

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5763**

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 3, 4, 4a, 10, 19, 20, 27, 29, 32, 44, 48, 54, and 54c (MCL 421.3, 421.4, 421.4a, 421.10, 421.19, 421.20, 421.27, 421.29, 421.32, 421.44, 421.48, 421.54, and 421.54c), section 4 as amended by 1996 PA 498, section 10 as amended by 1989 PA 224, section 19 as amended by 1996 PA 535, sections 20 and 54 as amended by 1994 PA 162, section 27 as amended by 1995 PA 181, section 29 as amended by 1995 PA 25, section 32 as amended by 1996 PA 503, section 44 as amended by 1996 PA 504, section 48 as amended by 1983 PA 164, and section 54c as amended by 1993 PA 277, and by adding sections 5b, 13l, and 32b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 3. ~~-(a) The Michigan employment security commission,~~
2 ~~hereinafter referred to as the commission, shall be composed of 5~~
3 ~~members. The director of labor shall serve ex officio as a~~
4 ~~member without vote and without additional compensation. The~~
5 ~~provisions of this section relating to appointment, term of~~
6 ~~office, compensation, restrictions as to political affiliation,~~
7 ~~representation of employer and employee interests, holding office~~
8 ~~or committee membership in political party organizations, and~~
9 ~~employment by any other commission, board, department or institu-~~
10 ~~tion of this state are not applicable to such ex officio member.~~
11 ~~The members of the commission as now constituted shall continue~~
12 ~~to serve in accordance with their present terms of office.~~
13 ~~(b) A member shall be appointed by the governor each year by~~
14 ~~and with the advice and consent of the senate for a term of 4~~
15 ~~years and until the appointment and qualification of his~~
16 ~~successor. Vacancies due to any reason other than expiration of~~
17 ~~term shall be filled in the same manner as is provided for~~
18 ~~appointment in the first instance for the unexpired term. If a~~
19 ~~vacancy shall occur, by virtue of the expiration of the term of a~~
20 ~~member, such member shall continue in office until his successor~~
21 ~~is appointed by the governor and confirmed by the senate. The~~
22 ~~commission shall annually elect a chairman from among its~~
23 ~~members. Not more than 2 members of the commission shall be of~~
24 ~~the same political party. Two members of the commission shall~~
25 ~~represent employer interests and 2 shall represent employee~~
26 ~~interests. During his term, no member shall serve as an officer~~
27 ~~or committee member of any political party organization or be~~

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~~employed by any other commission, board, department or
institution of this state. The governor may remove any member
for misfeasance, malfeasance or nonfeasance in office, after
hearing. The commission shall adopt a suitable seal of which all
courts of the state shall take judicial notice.~~

~~(c) The per diem compensation of commission members and the
schedule for reimbursement of expenses shall be established annu-
ally by the legislature. Three voting members of the commission
shall constitute a quorum for the transaction of business. The
commission shall prescribe its organization and methods of
procedure.~~

~~(1) (d) The commission BUREAU OF WORKER'S AND UNEMPLOY-
MENT COMPENSATION shall establish policies in conformity with
this act to reduce DO ALL OF THE FOLLOWING:~~

~~(A) REDUCE and prevent unemployment. ~~to encourage~~
and assist in the adoption of practical
methods of vocational training, retraining, and vocational
guidance. ~~to promote~~~~

~~(B) PROMOTE the reemployment of unemployed workers through-
out the THIS state in every other way that may be feasible. ~~to~~
to carry~~

~~(C) CARRY on and publish the results of investigations and
research studies. ~~and shall investigate~~~~

~~(D) INVESTIGATE, recommend, advise, and assist in the estab-
lishment and operation, by municipalities, counties, school dis-
tricts, and the THIS state, of reserves for public works to be
used in times of business depression and unemployment.~~

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1 (2) AS USED IN THIS ACT:

2 (A) "BUREAU", "COMMISSION", AND "UNEMPLOYMENT AGENCY" MEAN
3 THE BUREAU OF WORKER'S AND UNEMPLOYMENT COMPENSATION CREATED IN
4 SECTION 5B.

5 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE BUREAU OF WORKER'S
6 AND UNEMPLOYMENT COMPENSATION.

7 Sec. 4. (1) The ~~commission is authorized and empowered to~~
8 BUREAU MAY promulgate rules and regulations that it determines
9 necessary, and ~~which~~ THAT are not inconsistent with this act,
10 to carry out this act.

11 (2) The ~~commission~~ BUREAU shall cause to be printed for
12 distribution to the public the text of this act, and all rules
13 and regulations of the ~~commission~~ BUREAU, and shall make avail-
14 able to the public upon request statements of ~~any and~~ all
15 informal rules or criteria of decision, administrative policies,
16 or interpretations, ~~and the like,~~ which may be utilized by the
17 ~~commission~~ BUREAU or any of its agents or employees in any
18 manner.

19 (3) No rule or regulation shall be made or changed until
20 after public hearing, notice of which shall first be given not
21 less than 20 days before the hearing, by publication in at least
22 3 newspapers of general circulation in different parts of ~~the~~
23 THIS state, 1 of which shall be in the ~~upper peninsula~~ UPPER
24 PENINSULA. Copies of proposed rules or regulations shall be fur-
25 nished by the ~~commission~~ BUREAU upon application by any inter-
26 ested parties. Rules and regulations shall become effective in
27 accordance with the administrative procedures act of 1969, ~~Act~~

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1 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
2 ~~24.328 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO~~
3 ~~24.328. Notice of the hearing accompanied by copies of the pro-~~
4 ~~posed rule or regulation shall be given to members of the commis-~~
5 ~~sion not less than 30 days before the hearing.~~

6 Sec. 4a. The ~~commission~~ BUREAU may acquire, purchase,
7 erect, or improve land or buildings, within funds available for
8 that purpose, as it ~~deems~~ CONSIDERS necessary for use as a
9 parking facility in Detroit for the state administrative office.
10 No land or buildings shall be acquired, purchased, erected, or
11 improved until the approval of the state administrative board is
12 obtained. Title to the land or buildings shall be in the name of
13 ~~the~~ THIS state.

14 SEC. 5B. (1) THE BUREAU OF WORKER'S AND UNEMPLOYMENT COM-
15 PENSATION IS CREATED WITHIN THE DEPARTMENT OF CONSUMER AND INDUS-
16 TRY SERVICES.

17 (2) THE BUREAU SHALL BE HEADED BY A DIRECTOR WHO SHALL BE
18 APPOINTED BY THE GOVERNOR.

19 (3) ALL OF THE AUTHORITY, POWERS, FUNCTIONS, DUTIES, AND
20 RESPONSIBILITIES OF THE UNEMPLOYMENT AGENCY PROVIDED UNDER THIS
21 ACT ARE TRANSFERRED TO THE BUREAU AS PROVIDED IN EXECUTIVE ORDER
22 NO. 2002-1.

23 (4) ALL OF THE POWERS, FUNCTIONS, DUTIES, AND RESPONSIBILI-
24 TIES OF THE DIRECTOR OF THE UNEMPLOYMENT AGENCY, DEFINED AS THE
25 DIRECTOR OF EMPLOYMENT SECURITY IN EXECUTIVE ORDER NO. 1997-12,
26 PROVIDED UNDER THIS ACT ARE TRANSFERRED TO THE DIRECTOR AS
27 PROVIDED IN EXECUTIVE ORDER NO. 2002-1.

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1 Sec. 10. (1) There is ~~hereby~~ created in the ~~state~~
2 DEPARTMENT OF treasury a special fund to be known and designated
3 as the administration fund (Michigan employment security act).
4 Any balances in ~~this~~ THE ADMINISTRATION fund at the end of any
5 fiscal year of ~~the~~ THIS state shall be carried over as a part
6 of the ADMINISTRATION fund and shall not revert to the general
7 fund of ~~the~~ THIS state. Except as otherwise provided in sub-
8 section (3), all money deposited into the administration fund
9 under ~~the provisions of~~ this act shall be appropriated by the
10 legislature to the ~~commission~~ UNEMPLOYMENT AGENCY to pay the
11 expenses of the administration of this act.

12 (2) The administration fund shall be credited with all money
13 appropriated to the fund by the legislature, all money received
14 from the United States ~~of America~~ or any agency ~~thereof~~ OF
15 THE UNITED STATES for ~~such~~ THAT purpose, and all money received
16 by ~~the~~ THIS state for the fund. All money in ~~this~~ THE
17 ADMINISTRATION fund ~~which~~ THAT is received from the federal
18 government or any agency ~~thereof or which~~ OF THE FEDERAL GOV-
19 ERNMENT OR THAT is appropriated by this state for the purposes of
20 this act, except money requisitioned from the account of this
21 state in the unemployment trust fund pursuant to a specific
22 appropriation made by the legislature in accordance with section
23 903(c)(2) of TITLE IX OF the ~~federal~~ social security act, ~~as~~
24 ~~amended,~~ 42 U.S.C. 1103, and with section ~~17(f) of this act~~
25 17(3)(F), shall be expended solely for the purposes and in the
26 amounts found necessary by the appropriate agency of the United

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1 States ~~of America~~ and the legislature for the proper and
2 efficient administration of this act.

3 (3) All money requisitioned from the account of this state
4 in the unemployment trust fund pursuant to a specific appropria-
5 tion made by the legislature in accordance with section 903(c)(2)
6 of TITLE IX OF the ~~federal~~ social security act, ~~as amended,~~
7 42 U.S.C. 1103, and with section ~~17(f) of this act~~ 17(3)(F),
8 shall be deposited in the administration fund. Any ~~such~~ money
9 ~~which~~ THAT remains unexpended at the close of the 2-year period
10 beginning on the date of enactment of a specific appropriation
11 shall be immediately redeposited with the secretary of the trea-
12 sury of the United States ~~of America~~ to the credit of this
13 state's account in the unemployment trust fund; or any ~~such~~
14 money ~~which~~ THAT for any reason cannot be expended or is not to
15 be expended for the purpose for which appropriated before the
16 close of this 2-year period shall be ~~so~~ redeposited at the ear-
17 liest practicable date.

18 (4) If any money received after June 30, 1941, from the
19 appropriate agency of the United States ~~of America~~ under title
20 ~~3~~ III of the social security act, 42 U.S.C. 501 to 504, or any
21 unencumbered balances in the administration fund (Michigan
22 employment security act) as of that date, or any money granted
23 after that date to this state pursuant to the Wagner-Peyser act,
24 CHAPTER 49, 48 STAT. 113, or any money made available by this
25 state or its political subdivisions and matched by money granted
26 to this state pursuant to the Wagner-Peyser act, CHAPTER 49, 48
27 STAT. 113, is found by the appropriate agency of the United

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

18 (5) If any funds expended or disbursed by the commission are
19 ~~so~~ found by the appropriate agency of the United States to have
20 been lost or expended for purposes other than, or in amounts in
21 excess of, those found necessary by ~~such~~ THAT agency of the
22 United States for the proper administration of this act, and if
23 these funds are replaced as ~~aforsaid~~ PROVIDED IN SUBSECTION
24 (4) by money appropriated for ~~such~~ THAT purpose from the gen-
25 eral ~~funds of the~~ FUND OF THIS state, then those members of the
26 ~~commission~~ UNEMPLOYMENT AGENCY who voted for or otherwise
27 approved the expenditure or disbursement of ~~such~~ THOSE funds

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1 for ~~such~~ THOSE purposes or in ~~such~~ THOSE amounts, shall be
2 jointly and severally liable to ~~the~~ THIS state in an amount
3 equal to the sum of money appropriated to replace ~~such~~ THOSE
4 funds. ~~and the~~ THE members of the ~~commission~~ UNEMPLOYMENT
5 AGENCY shall be required by the governor to post a proper bond in
6 a sum not less than \$25,000.00 to cover their liability as pre-
7 scribed in this section, the cost of the bond to be paid from the
8 general fund of ~~the~~ THIS state. ~~of Michigan.~~

9 (6) There is ~~hereby~~ created in the ~~state~~ DEPARTMENT OF
10 treasury a separate fund to be known as the contingent fund
11 (Michigan employment security act) into which shall be deposited
12 all solvency taxes collected under section 19a and all interest
13 on contributions, penalties, and damages collected under this
14 act. ~~All~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (7) AND
15 (8), ALL amounts in the contingent fund (Michigan employment
16 security act) and all earnings on those amounts are ~~hereby~~ con-
17 tinuously appropriated without regard to fiscal year for the
18 administration of the ~~commission, for the purpose provided by~~
19 ~~subsection (7),~~ UNEMPLOYMENT AGENCY and for the payment of
20 interest on advances from the federal government to the unemploy-
21 ment compensation fund under section 1201 of TITLE XII OF the
22 social security act, 42 U.S.C. 1321, to be expended only ~~when~~
23 IF authorized by the ~~commission~~ UNEMPLOYMENT AGENCY. Money
24 deposited from the solvency taxes collected pursuant to section
25 19a shall not be used for the administration of the ~~commission~~
26 UNEMPLOYMENT AGENCY, except for the repayment of loans from the
27 state treasury and interest on ~~such~~ loans made under section

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1 19a(3). However, an authorization or expenditure shall not be
2 made as a substitution for a grant of federal funds or for any
3 portion of ~~such~~ A grant ~~or grants, which~~ THAT, in the absence
4 of an authorization, would be available to the commission. ~~, and~~
5 ~~that immediately~~ IMMEDIATELY upon receipt of administrative
6 grants from the appropriate agency of the United States ~~of~~
7 ~~America~~ to cover administrative costs for which the commission
8 has authorized and made expenditures from the contingent fund,
9 ~~such~~ THOSE grants shall be transferred to the contingent fund
10 to the extent necessary to reimburse the contingent fund for the
11 amount of ~~such~~ THOSE expenditures. Amounts needed to refund
12 interest, damages, and penalties erroneously collected shall be
13 withdrawn and expended for ~~such a purpose~~ THOSE PURPOSES from
14 the contingent fund upon order of the ~~commission~~ UNEMPLOYMENT
15 AGENCY. Any amount authorized to be expended for administration
16 pursuant to this section may be transferred to the administration
17 fund. An amount not needed for the purpose for which authorized
18 shall, upon order of the ~~commission~~ UNEMPLOYMENT AGENCY, be
19 returned to the contingent fund. Amounts needed to refund erro-
20 neously collected solvency taxes shall be withdrawn and expended
21 for that purpose upon order of the ~~commission~~ UNEMPLOYMENT
22 AGENCY.

23 ~~-(7) Notwithstanding any other provision of this section,~~
24 ~~\$21,000,000.00 shall be paid on a pro rata basis to employers who~~
25 ~~paid the solvency tax for 1983, 1984, or 1985. The commission~~
26 ~~shall make a good faith effort to locate each employer eligible~~
27 ~~for receipt of a payment under this subsection. The payment~~

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1 ~~shall be made to these employers, within 6 months after the~~
2 ~~effective date of the amendatory act that added this subsection,~~
3 ~~from the solvency tax account and the penalty and interest~~
4 ~~account in the contingent fund. Any funds from the penalty and~~
5 ~~interest account of the contingent fund that are not needed to~~
6 ~~make the payments required by this subsection shall be returned~~
7 ~~from the solvency tax account to the penalty and interest account~~
8 ~~of the contingent fund after the good faith effort required by~~
9 ~~this subsection has been made. For purposes of this subsection,~~
10 ~~the total solvency tax paid by employers and received by the com-~~
11 ~~mission for 1983, 1984, and 1985, as of a date determined by the~~
12 ~~commission which is not later than March 31, 1990, shall provide~~
13 ~~the basis for proration of the payments. The commission shall~~
14 ~~give public notice of that date at least 30 days before that~~
15 ~~date. The payment to each employer may not exceed the amount~~
16 ~~actually paid by the employer for 1983, 1984, and 1985. If an~~
17 ~~employer has unpaid contributions, solvency taxes, or interest or~~
18 ~~penalties on such contributions or solvency taxes on such date~~
19 ~~determined by the commission that exceed the amount of the sol-~~
20 ~~vency tax payment, the check issued by the commission shall be~~
21 ~~made out jointly to the employer and the commission. Payments~~
22 ~~authorized to be made under this subsection shall not be made~~
23 ~~until the advocacy assistance program provided by section 5a has~~
24 ~~been approved by the commission.~~

25 (7) ON JUNE 30, 2002, THE UNEMPLOYMENT AGENCY SHALL AUTHO-
26 RIZE THE WITHDRAWAL OF \$79,500,000.00 FROM THE CONTINGENT FUND

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1 (MICHIGAN EMPLOYMENT SECURITY ACT) FOR DEPOSIT INTO THE GENERAL
2 FUND.

