time the services were  
25 performed, including an alien who was lawfully present in the  
26 United States under section 203(a)(7) or section 212(d)(5) of the  
27 immigration and nationality act, 8 U.S.C. 1153 and 1182.

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

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

10       (m)(1) An individual filing a new claim for unemployment  
11 compensation under this act after September 30, 1982, at the time  
12 of filing the claim, shall disclose whether the individual owes  
13 child support obligations as defined in this subsection. If an  
14 individual discloses that he or she owes child support obliga-  
15 tions and is determined to be eligible for unemployment compensa-  
16 tion, the commission shall notify the state or local child sup-  
17 port enforcement agency enforcing the obligation that the indi-  
18 vidual has been determined to be eligible for unemployment  
19 compensation.

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

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

26       (b) The amount, if any, determined pursuant to an agreement  
27 submitted to the commission under section 454(19)(B)(i) of part D

1 of title IV of the social security act, chapter 531, 49  
2 Stat. 620, 42 U.S.C. 654, by the state or local child support  
3 enforcement agency.

4 (c) Any amount otherwise required to be so deducted and  
5 withheld from unemployment compensation pursuant to legal pro-  
6 cess, as that term is defined in section 462(e) of part D of  
7 title IV of the social security act, chapter 531, 49 Stat. 620,  
8 42 U.S.C. 662, properly served upon the commission.

9 (3) The amount of unemployment compensation subject to  
10 deduction under subdivision (2) is that portion that remains pay-  
11 able to the individual after application of the recoupment provi-  
12 sions of section 62(a) and the reduction provisions of  
13 subsections (c) and (f).

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

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

22 (6) This subsection applies only if the state or local child  
23 support enforcement agency agrees in writing to reimburse and  
24 does reimburse the commission for the administrative costs  
25 incurred by the commission under this subsection that are attrib-  
26 utable to child support obligations being enforced by the state  
27 or local child support enforcement agency. The administrative

1 costs incurred shall be determined by the commission. The  
2 commission, in its discretion, may require payment of administra-  
3 tive costs in advance.

4 (7) As used in this subsection:

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

10 (b) "Child support obligations" includes only obligations  
11 that are being enforced pursuant to a plan described in  
12 section 454 of part D of title IV of the social security act,  
13 chapter 531, 49 Stat. 620, 42 U.S.C. 654, that has been approved  
14 by the secretary of health and human services under part D of  
15 title IV of the social security act, chapter 531, 49 Stat. 620,  
16 42 U.S.C. 651 to 669.

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

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



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

4       (a) For benefit years established before the conversion date  
5 prescribed in section 75, the individual has registered for work  
6 at and thereafter has continued to report at an employment office  
7 in accordance with such rules as the commission may prescribe and  
8 is seeking work. The requirements that the individual must  
9 report at an employment office, must register for work, must be  
10 available to perform suitable full-time work, and must seek work  
11 may be waived by the commission if the individual is laid off and  
12 the employer who laid the individual off notifies the commission  
13 in writing or by computerized data exchange that the layoff is  
14 temporary and that work is expected to be available for the indi-  
15 vidual within a declared number of days, not to exceed 45 calen-  
16 dar days following the last day the individual worked. This  
17 waiver shall not be effective unless the notification from the  
18 employer has been received by the commission before the individ-  
19 ual has completed his or her first compensable week following  
20 layoff. If the individual is not recalled within the specified  
21 period, the waiver shall cease to be operative with respect to  
22 that layoff. Except for a period of disqualification, the  
23 requirement that the individual shall seek work may be waived by  
24 the commission where it finds that suitable work is unavailable  
25 both in the locality where the individual resides and in those  
26 localities in which the individual has earned base period credit  
27 weeks. This waiver shall not apply, for weeks of unemployment