3 (8) AT THE CLOSE OF THE STATE FISCAL YEAR IN 2002 AND EACH
4 YEAR AFTER 2002, ALL FUNDS IN THE CONTINGENT FUND (MICHIGAN
5 EMPLOYMENT SECURITY ACT) IN EXCESS OF \$15,000,000.00 SHALL LAPSE
6 TO THE UNEMPLOYMENT TRUST FUND.

7 SEC. 13~~1~~. (1) AN INDIAN TRIBE OR TRIBAL UNIT LIABLE AS AN
8 EMPLOYER UNDER SECTION 41 SHALL PAY REIMBURSEMENTS IN LIEU OF
9 CONTRIBUTIONS UNDER THE SAME TERMS AND CONDITIONS AS ALL OTHER
10 REIMBURSING EMPLOYERS LIABLE UNDER SECTION 41, UNLESS THE INDIAN
11 TRIBE OR TRIBAL UNIT ELECTS TO PAY CONTRIBUTIONS.

12 (2) AN INDIAN TRIBE OR TRIBAL UNIT THAT ELECTS TO MAKE CON-
13 TRIBUTIONS SHALL FILE WITH THE UNEMPLOYMENT AGENCY A WRITTEN
14 REQUEST FOR THAT ELECTION BEFORE JANUARY 1 OF THE CALENDAR YEAR
15 IN WHICH THE ELECTION WILL BE EFFECTIVE OR WITHIN 30 DAYS OF THE
16 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
17 THE INDIAN TRIBE OR TRIBAL UNIT SHALL DETERMINE IF THE ELECTION
18 TO PAY CONTRIBUTIONS WILL APPLY TO THE TRIBE AS A WHOLE, WILL
19 APPLY ONLY TO INDIVIDUAL TRIBAL UNITS, OR WILL APPLY TO STATED
20 COMBINATIONS OF INDIVIDUAL TRIBAL UNITS.

21 (3) AN INDIAN TRIBE OR TRIBAL UNIT PAYING REIMBURSEMENTS IN
22 LIEU OF CONTRIBUTIONS SHALL BE BILLED FOR THE FULL AMOUNT OF BEN-
23 EFITS ATTRIBUTABLE TO SERVICE IN THE EMPLOY OF THE INDIAN TRIBE
24 OR TRIBAL UNIT. AN INDIAN TRIBE OR TRIBAL UNIT SHALL REIMBURSE
25 THE FUND ANNUALLY WITHIN 30 CALENDAR DAYS AFTER THE MAILING OF
26 THE FINAL BILLING FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

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1 (4) IF AN INDIAN TRIBE OR TRIBAL UNIT FAILS TO MAKE PAYMENTS
2 IN LIEU OF CONTRIBUTIONS, INCLUDING ASSESSMENTS OF INTEREST AND
3 PENALTIES, WITHIN 90 CALENDAR DAYS AFTER THE MAILING OF THE
4 NOTICE OF DELINQUENCY, THE INDIAN TRIBE WILL LOSE THE ABILITY TO
5 MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS IMMEDIATELY UNLESS THE
6 PAYMENT IN FULL OR COLLECTION ON THE SECURITY IS RECEIVED BY THE
7 UNEMPLOYMENT AGENCY BY DECEMBER 1 OF THAT CALENDAR YEAR. AN
8 INDIAN TRIBE THAT LOSES THE ABILITY TO MAKE PAYMENTS IN LIEU OF
9 CONTRIBUTIONS SHALL BE MADE A CONTRIBUTING EMPLOYER AND SHALL NOT
10 HAVE THE ABILITY TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL
11 ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST,
12 OR PENALTIES HAVE BEEN PAID. THE ABILITY TO MAKE PAYMENTS IN
13 LIEU OF CONTRIBUTIONS SHALL BE REINSTATED EFFECTIVE THE JANUARY 1
14 IMMEDIATELY SUCCEEDING THE YEAR IN WHICH THE INDIAN TRIBE HAS
15 PAID IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBU-
16 TIONS, INTEREST, AND PENALTIES. IF AN INDIAN TRIBE FAILS TO PAY
17 IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS,
18 INTEREST, AND PENALTIES WITHIN 90 CALENDAR DAYS OF A NOTICE OF
19 DELINQUENCY, THE UNEMPLOYMENT AGENCY SHALL IMMEDIATELY NOTIFY THE
20 UNITED STATES DEPARTMENT OF LABOR AND THE INTERNAL REVENUE SERV-
21 ICE OF THE UNITED STATES DEPARTMENT OF TREASURY OF THAT
22 DELINQUENCY. IF THAT DELINQUENCY IS SATISFIED, THE UNEMPLOYMENT
23 AGENCY SHALL IMMEDIATELY NOTIFY THE UNITED STATES DEPARTMENT OF
24 LABOR AND THE INTERNAL REVENUE SERVICE OF THE UNITED STATES
25 DEPARTMENT OF TREASURY THAT ALL CONTRIBUTIONS, PAYMENTS IN LIEU
26 OF CONTRIBUTIONS, INTEREST, AND PENALTIES HAVE BEEN PAID.

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1 (5) A NOTICE OF DELINQUENCY TO AN INDIAN TRIBE OR TRIBAL
2 UNIT SHALL INCLUDE INFORMATION THAT FAILURE TO MAKE FULL PAYMENT
3 WITHIN 90 DAYS OF THE DATE OF MAILING OF THE NOTICE OF DELIN-
4 QUENCY WILL RESULT IN THE INDIAN TRIBE LOSING THE ABILITY TO MAKE
5 PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL THE DELINQUENCY AND ALL
6 CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST, AND
7 PENALTIES HAVE BEEN PAID IN FULL.

8 (6) ANY INDIAN TRIBE OR TRIBAL UNIT THAT MAKES REIMBURSEMENT
9 PAYMENTS IN LIEU OF CONTRIBUTIONS SHALL BE REQUIRED TO POST A
10 SECURITY, SUBJECT TO ALL OF THE FOLLOWING CONDITIONS:

11 (A) A REIMBURSING TRIBE OR TRIBAL UNIT MUST EITHER POST THE
12 SECURITY WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
13 ACT THAT ADDED THIS SECTION OR BY NOVEMBER 30 OF THE YEAR BEFORE
14 THE YEAR FOR WHICH THE SECURITY IS REQUIRED.

15 (B) THE SECURITY SHALL BE IN THE FORM OF A SURETY BOND,
16 IRREVOCABLE LETTER OF CREDIT, OR OTHER BANKING DEVICE THAT IS
17 ACCEPTABLE TO THE UNEMPLOYMENT AGENCY AND THAT PROVIDES FOR PAY-
18 MENT TO THE UNEMPLOYMENT AGENCY, ON DEMAND, OF AN AMOUNT EQUAL TO
19 THE SECURITY THAT IS REQUIRED TO BE POSTED. THE REQUIRED SECUR-
20 ITY MAY BE POSTED BY A THIRD-PARTY GUARANTOR.

21 (C) THE REQUIREMENT FOR A SECURITY DOES NOT APPLY TO AN
22 INDIAN TRIBE OR TRIBAL UNIT THAT IS EXPECTED TO HAVE LESS THAN
23 \$100,000.00 PER CALENDAR YEAR IN TOTAL WAGE PAYMENTS, AS DETER-
24 MINED BY THE UNEMPLOYMENT AGENCY. AN INDIAN TRIBE OR TRIBAL UNIT
25 IS REQUIRED TO PROVIDE SECURITY IF THE PAYMENT OF GROSS WAGES IN
26 A CALENDAR YEAR IS EQUAL TO OR GREATER THAN \$100,000.00. THE
27 EMPLOYER SHALL NOTIFY THE UNEMPLOYMENT AGENCY WITHIN 60 DAYS FROM

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1 THE DATE ITS PAYROLL EQUALS OR EXCEEDS \$100,000.00. THE SECURITY
2 SHALL BE POSTED WITHIN 30 DAYS OF NOTICE BY THE UNEMPLOYMENT
3 AGENCY OF A REQUIREMENT TO POST A SECURITY.

4 (D) THE AMOUNT OF THE SECURITY REQUIRED IS 4.0% OF THE
5 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGE PAYMENTS, AS DETERMINED BY
6 THE UNEMPLOYMENT AGENCY. INDIAN TRIBES OR TRIBAL UNITS THAT HAVE
7 A PREVIOUS WAGE PAYMENT HISTORY SHALL BE REQUIRED TO FILE A
8 SECURITY THAT IS EQUAL TO 4.0% OF THE GROSS WAGES PAID FOR THE
9 12-MONTH PERIOD ENDING JUNE 30 OF THE YEAR IMMEDIATELY PRECEDING
10 THE YEAR FOR WHICH THE SECURITY IS REQUIRED OR 4.0% OF THE
11 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGES, WHICHEVER IS GREATER.

12 (7) ANY INDIAN TRIBE OR TRIBAL UNIT THAT IS LIABLE FOR REIM-
13 BURSEMENTS IN LIEU OF CONTRIBUTIONS MAY FORM A GROUP ACCOUNT WITH
14 ANOTHER TRIBE OR TRIBAL UNIT, IN THE SAME MANNER AND WITH THE
15 SAME RESTRICTIONS PROVIDED IN SECTION 13E(3).

16 (8) NOTWITHSTANDING SECTION 41(1), AFTER DECEMBER 20, 2000,
17 "EMPLOYER" INCLUDES AN INDIAN TRIBE OR TRIBAL UNIT FOR WHICH
18 SERVICES ARE PERFORMED IN EMPLOYMENT AS DEFINED IN SUBSECTION
19 (9).

20 (9) AFTER DECEMBER 20, 2000, "EMPLOYMENT" INCLUDES SERVICE
21 PERFORMED IN THE EMPLOY OF AN INDIAN TRIBE OR TRIBAL UNIT, IF THE
22 SERVICE IS EXCLUDED FROM EMPLOYMENT AS THAT TERM IS DEFINED IN
23 THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTITLE C OF THE
24 INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301 TO 3311, SOLELY BY
25 REASON OF SECTION 3306(c)(7) OF THE FEDERAL UNEMPLOYMENT TAX ACT,
26 CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986,

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1 AND IS NOT OTHERWISE EXCLUDED FROM THE DEFINITION OF EMPLOYMENT
2 UNDER SECTION 43.

3 (10) AS USED IN THIS ACT:

4 (A) "INDIAN TRIBE" MEANS THAT TERM AS DEFINED IN SECTION
5 3306(u) OF THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTI-
6 TLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3306.

7 (B) "TRIBAL UNIT" INCLUDES ANY SUBDIVISION, SUBSIDIARY, OR
8 BUSINESS ENTERPRISE, WHOLLY OWNED BY AN INDIAN TRIBE.

9 Sec. 19. (a) The commission shall determine the contribution
10 rate of each contributing employer for each calendar year after
11 1977 as follows:

12 (1) (i) Except as provided in paragraph (ii), an employer's
13 rate shall be calculated as described in table A with respect to
14 wages paid by the employer in each calendar year for employment.
15 If an employer's coverage is terminated under section 24, or at
16 the conclusion of 8 or more consecutive calendar quarters during
17 which the employer has not had workers in covered employment, and
18 if the employer becomes liable for contributions, the employer
19 shall be considered as newly liable for contributions for the
20 purposes of table A or table B of this subsection.

21 (ii) To provide against the high risk of net loss to the
22 fund in such cases, an employing unit ~~which~~ THAT becomes newly
23 liable for contributions under this act in a calendar year begin-
24 ning on or after January 1, 1983 in which it employs in
25 "employment", not necessarily simultaneously but in any 1 week 2
26 or more individuals in the performance of 1 or more contracts or
27 subcontracts for construction in the state of roads, bridges,

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1 highways, sewers, water mains, utilities, public buildings,
2 factories, housing developments, or similar construction
3 projects, shall be liable for contributions to that employer's
4 account under this act for the first 4 years of operations in
5 this state at a rate equal to the average rate paid by employers
6 engaged in the construction business as determined by contractor
7 type in the manner provided in table B.

8 (iii) For the calendar years 1983 and 1984, the contribution
9 rate of a construction employer shall not exceed its 1982 contri-
10 bution rate with respect to wages, paid by that employer, related
11 to the execution of a fixed price construction contract ~~which~~
12 THAT was entered into prior to January 1, 1983. Furthermore,
13 ~~such~~ THAT contribution rate shall be reduced, by the solvency
14 tax rate assessed against the employer under section 19a, for the
15 year in which ~~such~~ THE solvency tax rate is applicable.
16 Furthermore, notwithstanding section 44, the taxable wage limit,
17 for calendar years 1983 and 1984, with respect to wages paid
18 under ~~such~~ A fixed price contract, shall be the maximum amount
19 of remuneration paid within a calendar year by an employer
20 subject to the federal unemployment tax act, CHAPTER 23 OF SUBTI-
21 TLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301 to
22 3311, to an individual with respect to employment as defined in
23 that act which is subject to tax under that act during that
24 year.

25

26

Table A

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1		
2	Year of Contribution	Contribution Rate
3	Liability	
4		
5		
6		
7	1	2.7%
8	2	2.7%
9	3	1/3 (chargeable benefits component)
10		+ 1.8%
11	4	2/3 (chargeable benefits component)
12		+ 1.0%
13	5 and over	(chargeable benefits component) +
14		(account building component) +
15		(nonchargeable benefits component)
16		
17	Table B	
18		
19	Year of Contribution	Contribution Rate
20	Liability	
21		
22		
23		
24	1	average construction contractor rate
25		as determined by the commission
26	2	average construction contractor rate
27		as determined by the commission
28	3	1/3 (chargeable benefits component)
29		+ 2/3 average construction contrac-
30		tor rate as determined by the com-
31		mission
32	4	2/3 (chargeable benefits component)
33		+ 1/3 average construction contrac-
34		tor rate as determined by the com-
35		mission
36	5 and over	(chargeable benefits component) +
37		(account building component) +
38		(nonchargeable benefits component)
39	(2) With the exception of employers who are in the first 4	
40	consecutive years of liability, each employer's contribution rate	

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1 for each calendar year after 1977 shall be the sum of the
2 following components, all of which are determined as of the com-
3 putation date: a chargeable benefits component determined under
4 subdivision (3), an account building component determined under
5 subdivision (4), and a nonchargeable benefits component deter-
6 mined under subdivision (5). Each employer's contribution rate
7 for calendar years before 1978 shall be determined by the provi-
8 sions of this act in effect during the years in question.

9 (3) (i) The chargeable benefits component of an employer's
10 contribution rate is the percentage determined by dividing: the
11 total amount of benefits charged to the employer's experience
12 account within the lesser of 60 consecutive months ending on the
13 computation date or the number of consecutive months ending on
14 the computation date with respect to which the employer has been
15 continuously liable for contributions; by the amount of wages,
16 subject to contributions, paid by the employer within the same
17 period. If the resulting quotient is not an exact multiple of
18 $\frac{1}{10}$ of 1%, it shall be increased to the next higher multiple of
19 $\frac{1}{10}$ of 1%.

20 (ii) For benefit years established before the conversion
21 date prescribed in section 75, the chargeable benefits component
22 shall not exceed 6.0%, unless there is a statutory change in the
23 maximum duration of regular benefit payments or the statutory
24 ratio of regular benefit payments to credit weeks. In the event
25 of a change in the maximum duration of regular benefit payments,
26 the maximum chargeable benefits component shall increase by the
27 same percentage as the statutory percentage change in the

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1 duration of regular benefit payments between computation dates.
2 In the event of an increase in the statutory ratio of regular
3 benefit payments to credit weeks, as described in section 27(d),
4 the maximum chargeable benefits component determined as of the
5 computation dates occurring after the effective date of the
6 increased ratio shall increase by 1/2 the same percentage as the
7 increase in the ratio of regular benefit payments to credit
8 weeks. If the resulting increase is not already an exact multi-
9 ple of 1/10 of 1%, it shall be adjusted to the next higher multi-
10 ple of 1/10 of 1%. For benefit years established after the con-
11 version date prescribed in section 75, the chargeable benefits
12 component shall not exceed 6.0%, unless there is a statutory
13 change in the maximum duration of regular benefit payments or the
14 percentage factor of base period wages, which defines maximum
15 duration, as provided in section 27(d). If there is a statutory
16 change in the maximum duration of regular benefit payments, the
17 maximum chargeable benefits component shall increase by the same
18 percentage as the statutory percentage change in the duration of
19 regular benefit payments between computation dates. If there is
20 an increase in the statutory percentage factor of base period
21 wages, as described in section 27(d), the maximum chargeable ben-
22 efits component determined as of the computation dates occurring
23 after the effective date of the increased ratio shall increase by
24 1/2 the same percentage as the increase in the percentage factor
25 of base period wages. If the resulting increase is not already
26 an exact multiple of 1/10 of 1%, it shall be adjusted to the next
27 higher multiple of 1/10 of 1%.