1 beginning on or after March 1, 1981, to a claimant enrolled and  
2 attending classes as a full-time student. An individual shall  
3 have satisfied the requirement of personal reporting at an  
4 employment office, as applied to a week in a period during which  
5 the requirements of registration and seeking work have been  
6 waived by the commission pursuant to this subdivision, if the  
7 individual has satisfied the personal reporting requirement with  
8 respect to a preceding week in that period and the individual has  
9 reported with respect to the week by mail in accordance with the  
10 rules promulgated by the commission. For benefit years estab-  
11 lished after the conversion date prescribed in section 75, the  
12 individual has registered for work and has continued to report in  
13 accordance with such rules as the commission may prescribe and is  
14 seeking work. The requirements that the individual must report,  
15 must register for work, must be available to perform suitable  
16 full-time work, and must seek work may be waived by the commis-  
17 sion if the individual is laid off and the employer who laid the  
18 individual off notifies the commission in writing or by computer-  
19 ized data exchange that the layoff is temporary and that work is  
20 expected to be available for the individual within a declared  
21 number of days, not to exceed 45 calendar days following the last  
22 day the individual worked. This waiver shall not be effective  
23 unless the notification from the employer has been received by  
24 the commission before the individual has completed his or her  
25 first compensable week following layoff. If the individual is  
26 not recalled within the specified period, the waiver shall cease  
27 to be operative with respect to that layoff. Except for a period

1 of disqualification, the requirement that the individual shall  
2 seek work may be waived by the commission where it finds that  
3 suitable work is unavailable both in the locality where the indi-  
4 vidual resides and in those localities in which the individual  
5 has earned wages during or after the base period. This waiver  
6 shall not apply to a claimant enrolled and attending classes as a  
7 full-time student. An individual shall be considered to have  
8 satisfied the requirement of personal reporting at an employment  
9 office, as applied to a week in a period during which the  
10 requirements of registration and seeking work have been waived by  
11 the commission pursuant to this subdivision, if the individual  
12 has satisfied the personal reporting requirement with respect to  
13 a preceding week in that period and the individual has reported  
14 with respect to the week by mail in accordance with the rules  
15 promulgated by the commission. AS USED IN THIS SECTION, "SEEKING  
16 WORK" MEANS THE MAKING OF NOT LESS THAN 3 JOB APPLICATIONS WITH  
17 DIFFERENT EMPLOYERS EVERY 2 WEEKS BY AN INDIVIDUAL OTHERWISE ELI-  
18 GIBLE FOR BENEFITS. AN INDIVIDUAL SHALL NOT MAKE AN APPLICATION  
19 WITH THE SAME EMPLOYER TO COMPLY WITH THIS REQUIREMENT MORE OFTEN  
20 THAN ONCE EVERY 3 CALENDAR MONTHS.

21 (b) The individual has made a claim for benefits in accord-  
22 ance with section 32 and has provided the commission with his or  
23 her social security number.

24 (c) The individual is able and available to perform suitable  
25 full-time work of a character which the individual is qualified  
26 to perform by past experience or training, which is of a  
27 character generally similar to work for which the individual has

1 previously received wages, and for which the individual is  
2 available, full time, either at a locality at which the individ-  
3 ual earned wages for insured work during his or her base period  
4 or at a locality where it is found by the commission that such  
5 work is available.

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

15 (e) The individual participates in reemployment services,  
16 such as job search assistance services, if the individual has  
17 been determined or redetermined by the commission to be likely to  
18 exhaust regular benefits and need reemployment services pursuant  
19 to a profiling system established by the commission.

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

23 (a) Reasonable opportunities for employment in occupations  
24 for which the individual is fitted by training and experience do  
25 not exist in the locality in which the individual is claiming  
26 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), shall not be applicable to

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

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

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

23 (6) NOTWITHSTANDING SUBSECTION (1)(C), IN THE CASE OF AN  
24 OTHERWISE ELIGIBLE INDIVIDUAL WHO IS CURRENTLY RECEIVING BENEFITS  
25 AND WHO HAS RECEIVED AT LEAST 8 WEEKS OF BENEFITS, "SUITABLE  
26 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. 4548 (request  
5 no. 01989'95) of the 88th Legislature is enacted into law.