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

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

6 (5) The nonchargeable benefits component of employers' con-
7 tribution rates is the percentage arrived at by the following
8 calculations: (i) multiply the aggregate amount of all contrib-
9 uting employers' annual payrolls, for the 12 months ending March
10 31, as defined in section 18(f), by the cost criterion selected
11 for the computation date under section 18(e); (ii) subtract the
12 balance of the unemployment fund on the computation date, net of
13 federal advances, from the product determined under (i); and
14 (iii) if the remainder is zero or a negative quantity, the non-
15 chargeable benefits component of employers' contribution rates
16 shall be zero; but (iv) if the remainder is a positive quantity,
17 the nonchargeable benefits component of employers' contribution
18 rates shall be determined by dividing that remainder by the total
19 of wages subject to contributions under this act paid by all con-
20 tributing employers within the 12 months ending on March 31 and
21 adjusting the quotient, if not an exact multiple of 1/10 of 1%,
22 to the next higher multiple of 1/10 of 1%. The maximum non-
23 chargeable benefits component shall be 1%. However, for calendar
24 years after 1993, if there are no benefit charges against an
25 employer's account for the 60 months ending as of the computation
26 date, or for calendar years after 1995, if the employer's
27 chargeable benefits component is less than 2/10 of 1%, the

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1 maximum nonchargeable benefit component shall not exceed 1/2 of
2 1%. For calendar years after 1995, if there are no benefit
3 charges against an employer's account for the 72 months ending as
4 of the computation date, the maximum nonchargeable benefits com-
5 ponent shall not exceed 4/10 of 1%. For calendar years after
6 1996, if there are no benefit charges against an employer's
7 account for the 84 months ending as of the computation date, the
8 maximum nonchargeable benefits component shall not exceed 3/10 of
9 1%. For calendar years after 1997, if there are no benefit
10 charges against an employer's account for the 96 months ending as
11 of the computation date, the maximum nonchargeable benefits com-
12 ponent shall not exceed 2/10 of 1%. For calendar years after
13 1998, if there are no benefit charges against an employer's
14 account for the 108 months ending as of the computation date, the
15 maximum nonchargeable benefits component shall not exceed 1/10 of
16 1%. FOR CALENDAR YEARS AFTER 2002, THE MAXIMUM NONCHARGEABLE
17 BENEFITS COMPONENT SHALL NOT EXCEED 1/10 OF 1% IF THERE ARE NO
18 BENEFIT CHARGES AGAINST AN EMPLOYER'S ACCOUNT FOR THE 60 MONTHS
19 ENDING AS OF THE COMPUTATION DATE; 9/100 OF 1% IF THERE ARE NO
20 BENEFIT CHARGES AGAINST AN EMPLOYER'S ACCOUNT FOR THE 72 MONTHS
21 ENDING AS OF THE COMPUTATION DATE; 8/100 OF 1% IF THERE ARE NO
22 BENEFIT CHARGES AGAINST AN EMPLOYER'S ACCOUNT FOR THE 84 MONTHS
23 ENDING AS OF THE COMPUTATION DATE; 7/100 OF 1% IF THERE ARE NO
24 BENEFIT CHARGES AGAINST AN EMPLOYER'S ACCOUNT FOR THE 96 MONTHS
25 ENDING AS OF THE COMPUTATION DATE; OR 6/100 OF 1% IF THERE ARE NO
26 BENEFIT CHARGES AGAINST AN EMPLOYER'S ACCOUNT FOR THE 108 MONTHS
27 ENDING AS OF THE COMPUTATION DATE. FOR PURPOSES OF DETERMINING A
NONCHARGEABLE BENEFITS COMPONENT UNDER THIS SUBSECTION, AN EMPLOYER
ACCOUNT SHALL NOT BE CONSIDERED TO HAVE HAD A CHARGE IF CLAIM FOR
BENEFITS IS DENIED OR DETERMINED TO BE FRAUDULENT PURSUANT TO SECTION 54
OR 54C. An employer with a positive

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1 balance in its experience account on the June 30 computation date
2 preceding the calendar year shall receive for that calendar year
3 a credit in an amount equal to 1/2 of the extra federal unemploy-
4 ment tax paid in the preceding calendar year under section
5 3302(c)(2) of the federal unemployment tax act, 26 U.S.C.
6 ~~3302(c)(2)~~ 3302, because of an outstanding balance of unrepaid
7 advances from the federal government to the unemployment compen-
8 sation fund under section 1201 of TITLE XII OF the social secur-
9 ity act, 42 U.S.C. 1321. However, the credit for any calendar
10 year shall not exceed an amount determined by multiplying the
11 employer's nonchargeable benefit component for that calendar year
12 times the employer's taxable payroll for that year.
13 Contributions paid by an employer shall be credited to the
14 employer's experience account, in accordance with the provisions
15 of section 17(5), without regard to any credit given under this
16 subsection. The amount credited to an employer's experience
17 account shall be the amount of the employer's tax before deduc-
18 tion of the credit provided in this subsection.
19 (6) The total of the chargeable benefits and account build-
20 ing components of an employer's contribution rate shall not
21 exceed by more than 1% in the 1983 calendar year, 1.5% in the
22 calendar year 1984, or 2% in the 1985 calendar year the higher of
23 4% or the total of the chargeable benefits and the account build-
24 ing components ~~which~~ THAT applied to the employer during the
25 preceding calendar year. For calendar years after 1985, the
26 total of the chargeable benefits and account building components
27 of the employer's contribution rate shall be computed without

1 regard to the foregoing limitation provided in this subdivision.
2 During a year in which this subdivision limits an employer's con-
3 tribution rate, the resulting reduction shall be considered to be
4 entirely in the experience component of the employer's contribu-
5 tion rate, as defined in section 18(d).

6 (7) Unless an employer's contribution rate is 1/10 of 1% for
7 calendar years beginning after December 31, 1995, the employer's
8 contribution rate shall be reduced by any of the following calcu-
9 lation methods that results in the lowest rate:

10 (i) The chargeable benefits component, the account building
11 component, and the nonchargeable benefits component of the con-
12 tribution rate calculated under this section shall each be
13 reduced by 10% and if the resulting quotient is not an exact
14 multiple of 1/10 of 1%, that quotient shall be increased to the
15 next higher multiple of 1/10 of 1%. The 3 components as
16 increased shall then be added together.

17 (ii) One-tenth of 1% shall be deducted from the contribution
18 rate.

19 (iii) The contribution rate shall be reduced by 10% and if
20 the resulting quotient is not an exact multiple of 1/10 of 1%,
21 that quotient shall be increased to the next higher multiple of
22 1/10 of 1%.

23 The contribution rate reduction described in this section
24 applies to employers who have been liable for the payment of con-
25 tributions in accordance with this act for more than 4 consecu-
26 tive years, if the balance of money in the unemployment
27 compensation fund established under section 26, excluding money

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1 borrowed from the federal unemployment trust fund, is equal to or
2 greater than 1.2% of the aggregate amount of all contributing
3 employers' payrolls for the 12-month period ending on the compu-
4 tation date. If the employer's contribution rate is reduced by a
5 1/10 of 1% deduction in accordance with this subdivision, the
6 employer's contributions shall be credited to each of the compo-
7 nents of the contribution rate on a pro rata basis. As used in
8 this subdivision:

9 (i) "Federal unemployment trust fund" means the fund created
10 under section 904 of title IX of the social security act, 42
11 U.S.C. 1104.

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

13 (b) An employer previously liable for contributions under
14 this act which on or after January 1, 1978 filed a petition for
15 arrangement under the bankruptcy act of JULY 1, 1898, chapter
16 541, 30 Stat. 544, or on or after October 1, 1979 filed a peti-
17 tion for reorganization under title 11 of the United States
18 ~~code, entitled bankruptcy,~~ CODE, 11 U.S.C. 101 to 1330, pursu-
19 ant to which a plan of arrangement or reorganization for rehabil-
20 itation purposes has been confirmed by order of the United States
21 bankruptcy court, shall be considered as a reorganized employer
22 and shall have a reserve fund balance of zero as of the first
23 calendar year immediately following court confirmation of the
24 plan of arrangement or reorganization, but not earlier than the
25 calendar year beginning January 1, 1983, if the employer meets
26 each of the following requirements:

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

12 (2) The employer has paid to the commission all contribu-
13 tions previously owed by the employer pursuant to this act for
14 all calendar years prior to the calendar year as to which the
15 employer elects to begin its status as a reorganized employer.

16 (3) More than 50% of the employer's total payroll is paid
17 for services rendered in this state during the employer's fiscal
18 year immediately preceding the date the employer notifies the
19 fund administrator of its intention to elect the status of a
20 reorganized employer.

21 (4) The employer, within 180 days after notifying the com-
22 mission of its intention to elect the status of a reorganized
23 employer, makes a cash payment to the commission, for the unem-
24 ployment compensation fund, equal to: .20 times the first
25 \$2,000,000.00 of the employer's negative balance, .35 times the
26 amount of the employer's negative balance above \$2,000,000.00 and
27 up to \$5,000,000.00, and .50 times the amount of the negative

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1 balance above \$5,000,000.00. The total amount ~~so~~ determined by
2 the commission shall be based on the employer's negative balance
3 existing as of the end of the calendar month immediately preced-
4 ing the calendar year in which the employer will begin its status
5 as a reorganized employer. If the employer fails to pay the
6 amount determined, within 180 days of electing status as a reor-
7 ganized employer, the commission shall reinstate the employer's
8 negative balance previously reduced and redetermine the
9 employer's rate on the basis of ~~such~~ THE reinstated negative
10 balance. ~~Such~~ THE redetermined rate shall then be used to
11 redetermine the employer's quarterly contributions for that cal-
12 endar year. ~~Such~~ THE redetermined contributions shall be
13 subject to the interest provisions of section 15 as of the date
14 the redetermined quarterly contributions were originally due.

15 (5) Except as provided in subdivision (6), the employer con-
16 tribution rates for a reorganized employer beginning with the
17 first calendar year of the employer's status as a reorganized
18 employer shall be as follows:

19	
20	Year of Contribution
21	Liability
22	Contribution Rate
23	
24	1 2.7% of total taxable wages paid
25	2 2.7%
26	3 2.7%
27	4 and over (chargeable benefits component based
28	upon 3-year experience) plus
29	(account building component based

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1 upon 3-year experience) plus
2 (nonchargeable benefits component)

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

13		
14	Year of Contribution	Contribution Rate
15	Liability	
16		
17	1	average construction contractor rate
18		as determined by the commission
19	2	average construction contractor rate
20		as determined by the commission
21	3	1/3 (chargeable benefits component)
22		+ 2/3 average construction contrac-
23		tor rate as determined by the com-
24		mission
25	4	2/3 (chargeable benefits component)
26		+ 1/3 average construction contrac-
27		tor rate as determined by the com-
28		mission
29	5 and over	(chargeable benefits component) +
30		(account building component) +
31		(nonchargeable benefits component)

32 (c) Upon application by an employer to the commission for
33 designation as a distressed employer, the commission, within
34 60 days after receipt of the application, shall make a
35 determination whether the employer meets the conditions set forth
36 in this subsection. Upon finding that the conditions are met,

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1 the commission shall notify the legislature of the determination
2 and request legislative acquiescence in the determination. If
3 the legislature approves the determination by concurrent resolu-
4 tion, the employer shall be considered to be a "distressed
5 employer" as of January 1 of the year in which the determination
6 is made. The commission shall notify the employer of ~~such~~ THAT
7 determination and notify the employer of its contribution rate as
8 a distressed employer and the contribution rate that would apply
9 if the employer was not a distressed employer. The distressed
10 employer shall determine its tax contribution using the 2 rates
11 furnished by the commission and shall pay its tax contribution
12 based on the lower of the 2 rates. If the determination of dis-
13 tressed employer status is made during the calendar year, the
14 employer shall be entitled to a credit on future quarterly
15 installments for any excess contributions paid during that ini-
16 tial calendar year. The employer shall notify the commission of
17 the difference between the amount paid and the amount ~~which~~
18 THAT would have been paid if the employer were not determined to
19 be a distressed employer and the difference will be owed to the
20 unemployment compensation fund, payable in accordance with this
21 subsection. Cumulative totals of the difference must be reported
22 to the commission with each return required to be filed. The
23 commission may periodically determine continued eligibility of an
24 employer under this subsection. When the commission makes a
25 determination that an employer no longer qualifies as a dis-
26 tressed employer, the commission shall notify the employer of
27 that determination. After notice by the commission that the

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1 employer no longer qualifies as a distressed employer, the
2 employer will be liable for contributions, beginning with the
3 first quarter occurring after receipt of notification of disqual-
4 ification, on the basis of the rate that would apply if the
5 employer was not a distressed employer. The contribution rate
6 for a distressed employer shall be calculated under the law in
7 effect for the 1982 calendar year except that the rate ~~thus~~
8 determined shall be reduced by the applicable solvency tax rate
9 assessed against the employer under section 19a. The taxable
10 wage limit of ~~such~~ A distressed employer for the 1983, 1984,
11 and 1985 calendar years shall be the maximum amount of remunera-
12 tion paid within a calendar year by ~~such an~~ A DISTRESSED
13 employer subject to the federal unemployment tax act, 26
14 U.S.C. 3301 to 3311, to an individual with respect to employment
15 as defined in that act which is subject to tax under that act
16 during that year. Commencing with the fourth quarter of 1986,
17 the distressed employer will pay in 10 equal annual installments
18 the amount of the unpaid contributions owed to the unemployment
19 compensation fund due to the application of this subsection,
20 without interest. Each installment shall be made with the fourth
21 quarterly return for the respective year. As used in this sub-
22 section, "distressed employer" means an employer whose continued
23 presence in this state is considered essential to the state's
24 economic well-being and who meets the following criteria:
25 (1) The employer's average annual Michigan payroll in the 5
26 previous years exceeded \$500,000,000.00.

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

3 (3) The employer's business income as defined in section 3
4 of ~~Act No. 228 of the Public Acts of 1975, being section 208.3~~
5 ~~of the Michigan Compiled Laws~~ THE SINGLE BUSINESS TAX ACT, 1975
6 PA 228, MCL 208.3, has resulted in an aggregate loss of
7 \$1,000,000,000.00 or more during the 5-year period ending in the
8 second year prior to the year for which the application is being
9 made.

10 (4) The employer has received from ~~the state of Michigan~~
11 THIS STATE loans totaling \$50,000,000.00 or more or loan guaran-
12 tees from the federal government in excess of \$500,000,000.00,
13 either of which are still outstanding.

14 (5) Failure to give an employer designation as a distressed
15 employer would adversely impair the employer's ability to repay
16 the outstanding loans owed to ~~the state of Michigan or which~~
17 THIS STATE OR THAT are guaranteed by the federal government.

18 (d) An employer may at any time make payments to that
19 employer's experience account in the fund in excess of the
20 requirements of this section, but these payments, when accepted
21 by the commission, shall be irrevocable. A payment made by an
22 employer within 30 days after mailing to the employer by the com-
23 mission of a notice of the adjusted contribution rate of the
24 employer shall be credited to the employer's account as of the
25 computation date for which the adjusted contribution rate was
26 computed, and the employer's contribution rate shall be further
27 adjusted accordingly. However, a payment made more than 120 days

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1 after the beginning of a calendar year shall not affect the
2 employer's contribution rate for that year.

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

17 (b) For benefit years established before the conversion date
18 prescribed in section 75, benefits paid to an individual shall be
19 based upon the credit weeks earned during the individual's base
20 period and shall be charged against the experience accounts of
21 the contributing employers or charged to the accounts of the
22 reimbursing employers from whom the individual earned credit
23 weeks. If the individual earned credit weeks from more than 1
24 employer, a separate determination shall be made of the amount
25 and duration of benefits based upon the total credit weeks and
26 wages earned with each employer. Benefits paid in accordance
27 with the determinations shall be charged against the experience

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1 account of a contributing employer or charged to the account of a
2 reimbursing employer beginning with the most recent employer
3 first and thereafter as necessary against other base period
4 employers in inverse order to that in which the claimant earned
5 his or her last credit week with those employers. If there is
6 any disqualifying act or discharge under section 29(1) with an
7 employer, benefits based upon credit weeks earned from that
8 employer before the disqualifying act or discharge shall be
9 charged only after the exhaustion of charges as provided above.
10 Benefits based upon those credit weeks shall be charged first
11 against the experience account of the contributing employer
12 involved or to the account of the reimbursing employer involved
13 in the most recent disqualifying act or discharge and thereafter
14 as necessary in similar inverse order against other base period
15 employers involved in disqualifying acts or discharges. The
16 order of charges determined as of the beginning date of a benefit
17 year shall remain fixed during the benefit year. For benefit
18 years established after the conversion date prescribed in
19 section 75, the claimant's full weekly benefit rate shall be
20 charged to the account or experience account of the claimant's
21 most recent separating employer for each of the first 2 weeks of
22 benefits payable to the claimant in the benefit year in accord-
23 ance with the monetary determination issued pursuant to
24 section 32. HOWEVER, IF THE TOTAL SUM OF WAGES PAID BY AN
25 EMPLOYER TOTALS \$200.00 OR LESS, THOSE WAGES SHALL BE USED FOR
26 PURPOSES OF BENEFIT PAYMENT, BUT ANY BENEFIT CHARGES ATTRIBUTABLE
27 TO THOSE WAGES SHALL BE CHARGED TO THE NONCHARGEABLE BENEFITS

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

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

7 (c) For benefit years established before the conversion date
8 prescribed in section 75, and except as otherwise provided in
9 section 11(d) or (g) or section 46a, the charges for regular ben-
10 efits to any reimbursing employer or to any contributing
11 employer's experience account shall not exceed the weekly benefit
12 rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the
13 individual during his or her base period from that employer. If
14 the resultant product is not an even multiple of $\frac{1}{2}$ the weekly
15 benefit rate, the amount shall be raised to an amount equal to
16 the next higher multiple of $\frac{1}{2}$ the weekly benefit rate, and in
17 the case of an individual who was employed by only 1 employer in
18 his or her base period and who earned 34 credit weeks with that
19 employer, the product shall be raised to the next higher multiple
20 of the weekly benefit rate.

21 (d) For benefit years beginning after the conversion date
22 prescribed in section 75, and except as otherwise provided in
23 section 11(d) or (g) or section 46, the charges for regular bene-
24 fits to any reimbursing employer's account or to any contributing
25 employer's experience account shall not exceed either the amount
26 derived by multiplying by 2 the weekly benefit rate chargeable to
27 the employer in accordance with subsection (b) if the employer is

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

10 (e) For benefit years beginning before the conversion date
11 prescribed in section 75:

12 (1) When an individual has multiemployer credit weeks in his
13 or her base period, and when it becomes necessary to use those
14 credit weeks as a basis for benefit payments, a single determina-
15 tion shall be made of the individual's weekly benefit rate and
16 maximum amount of benefits based on the individual's multiem-
17 ployer credit weeks and the wages earned ~~therein~~ IN THOSE
18 CREDIT WEEKS. Each employer involved in the individual's multi-
19 employer credit weeks shall be an interested party to the
20 determination. The proviso in section 29(2) shall not be appli-
21 cable to multiemployer credit weeks, nor shall the reduction pro-
22 vision of section 29(4) apply to benefit entitlement based upon
23 those credit weeks.

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

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1 employer bears to the total amount of wages earned during the
2 total multiemployer credit weeks counted under section 50(b) with
3 all such employers, computed to the nearest cent. However, if an
4 adjusted weekly benefit rate is determined in accordance with
5 section 27(f), the charge to the employer who has contributed to
6 the financing of the retirement plan shall be reduced by the same
7 amount by which the weekly benefit rate was adjusted under
8 section 27(f). Benefits for a week of unemployment allocated
9 under this subsection to a contributing employer shall be charged
10 to the nonchargeable benefits account if the claimant during that
11 week earns remuneration with that employer ~~which~~ THAT equals or
12 exceeds the amount of benefits allocated to that employer.

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

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1 both a current listing of charges and a quarterly statement of
2 charges under this subsection, all protest and appeal rights
3 shall only be applicable to the first notice given.

4 (f) For benefit years beginning after the conversion date
5 prescribed in section 75, IF benefits for a week of unemployment
6 ARE CHARGED TO 2 OR MORE BASE PERIOD EMPLOYERS, THE SHARE OF THE
7 BENEFITS ALLOCATED AND charged under this section to a contribut-
8 ing employer shall be charged to the nonchargeable benefits
9 account if the claimant during that week earns remuneration with
10 that employer ~~which~~ THAT equals or exceeds the amount of bene-
11 fits charged to that employer.

12 (g) For benefit years beginning before the conversion date
13 prescribed in section 75:

14 (1) Training benefits as provided in section 27(g), and
15 extended benefits as provided in section 64, shall be allocated
16 to each reimbursing employer involved in the individual's base
17 period of the claim to which the benefits are related, on the
18 basis of the ratio that the total wages earned during the total
19 credit weeks counted under section 50(b) with a reimbursing
20 employer bears to the total amount of wages earned during the
21 total credit weeks counted under section 50(b) with all
22 employers.

23 (2) Training benefits and extended benefits, to the extent
24 that they are not reimbursable by the federal government and have
25 been allocated to a reimbursing employer, shall be charged to
26 that reimbursing employer. A contributing employer's experience
27 account shall not be charged with training benefits. Training

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1 benefits based on service with a contributing employer, to the
2 extent that they are not reimbursable by the federal government,
3 shall be charged to the nonchargeable benefits account. Extended
4 benefits paid and based on service with a contributing employer,
5 to the extent that they are not reimbursable by the federal gov-
6 ernment, shall be charged to that employer's experience account.

7 (3) If the training benefits or extended benefits are
8 chargeable only to a single reimbursing employer, the benefits
9 shall be charged in accordance with subsection (a). If the
10 training benefits or extended benefits are chargeable to more
11 than 1 reimbursing employer, or to 1 or more reimbursing employ-
12 ers and the nonchargeable benefits account, the benefits shall be
13 charged as of the quarter in which the payments are made.

14 (4) Notice of charges made under this subsection shall be
15 given to each employer by means of a current listing of charges,
16 at least weekly, and subsequently by a quarterly summary state-
17 ment of charges. The listing shall specify the name and social
18 security number of each claimant paid benefits during the week,
19 the weeks for which the benefits were paid, and the amount of
20 benefits chargeable to that employer paid for each week. The
21 quarterly statement of charges shall list each claimant by name
22 and social security number and shall show total benefit payments
23 chargeable to that employer and made to each claimant during the
24 calendar quarter. The listing shall be considered to satisfy the
25 requirements of sections 21(a) and 32(d) that notification be
26 given each employer of benefits charged against that employer's
27 account by means of a listing of the benefit check. All protest

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1 and appeal rights applicable to benefit check listings shall also
2 be applicable to the notice of charges. If an employer receives
3 both a current listing of charges and a quarterly statement of
4 charges under this subsection, all protest and appeal rights
5 shall only be applicable to the first notice given.

6 (h) For benefit years beginning after the conversion date
7 prescribed in section 75:

8 (1) Training benefits as provided in section 27(g), and
9 extended benefits as provided in section 64, shall be charged to
10 each reimbursing employer in the base period of the claim to
11 which the benefits are related, on the basis of the ratio that
12 the total wages paid by a reimbursing employer during the base
13 period bears to the total wages paid by all reimbursing employers
14 in the base period.

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

26 (3) If the training benefits or extended benefits are
27 chargeable only to a single reimbursing employer, the benefits

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1 shall be charged in accordance with subsection (a). If the
2 training benefits or extended benefits are chargeable to more
3 than 1 reimbursing employer, or to 1 or more reimbursing employ-
4 ers and the nonchargeable benefits account, the benefits shall be
5 charged as of the quarter in which the payments are made.

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

26 (i) If a benefit year is established after the conversion
27 date prescribed in section 75, the portion of benefits paid in

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1 that benefit year that are based on wages used to establish the
2 immediately preceding benefit year that began before the conver-
3 sion date shall not be charged to the employer or employers who
4 paid those wages but shall be charged instead to the noncharge-
5 able benefits account.

6 Sec. 27. (a)(1) When a determination, redetermination, or
7 decision is made that benefits are due an unemployed individual,
8 the benefits shall ~~immediately~~ become payable from the fund IN
9 THE FIRST ELIGIBLE COMPENSABLE WEEK IN A BENEFIT YEAR AS PROVIDED
10 IN SUBSECTION (C)(1) and continue to be payable to the unemployed
11 individual, subject to the limitations imposed by the
12 individual's monetary entitlement, ~~as long as~~ IF the individual
13 continues to be unemployed and to file claims for benefits, until
14 the determination, redetermination, or decision is reversed, a
15 determination, redetermination, or decision on a new issue hold-
16 ing the individual disqualified or ineligible is made, or, for
17 benefit years beginning before the conversion date prescribed in
18 section 75, a new separation issue arises resulting from subse-
19 quent work.

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

23 (b)(1) Subject to subsection (f), the weekly benefit rate
24 for an individual, with respect to benefit years beginning before
25 the conversion date prescribed in section 75, shall be 67% of the
26 individual's average after tax weekly wage, except that the
27 individual's maximum weekly benefit rate shall not exceed

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1 \$300.00. However, with respect to benefit years beginning after
2 the conversion date as prescribed in section 75 AND BEGINNING
3 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SEC-
4 TION 13/, the individual's weekly benefit rate shall be 4.1% of
5 the individual's wages paid in the calendar quarter of the base
6 period in which the individual was paid the highest total wages,
7 plus \$6.00 for each dependent as defined in subdivision (3), up
8 to a maximum of 5 dependents, claimed by the individual at the
9 time the individual files a new claim for benefits, except that
10 the individual's maximum weekly benefit rate shall not exceed
11 \$300.00. WITH RESPECT TO BENEFIT YEARS BEGINNING AFTER THE CON-
12 VERSION DATE AS PRESCRIBED IN SECTION 75 AND BEGINNING AFTER THE
13 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 13/, THE
14 INDIVIDUAL'S WEEKLY BENEFIT RATE SHALL BE 4.1% OF THE
15 INDIVIDUAL'S WAGES PAID IN THE CALENDAR QUARTER OF THE BASE
16 PERIOD IN WHICH THE INDIVIDUAL WAS PAID THE HIGHEST TOTAL WAGES,
17 NOT TO EXCEED \$315.00 FOR AN INDIVIDUAL WITH NO DEPENDENTS. AN
18 INDIVIDUAL SHALL RECEIVE AN ADDITIONAL \$20.00 FOR EACH DEPENDENT
19 AS DEFINED IN SUBDIVISION (3), UP TO A MAXIMUM OF 5 DEPENDENTS,
20 CLAIMED BY THE INDIVIDUAL AT THE TIME THE INDIVIDUAL FILES A NEW
21 CLAIM FOR BENEFITS, EXCEPT THAT THE INDIVIDUAL'S MAXIMUM WEEKLY
22 BENEFIT RATE SHALL NOT EXCEED \$415.00. THE UNEMPLOYMENT AGENCY
23 SHALL ESTABLISH THE PROCEDURES NECESSARY TO VERIFY THE NUMBER OF
24 DEPENDENTS CLAIMED. IF A PERSON FRAUDULENTLY CLAIMS A DEPENDENT,
25 THAT PERSON IS SUBJECT TO THE PENALTIES SET FORTH IN SECTIONS 54
26 AND 54C. With respect to benefit years beginning on or after

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1 October 2, 1983, the weekly benefit rate shall be adjusted to the
2 next lower multiple of \$1.00.

3 (2) For benefit years beginning before the conversion date
4 prescribed in section 75, the state average weekly wage for a
5 calendar year shall be computed on the basis of the 12 months
6 ending the June 30 immediately preceding that calendar year. The
7 commission shall prepare a table of weekly benefit rates based on
8 an "average after tax weekly wage" calculated by subtracting,
9 from an individual's average weekly wage as determined in accord-
10 ance with section 51, a reasonable approximation of the weekly
11 amount required to be withheld by the employer from the remunera-
12 tion of the individual based on dependents and exemptions for
13 income taxes under chapter 24 of subtitle C of the internal reve-
14 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
15 of the income tax act of 1967, ~~Act No. 281 of the Public Acts of~~
16 ~~1967, being section 206.351 of the Michigan Compiled Laws 1967~~
17 ~~PA 281, MCL 206.351, and for old age and survivor's disability~~
18 ~~insurance taxes under the federal insurance contributions act,~~
19 ~~chapter 21 of subtitle C of the internal revenue code of 1986, 26~~
20 ~~U.S.C. 3128. For purposes of applying the table to an~~
21 ~~individual's claim, a dependent shall be as defined in~~
22 ~~subdivision (3). The table applicable to an individual's claim~~
23 ~~shall be the table reflecting the number of dependents claimed by~~
24 ~~the individual under subdivision (3). The commission shall~~
25 ~~adjust the tables based on changes in withholding schedules pub-~~
26 ~~lished by the United States department of treasury, internal~~
27 ~~revenue service, and by the department of treasury. The number~~

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1 of dependents allowed shall be determined with respect to each
2 week of unemployment for which an individual is claiming
3 benefits.

4 (3) For benefit years beginning before the conversion date
5 prescribed in section 75, a dependent means any of the following
6 persons who is receiving and for at least 90 consecutive days
7 immediately preceding the week for which benefits are claimed,
8 or, in the case of a dependent husband, wife, or child, for the
9 duration of the marital or parental relationship, if the rela-
10 tionship has existed less than 90 days, has received more than
11 half the cost of his or her support from the individual claiming
12 benefits:

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

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

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

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

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1 age, or 18 years of age or over if, because of physical or mental
2 infirmity, the brother or sister is unable to engage in a gainful
3 occupation, or is a full-time student as defined by the particu-
4 lar educational institution, at a high school, vocational school,
5 community or junior college, or college or university and is less
6 than 22 years of age.

7 (4) For benefit years beginning after the conversion date
8 prescribed in section 75, a dependent means any of the following
9 persons who received for at least 90 consecutive days immediately
10 preceding the first week of the benefit year or, in the case of a
11 dependent husband, wife, or child, for the duration of the mari-
12 tal or parental relationship if the relationship existed less
13 than 90 days before the beginning of the benefit year, has
14 received more than 1/2 the cost of his or her support from the
15 individual claiming the benefits:

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

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

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

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

10 (5) For benefit years beginning before the conversion date
11 prescribed in section 75, dependency status of a dependent, child
12 or otherwise, once established or fixed in favor of an individual
13 continues during the individual's benefit year until terminated.
14 Dependency status of a dependent terminates at the end of the
15 week in which the dependent ceases to be an individual described
16 in subdivision (3)(a), (b), (c), or (d) because of age, death, or
17 divorce. For benefit years beginning after the conversion date
18 prescribed in section 75, the number of dependents established
19 for an individual at the beginning of the benefit year shall
20 remain in effect during the entire benefit year.

21 (6) For benefit years beginning before the conversion date
22 prescribed in section 75, failure on the part of an individual,
23 due to misinformation or lack of information, to furnish all
24 information material for determination of the number of the
25 individual's dependents when the individual files a claim for
26 benefits with respect to a week shall be considered good cause
27 for the issuance of a redetermination as to the amount of

1 benefits based on the number of the individual's dependents as of
2 the beginning date of that week. Dependency status of a depen-
3 dent, child or otherwise, once established or fixed in favor of a
4 person is not transferable to or usable by another person with
5 respect to the same week.

6 For benefit years beginning after the conversion date as
7 prescribed in section 75, failure on the part of an individual,
8 due to misinformation or lack of information, to furnish all
9 information material for determination of the number of the
10 individual's dependents shall be considered good cause for the
11 issuance of a redetermination as to the amount of benefits based
12 on the number of the individual's dependents as of the beginning
13 of the benefit year.

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

16 (1) Each eligible individual shall be paid a weekly benefit
17 rate with respect to the week for which the individual earns or
18 receives no remuneration. **HOWEVER, BEFORE THE PAYMENT OF BENEFITS IN A**
19 **BENEFIT YEAR, THE INDIVIDUAL MUST SERVE A NONCOMPENSABLE WEEK**
20 **FOR THE FIRST OTHERWISE COMPENSABLE WEEK OF THE BENEFIT YEAR.**

21 **THE NONCOMPENSABLE WEEK REQUIRED UNDER THE PRECEDING SENTENCE SHALL**
NOT INTERRUPT THE PAYMENT OF A WEEKLY BENEFIT RATE FOR CONSECUTIVE WEEKS
OF UNEMPLOYMENT. AN ELIGIBLE INDIVIDUAL SHALL BE PAID HIS OR HER WEEKLY
BENEFIT RATE WITH RESPECT TO THE WEEK FOR WHICH THE INDIVIDUAL RECEIVED
CREDIT FOR A NONCOMPENSABLE WEEK WHEN THE INDIVIDUAL'S UNEMPLOYMENT IS
TERMINATED BY THE INDIVIDUAL ACCEPTING FULL-TIME WORK WITH ANY EMPLOYER
OR EMPLOYING UNIT OR WHEN THE INDIVIDUAL IS NO LONGER ELIGIBLE FOR
BENEFITS.

22 Notwithstanding the definition of week ~~as contained~~ in section
23 50, if within 2 consecutive weeks in which an individual was not
24 unemployed within the meaning of section 48 there was a period of
25 7 or more consecutive days for which the individual did not earn
26 or receive remuneration, that period shall be considered a week
27 for benefit purposes under this act if a claim for benefits for

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1 that period is filed not later than 30 days ~~subsequent to~~ AFTER
2 the end of the period.

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

8 (3) An individual who receives or earns partial remuneration
9 may not receive a total of benefits and earnings that exceeds
10 1-1/2 times his or her weekly benefit amount. For each dollar of
11 total benefits and earnings that exceeds 1-1/2 times the
12 individual's weekly benefit amount, benefits shall be reduced by
13 \$1.00.

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

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

22 (d) For benefit years beginning before the conversion date
23 prescribed in section 75, and subject to subsection (f) and this
24 subsection, the amount of benefits to which an individual who is
25 otherwise eligible is entitled during a benefit year from an
26 employer with respect to employment during the base period is the
27 amount obtained by multiplying the weekly benefit rate with

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1 respect to that employment by $\frac{3}{4}$ of the number of credit weeks
2 earned in the employment. For the purpose of this subsection and
3 section 20(c), if the resultant product is not an even multiple
4 of $\frac{1}{2}$ the weekly benefit rate, the product shall be raised to an
5 amount equal to the next higher multiple of $\frac{1}{2}$ the weekly bene-
6 fit rate, and, for an individual who was employed by only 1
7 employer in the individual's base period and earned 34 credit
8 weeks with that employer, the product shall be raised to the next
9 higher multiple of the weekly benefit rate. The maximum amount
10 of benefits payable to an individual within a benefit year, with
11 respect to employment by an employer, shall not exceed 26 times
12 the weekly benefit rate with respect to that employment. The
13 maximum amount of benefits payable to an individual within a ben-
14 efit year shall not exceed the amount to which the individual
15 would be entitled for 26 weeks of unemployment in which remunera-
16 tion was not earned or received. The limitation of total bene-
17 fits set forth in this subsection does not apply to claimants
18 declared eligible for training benefits in accordance with sub-
19 section (g). For benefit years beginning after the conversion
20 date prescribed in section 75, and subject to subsection (f) and
21 this subsection, the maximum benefit amount payable to an indi-
22 vidual in a benefit year for purposes of this section and
23 section 20(c) is the number of weeks of benefits payable to an
24 individual during the benefit year, multiplied by the
25 individual's weekly benefit rate. The number of weeks of bene-
26 fits payable to an individual shall be calculated by taking ~~40%~~
27 43% of the individual's base period wages and dividing the result

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1 by the individual's weekly benefit rate. If the quotient is not
2 a whole or half number, the result shall be rounded down to the
3 nearest half number. However, not more than 26 weeks of benefits
4 or less than 14 weeks of benefits shall be payable to an individ-
5 ual in a benefit year. The limitation of total benefits set
6 forth in this subsection shall not apply to claimants declared
7 eligible for training benefits in accordance with
8 subsection (g).

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

18 (f)(1) For benefit years beginning before the conversion
19 date prescribed in section 75, and notwithstanding any inconsis-
20 tent provisions of this act, the weekly benefit rate of each
21 individual who is receiving or will receive a "retirement
22 benefit", as defined in subdivision (4), shall be adjusted as
23 provided in subparagraphs (a), (b), and (c). However, an
24 individual's extended benefit account and an individual's weekly
25 extended benefit rate under section 64 shall be established with-
26 out reduction under this subsection unless subdivision (5) is in
27 effect. Except as otherwise provided in this subsection, all

1 other provisions of this act continue to apply in connection with
2 the benefit claims of those retired persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (5) Notwithstanding any other provision of this subsection,
24 for any week that begins after March 31, 1980, and with respect
25 to which an individual is receiving a governmental or other pen-
26 sion and claiming unemployment compensation, the weekly benefit
27 amount payable to the individual for those weeks shall be

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1 reduced, but not below zero, by the entire prorated weekly amount
2 of any governmental or other pension, retirement or retired pay,
3 annuity, or any other similar payment that is based on any previ-
4 ous work of the individual. This reduction shall be made only if
5 it is required as a condition for full tax credit against the tax
6 imposed by the federal unemployment tax act, chapter 23 of
7 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
8 to 3311.

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

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

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

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

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

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

7 (i) Benefits based on service in employment described in
8 section 42(8), (9), and (10) are payable in the same amount, on
9 the same terms, and subject to the same conditions as compensa-
10 tion payable on the basis of other service subject to this act,
11 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 similar
20 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 institution of higher
27 education or an educational institution other than an institution

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1 of higher education in the second of the academic years or terms,
2 whether or not the 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 that commences during the
10 period between 2 successive academic years or terms to any indi-
11 vidual if that individual performs the service in the first of
12 the academic years or terms and if there is a reasonable assur-
13 ance that the individual will perform the service for an institu-
14 tion of higher education or an educational institution other than
15 an institution of higher education in the second of the academic
16 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 that commences during an
20 established and customary vacation period or holiday recess if
21 the individual performs the service in the period immediately
22 before the vacation period or holiday recess and there is a con-
23 tract or reasonable assurance that the individual will perform
24 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

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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 is entitled to a retroactive payment of benefits
4 for each week for which the individual had previously filed a
5 timely claim for benefits. An individual entitled to benefits
6 under this subdivision may apply for those benefits by mail in
7 accordance with R 421.210 as promulgated by the commission.

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

17 (5) ~~-(6) Notwithstanding subdivision (2), on and after April~~
18 ~~1, 1984 benefits~~ BENEFITS based upon services in other than an
19 instructional, research, or principal administrative capacity for
20 an institution of higher education shall not be denied for any
21 week of unemployment commencing during the period between 2 suc-
22 cessive academic years or terms solely because the individual had
23 performed the service in the first of the academic years or terms
24 and there is reasonable assurance that the individual will per-
25 form the service for an institution of higher education or an
26 educational institution other than an institution of higher
27 education in the second of the academic years or terms, unless a

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1 denial is required as a condition for full tax credit against the
2 tax imposed by the federal unemployment tax act, chapter 23 of
3 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
4 to 3311.

5 (6) ~~—(7)—~~ For benefit years established before the conver-
6 sion date prescribed in section 75, and notwithstanding subdivi-
7 sions (1), (2), and (3), the denial of benefits does not prevent
8 an individual from completing requalifying weeks in accordance
9 with section 29(3) nor does the denial prevent an individual from
10 receiving benefits based on service with an employer other than
11 an educational institution for any week of unemployment occurring
12 between academic years or terms, whether or not successive, or
13 during an established and customary vacation period or holiday
14 recess, even though the employer is not the most recent charge-
15 able employer in the individual's base period. However, in that
16 case section 20(b) applies to the sequence of benefit charging,
17 except for the employment with the educational institution, and
18 section 50(b) applies to the calculation of credit weeks. When a
19 denial of benefits under subdivision (1) no longer applies, bene-
20 fits shall be charged in accordance with the normal sequence of
21 charging as provided in section 20(b).

22 (7) ~~—(8)—~~ For benefit years beginning after the conversion
23 date prescribed in section 75, and notwithstanding subdivisions
24 (1), (2), and (3), the denial of benefits shall not prevent an
25 individual from completing requalifying weeks in accordance with
26 section 29(3) nor shall the denial prevent an individual from
27 receiving benefits based on service with another base period

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1 employer other than an educational institution for any week of
2 unemployment occurring between academic years or terms, whether
3 or not successive, or during an established and customary vaca-
4 tion period or holiday recess. However, when benefits are paid
5 based on service with 1 or more base period employers other than
6 an educational institution, the individual's weekly benefit rate
7 shall be calculated in accordance with subsection (b)(1) but
8 during the denial period the individual's weekly benefit payment
9 shall be reduced by the portion of the payment attributable to
10 base period wages paid by an educational institution and the
11 account or experience account of the educational institution
12 shall not be charged for benefits payable to the individual.
13 When a denial of benefits under subdivision (1) is no longer
14 applicable, benefits shall be paid and charged on the basis of
15 base period wages with each of the base period employers includ-
16 ing the educational institution.

17 (8) ~~-(9)-~~ For the purposes of this subsection, "academic
18 year" means that period, as defined by the educational institu-
19 tion, when classes are in session for that length of time
20 required for students to receive sufficient instruction or earn
21 sufficient credit to complete academic requirements for a partic-
22 ular grade level or to complete instruction in a noncredit
23 course.

24 (9) ~~-(10)- Benefits~~ IN ACCORDANCE WITH SUBDIVISIONS (1),
25 (2), AND (3), BENEFITS FOR ANY WEEK OF UNEMPLOYMENT shall be
26 denied ~~, as provided in subdivisions (1), (2), and (3), for any~~
27 ~~week of unemployment beginning on and after April 1, 1984, to an~~

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1 individual who performed ~~those~~ services DESCRIBED IN
2 SUBDIVISION (1), (2), OR (3) in an educational institution while
3 in the employ of an educational service agency. For the purpose
4 of this subdivision, "educational service agency" means a govern-
5 mental agency or governmental entity that is established and
6 operated exclusively for the purpose of providing the services to
7 1 or more educational institutions.

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

18 (k)(1) ~~For weeks of unemployment beginning after~~
19 ~~December 31, 1977, benefits~~ BENEFITS shall not be payable on the
20 basis of services performed by an alien unless the alien is an
21 individual who was lawfully admitted for permanent residence at
22 the time the services were performed, was lawfully present for
23 the purpose of performing the services, or was permanently resid-
24 ing in the United States under color of law at the time the serv-
25 ices were performed, including an alien who was lawfully present
26 in the United States under ~~section 203(a)(7) or~~ section

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1 212(d)(5) of the immigration and nationality act, CHAPTER 477, 66
2 STAT. 182, 8 U.S.C. ~~1153 and~~ 1182.

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

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

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

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

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

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(b) The amount, if any, determined pursuant to an agreement submitted to the commission under section 454(19)(B)(i) of part D of title IV of the social security act, ~~chapter 531, 49 Stat. 620,~~ 42 U.S.C. 654, by the state or local child support enforcement agency.

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

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

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

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

(6) This subsection applies only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission under this subsection that are

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1 attributable to child support obligations being enforced by the
2 state or local child support enforcement agency. The administra-
3 tive costs incurred shall be determined by the commission. The
4 commission, in its discretion, may require payment of administra-
5 tive costs in advance.

6 (7) As used in this subsection:

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

12 (b) "Child support obligations" includes only obligations
13 that are being enforced pursuant to a plan described in
14 section 454 of part D of title IV of the social security act,
15 ~~chapter 531, 49 Stat. 620,~~ 42 U.S.C. 654, that has been
16 approved by the secretary of health and human services under
17 part D of title IV of the social security act, chapter 531, 49
18 Stat. 620, 42 U.S.C. 651 to ~~669~~ 655, 656 TO 660, AND 663 TO
19 669b.

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

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

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1 wages with that employer are attributable to services performed
2 as a school bus driver.

3 (o)(1) For weeks of unemployment beginning after July 1,
4 1996, unemployment benefits based on services by a seasonal
5 worker performed in seasonal employment shall be payable only for
6 weeks of unemployment that occur during the normal seasonal work
7 period. Benefits shall not be paid based on services performed
8 in seasonal employment for any week of unemployment beginning
9 after ~~the effective date of this subdivision~~ MARCH 28, 1996
10 that begins during the period between 2 successive normal sea-
11 sonal work periods to any individual if that individual performs
12 the service in the first of the normal seasonal work periods and
13 if there is a reasonable assurance that the individual will per-
14 form the service for a seasonal employer in the second of the
15 normal seasonal work periods. If benefits are denied to an indi-
16 vidual for any week solely as a result of this subsection and the
17 individual is not offered an opportunity to perform in the second
18 normal seasonal work period for which reasonable assurance of
19 employment had been given, the individual is entitled to a retro-
20 active payment of benefits under this subsection for each week
21 that the individual previously filed a timely claim for
22 benefits. An individual may apply for any retroactive benefits
23 under this subsection in accordance with R 421.210 of the
24 Michigan administrative code.

25 (2) Not less than 20 days before the estimated beginning
26 date of a normal seasonal work period, an employer may apply to
27 the commission in writing for designation as a seasonal

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1 employer. At the time of application, the employer shall
2 conspicuously display a copy of the application on the employer's
3 premises. Within 90 days after receipt of the application, the
4 commission shall determine if the employer is a seasonal
5 employer. A determination or redetermination of the commission
6 concerning the status of an employer as a seasonal employer, or a
7 decision of a referee or the board of review, or of the courts of
8 this state concerning the status of an employer as a seasonal
9 employer, which has become final, together with the record there-
10 of, may be introduced in any proceeding involving a claim for
11 benefits, and the facts found and decision issued in the determi-
12 nation, redetermination, or decision shall be conclusive unless
13 substantial evidence to the contrary is introduced by or on
14 behalf of the claimant.

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

25 (4) The commission may issue a determination terminating an
26 employer's status as a seasonal employer on the commission's own
27 motion for good cause, or upon the written request of the

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1 employer. A termination determination under this subdivision
2 terminates an employer's status as a seasonal employer, and shall
3 become effective on the beginning date of the normal seasonal
4 work period that would have immediately followed the date the
5 commission issues the determination. A determination under this
6 subdivision is subject to review in the same manner and to the
7 same extent as any other determination under this act.

8 (5) An employer whose status as a seasonal employer is ter-
9 minated under subdivision (4) may not reapply for a seasonal
10 employer status determination until after a regularly recurring
11 normal seasonal work period has begun and ended.

12 (6) If a seasonal employer informs an employee who received
13 assurance of being rehired that, despite the assurance, the
14 employee will not be rehired at the beginning of the employer's
15 next normal seasonal work period, this subsection shall not pre-
16 vent the employee from receiving unemployment benefits in the
17 same manner and to the same extent he or she would receive bene-
18 fits under this act from an employer who has not been determined
19 to be a seasonal employer.

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

25 (8) At the time an employee is hired by a seasonal employer,
26 the employer shall notify the employee in writing whether the
27 employee will be a seasonal worker. The employer shall provide

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1 the worker with written notice of any subsequent change in the
2 employee's status as a seasonal worker. If an employee of a sea-
3 sonal employer is denied benefits because that employee is a sea-
4 sonal worker, the employee may contest that designation in
5 accordance with section 32a.

6 (9) As used in this subsection:

7 (a) "Construction industry" means the work activity desig-
8 nated in ~~major groups 15, 16, and 17 of the standard industrial~~
9 ~~classification manual, United States office of management and~~
10 ~~budget, 1987 edition~~ SECTOR GROUP 23 -- CONSTRUCTION OF THE
11 NORTH AMERICAN CLASSIFICATION SYSTEM -- UNITED STATES OFFICE OF
12 MANAGEMENT AND BUDGET, 1997 EDITION.

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

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

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

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

26 (d) "Seasonal employer" means an employer, other than an
27 employer in the construction industry, who applies to the

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1 commission for designation as a seasonal employer and who the
2 commission determines to be an employer whose operations and
3 business are substantially engaged in seasonal employment.

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

7 (10) If this subsection is found by the United States
8 department of labor to be contrary to the federal unemployment
9 tax act, chapter 23 of the internal revenue code of 1986, 26
10 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49
11 Stat. 620, and if conformity with the federal law is required as
12 a condition for full tax credit against the tax imposed under the
13 federal unemployment tax act or as a condition for receipt by the
14 commission of federal administrative grant funds under the social
15 security act, this subsection shall be invalid.

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

23 Sec. 29. (1) An individual is disqualified from receiving
24 benefits if he or she:

25 (a) Left work voluntarily without good cause attributable to
26 the employer or employing unit. AN INDIVIDUAL WHO LEFT WORK IS
27 PRESUMED TO HAVE LEFT WORK VOLUNTARILY WITHOUT GOOD CAUSE

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1 ATTRIBUTABLE TO THE EMPLOYER OR EMPLOYING UNIT. AN INDIVIDUAL
2 CLAIMING BENEFITS UNDER THIS ACT HAS THE BURDEN OF PROOF TO
3 ESTABLISH THAT HE OR SHE LEFT WORK INVOLUNTARILY OR FOR GOOD
4 CAUSE THAT WAS ATTRIBUTABLE TO THE EMPLOYER OR EMPLOYING UNIT.
5 However, if the individual has an established benefit year in
6 effect and during that benefit year leaves unsuitable work within
7 60 days after the beginning of that work, the leaving does not
8 disqualify the individual.

9 (b) Was SUSPENDED OR discharged for misconduct connected
10 with the individual's work or for intoxication while at work.
11 ~~unless the discharge was subsequently reduced to a disciplinary~~
12 ~~layoff or suspension.~~

13 (c) Failed without good cause to apply for available suit-
14 able work after receiving from the employment office or the com-
15 mission notice of the availability of that work.

16 (d) Failed without good cause while unemployed to report to
17 the individual's former employer or employing unit within a rea-
18 sonable time after that employer or employing unit provided
19 notice of the availability of an interview concerning available
20 suitable work with the former employer or employing unit.

21 (e) Failed without good cause to accept suitable work
22 offered to the individual or to return to the individual's cus-
23 tomary self-employment, if any, when directed by the employment
24 office or the commission. AN EMPLOYER THAT RECEIVES A MONETARY
25 DETERMINATION UNDER SECTION 32 MAY NOTIFY THE UNEMPLOYMENT AGENCY
26 REGARDING THE AVAILABILITY OF SUITABLE WORK WITH THE EMPLOYER ON
27 THE MONETARY DETERMINATION OR OTHER FORM PROVIDED BY THE

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1 UNEMPLOYMENT AGENCY. UPON RECEIPT OF THE NOTICE OF THE
2 AVAILABILITY OF SUITABLE WORK, THE UNEMPLOYMENT AGENCY SHALL
3 NOTIFY THE CLAIMANT OF THE AVAILABILITY OF SUITABLE WORK.

4 (f) Lost his or her job due to absence from work resulting
5 from a violation of law for which the individual was convicted
6 and sentenced to jail or prison. This subdivision does not apply
7 if conviction of an individual results in a sentence to county
8 jail under conditions of day parole as provided in ~~Act No. 60 of~~
9 ~~the Public Acts of 1962, being sections 801.251 to 801.258 of the~~
10 ~~Michigan Compiled Laws~~ 1962 PA 60, MCL 801.251 TO 801.258, or if
11 the conviction was for a traffic violation that resulted in an
12 absence of less than 10 consecutive work days from the
13 individual's place of employment.

14 (g) Is discharged, whether or not the discharge is subse-
15 quently reduced to a disciplinary layoff or suspension, for par-
16 ticipation in either of the following:

17 (i) A strike or other concerted action in violation of an
18 applicable collective bargaining agreement that results in cur-
19 tailment of work or restriction of or interference with
20 production.

21 (ii) A wildcat strike or other concerted action not autho-
22 rized by the individual's recognized bargaining representative.

23 (h) Was discharged for an act of assault and battery con-
24 nected with the individual's work.

25 (i) Was discharged for theft connected with the individual's
26 work.

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

3 (k) Committed a theft after receiving notice of a layoff or
4 discharge, but before the effective date of the layoff or dis-
5 charge, resulting in loss or damage to the employer who would
6 otherwise be chargeable for the benefits, regardless of whether
7 the individual qualified for the benefits before the theft.

8 (l) Was employed by a temporary help firm, which as used in
9 this section means an employer whose primary business is to pro-
10 vide a client with the temporary services of 1 or more individu-
11 als under contract with the employer, to perform services for a
12 client of that firm if each of the following conditions is met:

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

16 (A) That within 7 days after completing services for a
17 client of the temporary help firm, the employee is under a duty
18 to notify the temporary help firm of the completion of those
19 services.

20 (B) That a failure to provide the temporary help firm with
21 notice of the employee's completion of services pursuant to
22 sub-subparagraph (A) constitutes a voluntary quit that will
23 affect the employee's eligibility for unemployment compensation
24 should the employee seek unemployment compensation following com-
25 pletion of those services.

26 (ii) The employee did not provide the temporary help firm
27 with notice that the employee had completed his or her services

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1 for the client within 7 days after completion of his or her
2 services for the client.

3 (m) Was discharged for (i) Illegally ingesting, injecting,
4 inhaling, or possessing a controlled substance on the premises of
5 the employer, (ii) Refusing to submit to a drug test that was
6 required to be administered in a nondiscriminatory manner, or
7 (iii) Testing positive on a drug test, if the test was adminis-
8 tered in a nondiscriminatory manner. If the worker disputes the
9 result of the testing, a generally accepted confirmatory test
10 shall be administered and shall also indicate a positive result
11 for the presence of a controlled substance before a disqualifica-
12 tion of the worker under this subdivision. As used in this
13 subdivision:

14 (A) "Controlled substance" means that term as defined in
15 section 7104 of the public health code, ~~Act No. 368 of the~~
16 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
17 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

18 (B) "Drug test" means a test designed to detect the illegal
19 use of a controlled substance.

20 (C) "Nondiscriminatory manner" means administered impar-
21 tially and objectively in accordance with a collective bargaining
22 agreement, rule, policy, a verbal or written notice, or a
23 labor-management contract.

24 ~~-(n) Has an income exceeding \$100,000.00 for the calendar~~
25 ~~year in which he or she applies for benefits. This subdivision~~
26 ~~shall not take effect unless both of the following occur:~~

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1 ~~(i) Within 30 days of the effective date of the act that~~
2 ~~added subdivision (l), the governor requests from the United~~
3 ~~States department of labor a determination confirming whether~~
4 ~~this subdivision is in conformity with the federal unemployment~~
5 ~~tax act, chapter 23, of the internal revenue code of 1986, 26~~
6 ~~U.S.C. 3301 to 3311 and the social security act, 49 Stat. 620,~~
7 ~~and whether conformity with those federal acts is a condition for~~
8 ~~a full tax credit against the tax imposed under the federal unem-~~
9 ~~ployment tax act (FUTA), or is a condition for state receipt of~~
10 ~~federal administrative grant funds under the social security~~
11 ~~act.~~

12 ~~(ii) The United States department of labor determines that~~
13 ~~this subdivision is in conformity with the acts described in sub-~~
14 ~~paragraph (i), or verifies that conformity with those federal~~
15 ~~acts is not a condition for a tax credit or a grant described in~~
16 ~~subparagraph (i).~~

17 (2) A disqualification under subsection (1) begins the week
18 in which the act or discharge that caused the disqualification
19 occurs and continues until the disqualified individual requali-
20 fies under subsection (3), except that for benefit years begin-
21 ning before the conversion date prescribed in section 75, the
22 disqualification does not prevent the payment of benefits if
23 there are credit weeks, other than multiemployer credit weeks,
24 after the most recent disqualifying act or discharge.

25 (3) After the week in which the disqualifying act or dis-
26 charge described in subsection (1) occurs, an individual who

1 seeks to requalify for benefits is subject to all of the
2 following:

3 (a) For benefit years established before the conversion date
4 described in section 75, the individual shall complete 6 requali-
5 fying weeks if he or she was disqualified under
6 subsection (1)(c), (d), (e), (f), (g), or (l), or 13 requalifying
7 weeks if he or she was disqualified under subsection (1)(h), (i),
8 (j), (k), or (m). A requalifying week required under this sub-
9 section shall be each week in which the individual does any of
10 the following:

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

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

17 (iii) Receives a benefit payment based on credit weeks sub-
18 sequent to the disqualifying act or discharge.

19 (b) For benefit years established before the conversion date
20 prescribed in section 75, if the individual is disqualified under
21 subsection (1)(a) or (b), he or she shall requalify, after the
22 week in which the disqualifying discharge occurred by earning in
23 employment for an employer liable under this act or the unemploy-
24 ment compensation act of another state an amount equal to, or in
25 excess of, 7 times the individual's potential weekly benefit
26 rate, calculated on the basis of employment with the employer
27 involved in the disqualification, or by earning in employment for

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1 an employer liable under this act or the unemployment
2 compensation act of another state an amount equal to, or in
3 excess of, 40 times the state minimum hourly wage times 7, which-
4 ever is the lesser amount.

5 (c) For benefit years established before the conversion date
6 prescribed in section 75, a benefit payable to an individual dis-
7 qualified under subsection (1)(a) or (b), shall be charged to the
8 nonchargeable benefits account, and not to the account of the
9 employer with whom the individual was involved in the
10 disqualification.

11 (d) For benefit years beginning after the conversion date
12 prescribed in section 75, subsequent to the week in which the
13 disqualifying act or discharge occurred, an individual shall com-
14 plete ~~6~~ 13 requalifying weeks if he or she was disqualified
15 under subsection (1)(c), (d), (e), (f), (g), or (l), or ~~13~~ 26
16 requalifying weeks if he or she was disqualified under
17 subsection (1)(h), (i), (j), (k), or (m). A requalifying week
18 required under this subsection shall be each week in which the
19 individual does any of the following:

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

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

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1 (e) For benefit years beginning after the conversion date
2 prescribed in section 75 AND BEGINNING BEFORE THE EFFECTIVE DATE
3 OF THE AMENDATORY ACT THAT ADDED SECTION 13/, if the individual
4 is disqualified under subsection (1)(a) or (b), he or she shall
5 requalify, after the week in which the disqualifying act or dis-
6 charge occurred by earning in employment for an employer liable
7 under this act or the unemployment compensation law of another
8 state at least the lesser of the following:

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

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

11 (F) FOR BENEFIT YEARS BEGINNING AFTER THE CONVERSION DATE
12 PRESCRIBED IN SECTION 75 AND AFTER THE EFFECTIVE DATE OF THE
13 AMENDATORY ACT THAT ADDED SECTION 13/, IF THE INDIVIDUAL IS DIS-
14 QUALIFIED UNDER SUBSECTION (1)(A), HE OR SHE SHALL REQUALIFY,
15 AFTER THE WEEK IN WHICH THE DISQUALIFYING ACT OR DISCHARGE
16 OCCURRED BY EARNING IN EMPLOYMENT FOR AN EMPLOYER LIABLE UNDER
17 THIS ACT OR THE UNEMPLOYMENT COMPENSATION LAW OF ANOTHER STATE AT
18 LEAST 12 TIMES THE INDIVIDUAL'S WEEKLY BENEFIT RATE.

19 (G) FOR BENEFIT YEARS BEGINNING AFTER THE CONVERSION DATE
20 PRESCRIBED IN SECTION 75 AND AFTER THE EFFECTIVE DATE OF THE
21 AMENDATORY ACT THAT ADDED SECTION 13/, IF THE INDIVIDUAL IS DIS-
22 QUALIFIED UNDER SUBSECTION (1)(B), HE OR SHE SHALL REQUALIFY,
23 AFTER THE WEEK IN WHICH THE DISQUALIFYING ACT OR DISCHARGE
24 OCCURRED BY EARNING IN EMPLOYMENT FOR AN EMPLOYER LIABLE UNDER
25 THIS ACT OR THE UNEMPLOYMENT COMPENSATION LAW OF ANOTHER STATE AT
26 LEAST 17 TIMES THE INDIVIDUAL'S WEEKLY BENEFIT RATE.

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1 (H) ~~—(f)—~~ A benefit payable to the individual disqualified
2 or separated under disqualifying circumstances under
3 subsection (1)(a) or (b), shall be charged to the nonchargeable
4 benefits account, and not to the account of the employer with
5 whom the individual was involved in the separation. Benefits
6 payable to an individual determined by the commission to be sepa-
7 rated under disqualifying circumstances shall not be charged to
8 the account of the employer involved in the disqualification for
9 any period after the employer notifies the commission of the
10 claimant's possible ineligibility or disqualification. If a dis-
11 qualifying act or discharge occurs during the individual's bene-
12 fit year, any benefits that may become payable to the individual
13 in a later benefit year based on employment with the employer
14 involved in the disqualification shall be charged to the non-
15 chargeable benefits account.

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

19 (a) For benefit years established before the conversion date
20 prescribed in section 75, if the individual is disqualified under
21 subsection (1)(c), (d), (e), (f), (g), or (l) and the maximum
22 amount of benefits is based on wages and credit weeks earned from
23 an employer before an act or discharge involving that employer,
24 the amount shall be reduced by an amount equal to the
25 individual's weekly benefit rate as to that employer multiplied
26 by the lesser of either of the following:

1 (i) The number of requalifying weeks required of the
2 individual under this section.

3 (ii) The number of weeks of benefit entitlement remaining
4 with that employer.

5 (b) If the individual has insufficient or no potential bene-
6 fit entitlement remaining with the employer involved in the dis-
7 qualification in the benefit year in existence on the date of the
8 disqualifying determination, a reduction of benefits described in
9 this subsection shall apply in a succeeding benefit year with
10 respect to any benefit entitlement based upon credit weeks earned
11 with the employer before the disqualifying act or discharge.

12 (c) For benefit years established before the conversion date
13 prescribed in section 75, an individual disqualified under sub-
14 section (1)(h), (i), (j), (k), or (m) is not entitled to benefits
15 based on wages and credit weeks earned before the disqualifying
16 act or discharge with the employer involved in the
17 disqualification.

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

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

24 (f) For benefit years established after the conversion date
25 prescribed in section 75, if the individual is disqualified under
26 subsection (1)(c), (d), (e), (f), (g), or (l), the maximum number
27 of weeks otherwise applicable in calculating benefits for the

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1 individual under section 27(d) shall be reduced by the lesser of
2 the following:

3 (i) The number of requalifying weeks required of the indi-
4 vidual under this subsection.

5 (ii) The number of weeks of benefit entitlement remaining on
6 the claim.

7 (g) For benefit years beginning after the conversion date
8 prescribed in section 75, the benefits of an individual disquali-
9 fied under subsection (1)(h), (i), (j), (k), or (m) shall be
10 reduced by 13 weeks and any weekly benefit payments made to the
11 claimant thereafter shall be reduced by the portion of the pay-
12 ment attributable to base period wages paid by the base period
13 employer involved in a disqualification under subsection (1)(h),
14 (i), (j), (k), or (m).

15 (5) If an individual leaves work to accept permanent
16 full-time work with another employer and performs services for
17 that employer, or if an individual leaves work to accept a recall
18 from a former employer:

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

20 (b) Wages earned with the employer whom the individual last
21 left, including wages previously transferred under this subsec-
22 tion to the last employer, for the purpose of computing and
23 charging benefits, are wages earned from the employer with whom
24 the individual accepted work or recall, and benefits paid based
25 upon those wages shall be charged to that employer.

26 (c) When issuing a determination covering the period of
27 employment with a new or former employer described in this

1 subsection, the commission shall advise the chargeable employer
2 of the name and address of the other employer, the period covered
3 by the employment, and the extent of the benefits that may be
4 charged to the account of the chargeable employer.

5 (6) In determining whether work is suitable for an individu-
6 al, the commission shall consider the degree of risk involved to
7 the individual's health, safety, and morals, the individual's
8 physical fitness and prior training, the individual's length of
9 unemployment and prospects for securing local work in the
10 individual's customary occupation, and the distance of the avail-
11 able work from the individual's residence. Additionally, the
12 commission shall consider the individual's experience and prior
13 earnings, ~~subject to the following limitation:~~

14 ~~(a) An~~ BUT AN UNEMPLOYED individual ~~unemployed for 1 to 12~~
15 ~~weeks~~ who refuses an offer of work determined to be suitable
16 under this section shall be denied benefits if the pay rate for
17 that work is at least ~~80%~~ 70% of the gross pay rate he or she
18 received immediately before becoming unemployed.

19 ~~(b) An individual unemployed for 13 to 20 weeks who refuses~~
20 ~~an offer of work determined to be suitable under this section~~
21 ~~shall be denied benefits if the pay rate for that work is at~~
22 ~~least 75% of the gross pay rate he or she received immediately~~
23 ~~before becoming unemployed.~~

24 ~~(c) An individual unemployed for more than 20 weeks who~~
25 ~~refuses an offer of work determined to be suitable under this~~
26 ~~section shall be denied benefits if the pay rate for that work is~~

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1 ~~at least 70% of the gross pay rate he or she received immediately~~
2 ~~before becoming unemployed.~~

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

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

8 (b) If the remuneration, hours, or other conditions of the
9 work offered are substantially less favorable to the individual
10 than those prevailing for similar work in the locality.

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

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

16 (a) An individual is disqualified from receiving benefits
17 for a week in which the individual's total or partial unemploy-
18 ment is due to either of the following:

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

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

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1 (b) An individual's disqualification imposed or imposable
2 under this subsection is terminated if the individual performs
3 services in employment with an employer in at least 2 consecutive
4 weeks falling wholly within the period of the individual's total
5 or partial unemployment due to the labor dispute, and in addition
6 earns wages in each of those weeks in an amount equal to or
7 greater than the individual's actual or potential weekly benefit
8 rate with respect to those weeks based on the individual's
9 employment with the employer involved in the labor dispute.

10 (c) An individual is not disqualified under this subsection
11 if the individual is not directly involved in the labor dispute.
12 An individual is not directly involved in a labor dispute unless
13 any of the following are established:

14 (i) At the time or in the course of a labor dispute in the
15 establishment in which the individual was then employed, the
16 individual in concert with 1 or more other employees voluntarily
17 stopped working other than at the direction of the individual's
18 employing unit.

19 (ii) The individual is participating in, financing, or
20 directly interested in the labor dispute that causes the
21 individual's total or partial unemployment. The payment of regu-
22 lar union dues, in amounts and for purposes established before
23 the inception of the labor dispute, is not financing a labor dis-
24 pute within the meaning of this subparagraph.

25 (iii) At any time a labor dispute in the establishment or
26 department in which the individual was employed does not exist,
27 and the individual voluntarily stops working, other than at the

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1 direction of the individual's employing unit, in sympathy with
2 employees in some other establishment or department in which a
3 labor dispute is in progress.

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

7 (d) As used in this subsection, "directly interested" shall
8 be construed and applied so as not to disqualify individuals
9 unemployed as a result of a labor dispute the resolution of which
10 may not reasonably be expected to affect their wages, hours, or
11 other conditions of employment, and to disqualify individuals
12 whose wages, hours, or conditions of employment may reasonably be
13 expected to be affected by the resolution of the labor dispute.
14 A "reasonable expectation" of an effect on an individual's wages,
15 hours, or other conditions of employment exists, in the absence
16 of a substantial preponderance of evidence to the contrary, in
17 any of the following situations:

18 (i) If it is established that there is in the particular
19 establishment or employing unit a practice, custom, or contrac-
20 tual obligation to extend within a reasonable period to members
21 of the individual's grade or class of workers in the establish-
22 ment in which the individual is or was last employed changes in
23 terms and conditions of employment that are substantially similar
24 or related to some or all of the changes in terms and conditions
25 of employment that are made for the workers among whom there
26 exists the labor dispute that has caused the individual's total
27 or partial unemployment.

1 (ii) If it is established that 1 of the issues in or
2 purposes of the labor dispute is to obtain a change in the terms
3 and conditions of employment for members of the individual's
4 grade or class of workers in the establishment in which the indi-
5 vidual is or was last employed.

6 (iii) If a collective bargaining agreement covers both the
7 individual's grade or class of workers in the establishment in
8 which the individual is or was last employed and the workers in
9 another establishment of the same employing unit who are actively
10 participating in the labor dispute, and that collective bargain-
11 ing agreement is subject by its terms to modification, supplemen-
12 tation, or replacement, or has expired or been opened by mutual
13 consent at the time of the labor dispute.

14 (e) In determining the scope of the grade or class of work-
15 ers, evidence of the following is relevant:

16 (i) Representation of the workers by the same national or
17 international organization or by local affiliates of that
18 national or international organization.

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

21 (iii) Whether the workers are or within the past 6 months
22 have been covered by a common master collective bargaining agree-
23 ment that sets forth all or any part of the terms and conditions
24 of the workers' employment, or by separate agreements that are or
25 have been bargained as a part of the same negotiations.

26 (iv) Any functional integration of the work performed by
27 those workers.

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1 (v) Whether the resolution of those issues involved in the
2 labor dispute as to some of the workers could directly or indi-
3 rectly affect the advancement, negotiation, or settlement of the
4 same or similar issues in respect to the remaining workers.

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

9 (vii) Whether issues on the same subject matter as those
10 involved in the labor dispute have been the subject of proposals
11 or demands made upon the employing unit that would by their terms
12 have applied to those workers.

13 ~~-(9) Except for an individual disqualified under subsection~~
14 ~~(1)(g), or an individual whose disqualifying discharge under~~
15 ~~subsection (1)(b) is determined or redetermined to be a disci-~~
16 ~~plinary layoff or suspension, an individual is disqualified from~~
17 ~~receiving benefits for the duration of the individual's disci-~~
18 ~~plinary layoff or suspension if the individual becomes unemployed~~
19 ~~because of a disciplinary layoff or suspension based upon any of~~
20 ~~the following:~~

21 ~~(a) Misconduct directly or indirectly connected with work.~~

22 ~~(b) Participation in a strike or other concerted activity~~
23 ~~resulting in a curtailment of work or restriction of or interfer-~~
24 ~~ence with production contrary to an applicable collective bar-~~
25 ~~gaining agreement.~~

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1 ~~(c) Participation in a wildcat strike or other concerted~~
2 ~~activity not authorized by the individual's recognized bargaining~~
3 ~~representative.~~

4 ~~(10) If a disqualifying discharge under subsection (1)(b) is~~
5 ~~determined or redetermined to be a suspension, the disqualifica-~~
6 ~~tion provided under subsection (9) applies from the date of the~~
7 ~~discharge.~~

8 ~~(9) (11)~~ Notwithstanding subsections (1) to ~~(10)~~ (8), if
9 the employing unit submits notice to the commission of possible
10 ineligibility or disqualification beyond the time limits pre-
11 scribed by commission rule, the notice shall not form the basis
12 of a determination of ineligibility or disqualification for a
13 claim period compensated before the receipt of the notice by the
14 commission.

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

23 Sec. 32. (a) Claims for benefits shall be made pursuant to
24 regulations prescribed by the ~~commission~~ UNEMPLOYMENT AGENCY.
25 The ~~commission~~ UNEMPLOYMENT AGENCY shall designate representa-
26 tives who ~~promptly~~ shall PROMPTLY examine claims and make a
27 determination on the facts. The ~~commission~~ UNEMPLOYMENT AGENCY

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1 may establish rules providing for the examination of claims, the
2 determination of the validity of the claims, and the amount and
3 duration of benefits to be paid. The claimant and other inter-
4 ested parties ~~promptly~~ shall be PROMPTLY notified of the deter-
5 mination and the reasons for the determination.

6 ~~(b)~~ (B)(1) For benefit years established before the con-
7 version date prescribed in section 75, the ~~commission~~
8 UNEMPLOYMENT AGENCY may prescribe regulations for notifying and
9 shall notify the employer, whose experience account may be
10 charged, and the employing unit where the claimant last worked
11 that the claimant has filed an application for benefits. The
12 notice shall require the employer and employing unit to furnish
13 information to the ~~commission~~ UNEMPLOYMENT AGENCY necessary to
14 determine the claimant's benefit rights.

15 (2) Upon receipt of the employer's reports, the ~~commission~~
16 ~~promptly~~ UNEMPLOYMENT AGENCY shall PROMPTLY make a determination
17 based upon the available information. The claimant and the
18 employer, whose experience account may be charged pursuant to the
19 determination, ~~promptly~~ shall be PROMPTLY notified of the
20 determination. The notice shall show the name and account number
21 of the employer whose experience account may be charged pursuant
22 to the determination, the weekly benefit amount and the maximum
23 number of credit weeks against which the claimant may draw bene-
24 fits, and whether or not the claimant is eligible and qualified
25 to draw benefits. An employer may designate in writing to the
26 ~~commission~~ UNEMPLOYMENT AGENCY an individual or another
27 employer or an employing unit to receive any notice required to

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1 be given by the ~~commission~~ UNEMPLOYMENT AGENCY to that employer
2 or to represent that employer in any proceeding before the
3 ~~commission~~ UNEMPLOYMENT AGENCY as provided in section 31.

4 (3) If an employer or employing unit fails to respond within
5 10 days after mailing of the request for information, the
6 ~~commission~~ UNEMPLOYMENT AGENCY shall make a determination upon
7 the available information. In the absence of a showing by the
8 employer satisfying the ~~commission~~ UNEMPLOYMENT AGENCY that the
9 employer reasonably could not submit the requested information,
10 the determination shall be final as to the noncomplying employer,
11 as to benefits paid before the week following the receipt of the
12 employer's reply, and chargeable against the employer's
13 experience account as a result of the employer's late reply, and
14 the payments shall be considered to have been proper payments.
15 The ~~commission~~ UNEMPLOYMENT AGENCY may require an employer who
16 consistently fails to meet the ~~commission's~~ UNEMPLOYMENT
17 AGENCY'S requirements, as to submission of reports covering
18 employment of individuals, to provide the reports automatically
19 upon the separation of individuals from employment, in the manner
20 and within the time limits the ~~commission~~ UNEMPLOYMENT AGENCY
21 prescribes by regulation necessary to carry out this section. An
22 employer may be permitted to provide the reports automatically
23 upon separation of individuals from employment, in the manner and
24 within the time limits prescribed by the ~~commission~~
25 UNEMPLOYMENT AGENCY.

26 (4) After an application for benefits is filed, the
27 ~~commission's~~ UNEMPLOYMENT AGENCY'S determination shall include

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1 only the most recent employer. Subsequently, as necessary, the
2 ~~commission~~ UNEMPLOYMENT AGENCY shall issue determinations cov-
3 ering other base period employers, individually in inverse order
4 to that in which the claimant earned his or her last credit week
5 with the employers.

6 (5) For benefit years established after the conversion date
7 prescribed in section 75, the ~~commission~~ UNEMPLOYMENT AGENCY
8 shall mail to the claimant, to each base period employer or
9 employing unit, and to the separating employer or employing unit,
10 a monetary determination. The monetary determination shall
11 notify each of these employers or employing units that the claim-
12 ant has filed an application for benefits and the amount the
13 claimant reported as earned with the separating employer or
14 employing unit, and shall state the name of each employer or
15 employing unit in the base period and the name of the separating
16 employer or employing unit. The monetary determination shall
17 also state the claimant's weekly benefit rate, the amount of base
18 period wages paid by each base period employer, the maximum bene-
19 fit amount that could be charged to each employer's account or
20 experience account, and the reason for separation reported by the
21 claimant. The monetary determination shall also state whether
22 the claimant is monetarily eligible to receive unemployment
23 benefits. ~~No~~ EXCEPT FOR SEPARATIONS UNDER SECTION 29(1)(A), NO
24 further reconsideration of a separation from any base period
25 employer will be made unless the base period employer notifies
26 the ~~commission~~ UNEMPLOYMENT AGENCY of a possible disqualifying
27 separation in accordance with this subsection. Benefits paid in

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1 accordance with the monetary determination shall be considered
2 proper payments and shall not be changed unless the ~~commission~~
3 UNEMPLOYMENT AGENCY receives new, corrected, or additional infor-
4 mation from the employer, within 10 calendar days after the mail-
5 ing of the monetary determination, and the information results in
6 a change in the monetary determination. New, additional, or cor-
7 rected information received by the ~~commission~~ UNEMPLOYMENT
8 AGENCY after the 10-day period shall be considered a request for
9 reconsideration by the employer of the monetary determination and
10 shall be reviewed as provided in section 32a.

11 (6) For the purpose of determining a claimant's nonmonetary
12 eligibility and qualification for benefits, if the claimant's
13 most recent base period or benefit year separation was for a
14 reason other than the lack of work, then a determination shall be
15 issued concerning that separation to the claimant and to the sep-
16 arating employer. If a claimant is not disqualified based on his
17 or her most recent separation from employment and has satisfied
18 the requirements of section 29, the ~~commission~~ UNEMPLOYMENT
19 AGENCY shall issue a nonmonetary determination as to that separa-
20 tion only. If a claimant is not disqualified based on his or her
21 most recent separation from employment and has not satisfied the
22 requirements of section 29, the ~~commission~~ UNEMPLOYMENT AGENCY
23 shall issue 1 or more nonmonetary determinations necessary to
24 establish the claimant's qualification for benefits based on any
25 prior separation in inverse chronological order. The
26 ~~commission~~ UNEMPLOYMENT AGENCY shall consider all base period
27 separations involving disqualifications under section 29(1)(h),

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1 (j), (l), or (m) in determining a claimant's nonmonetary
2 eligibility and qualification for benefits. An employer may des-
3 ignate in writing to the ~~commission~~ UNEMPLOYMENT AGENCY an
4 individual or another employer or an employing unit to receive
5 any notice required to be given by the ~~commission~~ UNEMPLOYMENT
6 AGENCY to that employer or to represent that employer in any pro-
7 ceeding before the ~~commission~~ UNEMPLOYMENT AGENCY as provided
8 in section 31.

9 (7) If the ~~commission~~ UNEMPLOYMENT AGENCY requests addi-
10 tional monetary or nonmonetary information from an employer or
11 employing unit and the ~~commission~~ UNEMPLOYMENT AGENCY fails to
12 receive a written response from the employer or employing unit
13 within 10 calendar days after the date of mailing the request for
14 information, the ~~commission~~ UNEMPLOYMENT AGENCY shall make a
15 determination based upon the available information at the time
16 the determination is made. The determination shall be final and
17 any payment made shall be considered a proper payment with
18 respect to benefits paid before the week following the receipt of
19 the employer's reply and chargeable against the employer's
20 account or experience account as a result of the employer's late
21 reply.

22 (c) The claimant or interested party may file an application
23 with an office of the ~~commission~~ UNEMPLOYMENT AGENCY for a
24 redetermination in accordance with section 32a.

25 (d) The issuance of each benefit check shall be considered a
26 determination by the ~~commission~~ UNEMPLOYMENT AGENCY that the
27 claimant receiving the check was covered during the compensable

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1 period, and eligible and qualified for benefits. A chargeable
2 employer, upon receipt of a listing of the check as provided in
3 section 21(a), may protest by requesting a redetermination ~~as to~~
4 ~~the~~ OF THE CLAIMANT'S eligibility or qualification as to that
5 period and a determination as to later weeks and benefits still
6 unpaid ~~as~~ THAT are affected by the protest. Upon receipt of
7 the protest or request, the ~~commission~~ UNEMPLOYMENT AGENCY
8 shall investigate and redetermine whether the claimant is eligi-
9 ble and qualified as to that period. If, upon the redetermina-
10 tion, the claimant is found ineligible or not qualified, the
11 ~~commission~~ UNEMPLOYMENT AGENCY shall investigate and determine
12 whether the claimant obtained benefits, for 1 or more preceding
13 weeks within the series of consecutive weeks ~~which~~ THAT
14 includes the week covered by the redetermination, improperly as
15 the result of administrative error, false statement, misrepresen-
16 tation, or nondisclosure of a material fact. If the ~~commission~~
17 UNEMPLOYMENT AGENCY finds that the claimant has obtained benefits
18 through administrative error, false statement, misrepresentation,
19 or nondisclosure of a material fact, the ~~commission~~
20 UNEMPLOYMENT AGENCY shall proceed under the appropriate provi-
21 sions of section 62.

22 (e) ~~When~~ IF a claimant commences to file continued claims
23 through a different state claim office in this state or else-
24 where, the ~~commission~~ UNEMPLOYMENT AGENCY promptly shall issue
25 written notice of that fact to the chargeable employer.

26 (f) If a claimant refuses an offer of work, or fails to
27 apply for work of which the claimant has been notified, as

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1 provided in section 29(1)(c) or (e), the ~~commission promptly~~
2 UNEMPLOYMENT AGENCY shall PROMPTLY make a written determination
3 as to whether or not the refusal or failure requires disqualifi-
4 cation under section 29. Notice of the determination, specifying
5 the name and address of the employing unit offering or giving
6 notice of the work and of the chargeable employer, shall be sent
7 to the claimant, the employing unit offering or giving notice of
8 the work, and the chargeable employer.

9 SEC. 32B. (1) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE
10 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE UNEMPLOY-
11 MENT AGENCY SHALL ESTABLISH AND PROVIDE ACCESS TO A SECURE INTER-
12 NET SITE TO ENABLE EMPLOYERS TO DETERMINE IF CORRESPONDENCE SENT
13 TO THE UNEMPLOYMENT AGENCY BY THE EMPLOYER HAS BEEN RECEIVED.

14 (2) WITHIN 10 DAYS OF RECEIVING A REQUEST FOR REDETERMINA-
15 TION OR A PROTEST FROM AN EMPLOYER OR EMPLOYING UNIT, THE UNEM-
16 PLOYMENT AGENCY SHALL POST A STATEMENT CONFIRMING RECEIPT OF THE
17 REQUEST FOR REDETERMINATION OR PROTEST FROM THAT EMPLOYER OR
18 EMPLOYING UNIT ON THE INTERNET SITE REQUIRED UNDER SUBSECTION
19 (1).

20 Sec. 44. (1) "Remuneration" means all compensation paid for
21 personal services, including commissions and bonuses, and except
22 for agricultural and domestic services, the cash value of all
23 compensation payable in a medium other than cash. Any remunera-
24 tion payable to an individual that has not been actually received
25 by that individual within 21 days after the end of the pay period
26 in which the remuneration was earned, shall, for the purposes of
27 subsections (2) to (5) and section 46, be considered to have been

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1 paid on the twenty-first day after the end of that pay period.
2 For benefit years beginning after the conversion date prescribed
3 in section 75, if back pay is awarded to an individual and is
4 allocated by an employer or legal authority to a period of weeks
5 within 1 or more calendar quarters, the back pay shall be consid-
6 ered paid in that calendar quarter or those calendar quarters for
7 purposes of section 46. The reasonable cash value of compensa-
8 tion payable in a medium other than cash ~~—~~ shall be estimated
9 and determined in accordance with rules promulgated by the
10 ~~commission~~ UNEMPLOYMENT AGENCY. Beginning January 1, 1986,
11 remuneration shall include tips actually reported to an employer
12 under section 6053(a) of the internal revenue code by an employee
13 who receives tip income. Remuneration does not include either of
14 the following:

15 (a) Money paid an individual by a unit of government for
16 services rendered as a member of the national guard of this
17 state, or for similar services to ~~any~~ ANOTHER state or the
18 United States.

19 (b) Money paid by an employer to a worker under a supplemen-
20 tal unemployment benefit plan under section 501(c) of the inter-
21 nal revenue code OF 1986, regardless of whether the benefits are
22 paid from a trust or by the employer.

23 (2) "Wages", subject to subsections (3) to (5), means remu-
24 nation paid by employers for employment and, beginning January
25 1, 1986, includes tips actually reported to an employer under
26 section 6053(a) of the internal revenue code by an employee who
27 receives tip income. ~~Notwithstanding the preceding sentence,~~

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1 ~~for the period January 1, 1986 through December 31, 1986 for~~
2 ~~purposes of sections 50 and 51, wages shall include tips only to~~
3 ~~the extent that they are taken in account by the employer in~~
4 ~~determining the employee's compensation under the state minimum~~
5 ~~wage law or, where the employer adds a certain percent to the~~
6 ~~customer's bill as a tip for disbursement to the employees, the~~
7 ~~dollar amount of the percentage so added.~~ If any provision of
8 this subsection prevents ~~the~~ THIS state from qualifying for any
9 federal interest relief provisions provided under section 1202 of
10 TITLE XII OF the social security act, 42 U.S.C. 1322, or pre-
11 vents employers in this state from qualifying for the limitation
12 on the reduction of federal unemployment tax act credits as pro-
13 vided under section 3302(f) of the federal unemployment tax act,
14 26 U.S.C. 3302, ~~such~~ THAT provision ~~shall be~~ IS invalid to
15 the extent necessary to maintain qualification for ~~such~~ THE
16 interest relief provisions and federal unemployment tax credits.

17 (3) For the purpose of determining the amount of contribu-
18 tions due from an employer under this act, wages shall be limited
19 by the taxable wage limit applicable under subsection (4). For
20 this purpose, wages shall exclude all remuneration paid within a
21 calendar year to an individual by an employing unit after the
22 individual was paid within that year by that employing unit remu-
23 nation equal to the taxable wage limit on which unemployment
24 taxes were paid or were payable in this STATE and IN any other
25 states. If an employing unit, hereinafter referred to as succes-
26 sor, during any calendar year becomes a transferee in a transfer
27 of business as defined in section 22 of another, hereinafter

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1 referred to as a predecessor, and immediately after the transfer
2 employs in his or her trade or business an individual who immedi-
3 ately before the transfer was employed in the trade or business
4 of the predecessor, then for the purpose of determining whether
5 the successor has paid remuneration with respect to employment
6 equal to the taxable wage limit to that individual during the
7 calendar year, any remuneration with respect to employment paid
8 to that individual by the predecessor during the calendar year
9 and before the transfer shall be considered as having been paid
10 by the successor.

11 (4) The taxable wage limit for each calendar year shall be
12 \$8,000.00 in the 1983 calendar year, \$8,500.00 in the 1984 calen-
13 dar year, \$9,000.00 in the 1985 calendar year, \$9,500.00 in the
14 1986 calendar year, and \$9,500.00 for calendar years after 1986
15 THROUGH 2002, AND EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSEC-
16 TION, \$9,000.00 FOR CALENDAR YEARS AFTER 2002, or the maximum
17 amount of remuneration paid within a calendar year by an employer
18 subject to the federal unemployment tax act, 26 U.S.C. 3301 to
19 3311, to an individual with respect to employment as defined in
20 that act that is subject to tax under that act during that year
21 for each calendar year, whichever is greater. BEGINNING WITH
22 CALENDAR YEAR 2003 AND EACH CALENDAR YEAR AFTER 2003, IF THE
23 UNEMPLOYMENT TRUST FUND BALANCE IS \$1,250,000,000.00 OR LESS AS
24 DETERMINED ON THE OCTOBER 1 IMMEDIATELY PRECEDING THE CALENDAR
25 YEAR, THE TAXABLE WAGE LIMIT FOR THAT CALENDAR YEAR SHALL BE
26 \$9,500.00 OR THE MAXIMUM AMOUNT OF REMUNERATION PAID WITHIN THE
27 CALENDAR YEAR BY AN EMPLOYER SUBJECT TO THE FEDERAL UNEMPLOYMENT

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1 TAX ACT, 26 U.S.C. 3301 TO 3311, TO AN INDIVIDUAL WITH RESPECT
2 TO EMPLOYMENT AS DEFINED IN THIS ACT THAT IS SUBJECT TO TAX UNDER
3 THAT ACT DURING THAT YEAR, WHICHEVER IS GREATER, AS DETERMINED
4 INDEPENDENTLY FOR EACH CALENDAR YEAR.

5 (5) For the purposes of this act, the term "wages" shall not
6 include ANY OF THE FOLLOWING:

7 (a) The amount of a payment, including an amount paid by an
8 employer for insurance or annuities or into a fund, to provide
9 for such a payment, made to, or on behalf of, an employee or any
10 of the employee's dependents under a plan or system established
11 by an employer that makes provision for the employer's employees
12 generally, or for the employer's employees generally and their
13 dependents, or for a class or classes of the employer's employ-
14 ees, or for a class or classes of the employer's employees and
15 their dependents, on account of retirement, sickness or accident
16 disability, medical or hospitalization expenses in connection
17 with sickness or accident disability, or death.

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

21 (c) A payment on account of sickness or accident disability,
22 or medical or hospitalization expenses in connection with sick-
23 ness or accident disability, made by an employer to, or on behalf
24 of, an employee after the expiration of 6 calendar months follow-
25 ing the last calendar month in which the employee worked for the
26 employer.

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1 (d) A payment made to, or on behalf of, an employee or the
2 employee's beneficiary from or to a trust described in section
3 401(a) of the internal revenue code OF 1986 that is exempt from
4 tax under section 501(a) of the internal revenue code OF 1986 at
5 the time of the payment, unless the payment is made to an
6 employee of the trust as remuneration for services rendered as an
7 employee and not as a beneficiary of the trust, or under or to an
8 annuity plan which, at the time of the payment, is a plan
9 described in section 403(a) of the internal revenue code OF 1986,
10 or under or to a bond purchase plan that at the time of the pay-
11 ment, is a qualified bond purchase plan described in FORMER sec-
12 tion 405(a) of the internal revenue code.

13 (e) The payment by an employer, without deduction from the
14 remuneration of the employee, of the tax imposed upon an employee
15 under section 3101 of the ~~internal revenue code~~ FEDERAL INSUR-
16 ANCE CONTRIBUTIONS ACT, 26 U.S.C. 3101.

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

20 (g) A payment, other than vacation or sick pay, made to an
21 employee after the month in which the employee attains the age of
22 65, if the employee did not work for the employer in the period
23 for which the payment is made.

24 (h) Remuneration paid to or on behalf of an employee as
25 moving expenses if, and to the extent that, at the time of pay-
26 ment of the remuneration it is reasonable to believe that a

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1 corresponding deduction is allowable under section 217 of the
2 internal revenue code OF 1986.

3 (6) The amendments made to this section by ~~Act No. 155 of~~
4 ~~the Public Acts of 1977~~ AMENDATORY ACT 1977 PA 155 shall apply
5 to all remuneration paid after December 31, 1977.

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

9 Sec. 48. (1) An individual shall be ~~deemed "unemployed"~~
10 ~~with respect to~~ CONSIDERED UNEMPLOYED FOR any week during which
11 he or she performs no services and ~~with respect to~~ FOR which
12 remuneration is not payable to the individual, or ~~with respect~~
13 ~~to~~ FOR any week of less than full-time work if the remuneration
14 payable to the individual is less than his or her weekly benefit
15 rate. However, any loss of remuneration incurred by an individ-
16 ual during any week resulting from any cause other than the fail-
17 ure of the individual's employing unit to furnish full-time, reg-
18 ular employment shall be included as remuneration earned for pur-
19 poses of this section and ~~of~~ section 27(c). The total amount
20 of remuneration ~~thus~~ lost shall be determined ~~in such manner~~
21 ~~as~~ PURSUANT TO REGULATIONS PRESCRIBED BY the commission. ~~shall~~
22 ~~by regulation prescribe.~~ For the purposes of this act, an
23 individual's weekly benefit rate ~~shall mean~~ MEANS the weekly
24 benefit rate ~~as~~ determined pursuant to section 27(b).

25 (2) All amounts paid to a claimant by an employing unit or
26 former employing unit for a vacation or a holiday, and amounts
27 paid in the form of retroactive pay, ~~or~~ PAY in lieu of notice,

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1 SEVERANCE PAYMENTS, SALARY CONTINUATION, OR OTHER REMUNERATION
2 INTENDED BY THE EMPLOYING UNIT AS CONTINUING WAGES OR OTHER MONE-
3 TARY CONSIDERATION AS THE RESULT OF THE SEPARATION, EXCLUDING SUB
4 PAYMENTS AS DESCRIBED IN SECTION 44, shall be ~~deemed~~ CONSIDERED
5 remuneration in determining whether an individual is unemployed
6 under this section and also in determining his or her benefit
7 payments under section 27 (c), for the period designated by the
8 contract or agreement providing for the payment, or if there is
9 no contractual specification of the period to which ~~such~~ pay-
10 ments shall be allocated, then for the period designated by the
11 employing unit or former employing unit. However, payments for a
12 vacation or holiday, ~~made,~~ or the right to which has irrevoca-
13 bly vested, after 14 days following ~~such~~ A vacation or holiday
14 ~~, and payments in the form of termination, separation, severance~~
15 ~~or dismissal allowances, and bonuses,~~ shall not be ~~deemed~~
16 CONSIDERED wages or remuneration within the meaning of this
17 section.

18 (3) An individual shall not be ~~deemed~~ CONSIDERED to be
19 unemployed during any leave of absence from work granted by an
20 employer either at the request of the individual or pursuant to
21 an agreement with the individual's duly authorized bargaining
22 agent, or in accordance with law. An individual shall neither be
23 considered not unemployed nor on a leave of absence solely
24 because the individual elects to be laid off, pursuant to an
25 option provided under a collective bargaining agreement or writ-
26 ten employer plan ~~which~~ THAT permits ~~such~~ AN election, ~~when~~

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1 IF there is a temporary layoff because of lack of work ~~—~~ and
2 the employer has consented ~~thereto~~ TO THE ELECTION.

3 Sec. 54. (a) A person who willfully violates or intention-
4 ally fails to comply with any of the provisions of this act, or a
5 regulation of the commission promulgated under the authority of
6 this act for which a penalty is not otherwise provided by this
7 act is punishable as provided in subdivision (i), (ii), (iii), or
8 (iv), notwithstanding any other statute of this state or of the
9 United States:

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

15 (ii) The commission may refer the matter to the prosecuting
16 attorney of the county in which the alleged violation occurred
17 for prosecution. If the commission has not made its own determi-
18 nation under subdivision (i), the penalty sought by the prosecu-
19 tor shall include the amount described in subdivision (i) and
20 shall also include 1 or more of the following penalties:

21 (A) If the amount obtained or withheld from payment as a
22 result of the intentional failure to comply is less than
23 \$25,000.00, then 1 of the following:

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

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

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

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

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

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

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

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

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

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

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

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

24 (iv) The commission may refer a matter under subdivision
25 (iii) to the prosecuting attorney of the county in which the
26 alleged violation occurred for prosecution. If the commission
27 has not made its own determination under subdivision (iii), the

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1 penalty sought by the prosecutor shall include the amount
2 described in subdivision (iii) and shall also include 1 or more
3 of the following penalties:

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

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

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

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

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

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

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

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

20 (b) Any employing unit or an officer or agent of an employ-
21 ing unit, a claimant, an employee of the commission, or any other
22 person who makes a false statement or representation knowing it
23 to be false, or knowingly and willfully with intent to defraud
24 fails to disclose a material fact, to obtain or increase a bene-
25 fit or other payment under this act or under the unemployment
26 compensation law of any state or of the federal government,
27 either for himself or herself or any other person, to prevent or

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1 reduce the payment of benefits to an individual entitled thereto
2 or to avoid becoming or remaining a subject employer, or to avoid
3 or reduce a contribution or other payment required from an
4 employing unit under this act or under the unemployment compensa-
5 tion law of any state or of the federal government, as applica-
6 ble, is punishable as follows, notwithstanding any other penal-
7 ties imposed under any other statute of this state or of the
8 United States:

9 (i) If the amount obtained as a result of the knowing false
10 statement or representation or the knowing and willful failure to
11 disclose a material fact is less than ~~-\$1,000.00-~~ \$500.00, the
12 commission may recover the amount obtained as a result of the
13 knowing false statement or representation or the knowing and
14 willful failure to disclose a material fact and may also recover
15 damages equal to 2 times that amount.

16 (ii) If the amount obtained as a result of the knowing false
17 statement or representation or the knowing and willful failure to
18 disclose a material fact is ~~-\$1,000.00-~~ \$500.00 or more, the com-
19 mission ~~may~~ SHALL ATTEMPT TO recover the amount obtained as a
20 result of the knowing false statement or representation or the
21 knowing and willful failure to disclose a material fact and may
22 also recover damages equal to ~~3~~ 4 times that amount. The com-
23 mission may refer the matter to the prosecuting attorney of the
24 county in which the alleged violation occurred for prosecution.
25 If the commission has not made its own determination under this
26 subdivision, the penalty sought by the prosecutor shall include
27 the amount described in this subdivision and shall also include 1

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1 or more of the following penalties IF THE AMOUNT OBTAINED IS
2 \$1,000.00 OR MORE:

3 (A) If the amount obtained or withheld from payment as a
4 result of the knowing false statement or representation or the
5 knowing and willful failure to disclose a material fact is
6 \$1,000.00 or more but less than \$25,000.00, then 1 of the
7 following:

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

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

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

13 (B) If the amount obtained or withheld from payment as a
14 result of the knowing false statement or representation or the
15 knowing and willful failure to disclose a material fact is
16 \$25,000.00 or more, then 1 of the following:

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

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

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

22 (C) If the knowing false statement or representation or the
23 knowing and willful failure to disclose a material fact made to
24 obtain or withhold an amount from payment does not result in a
25 loss to the commission, then a penalty shall be sought equal to 3
26 times the amount that would have been obtained by the knowing
27 false statement or representation or the knowing and willful

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1 failure to disclose a material fact, but not less than \$1,000.00,
2 and 1 of the following:

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

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

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

8 (c) (1) Any employing unit or an officer or agent of an
9 employing unit or any other person failing to submit, when due,
10 any contribution report, wage and employment report, or other
11 reports lawfully prescribed and required by the commission shall
12 be subject to the assessment of a penalty for each report not
13 submitted within the time prescribed by the commission, as
14 follows: In the case of contribution reports not received within
15 10 days after the end of the reporting month the penalty shall be
16 10% of the contributions due on the reports but not less than
17 \$5.00 or more than \$25.00 for a report. However, if the tenth
18 day falls on a Saturday, Sunday, legal holiday, or other commis-
19 sion nonwork day, ~~such~~ THE 10-day period shall run until the
20 end of the next day which is not a Saturday, Sunday, legal holi-
21 day, or other commission nonwork day. In the case of all other
22 reports referred to in this subsection the penalty shall be
23 \$10.00 for a report.

24 (2) Notwithstanding subdivision (1), any employer or an
25 officer or agent of an employer or any other person failing to
26 submit, when due, any quarterly wage detail report required by

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1 section 13(2) shall be subject to a penalty of \$25.00 for each
2 untimely report.

3 (3) When a report is filed after the prescribed time and it
4 is shown to the satisfaction of the commission that the failure
5 to submit the report was due to reasonable cause, a penalty shall
6 not be imposed. The assessment of a penalty as provided in this
7 subsection shall constitute a determination which shall be final
8 unless the employer files with the commission an application for
9 a redetermination of the assessment in accordance with
10 section 32a.

11 (d) If any commissioner, employee, or agent of the commis-
12 sion or member of the appeal board willfully makes a disclosure
13 of confidential information obtained from any employing unit or
14 individual in the administration of this act for any purpose
15 inconsistent with or contrary to the purposes of this act, or a
16 person who having obtained a list of applicants for work, or of
17 claimants or recipients of benefits, under this act shall use or
18 permit the use of that list for a political purpose or for a pur-
19 pose inconsistent with or contrary to the purposes of this act,
20 he or she is guilty of a misdemeanor and upon conviction shall be
21 punished by imprisonment for not more than 90 days, or by a fine
22 of not more than \$1,000.00, or both. Notwithstanding the preced-
23 ing sentence, if any commissioner, commission employee, agent of
24 the commission, or member of the board of review knowingly,
25 intentionally, and for financial gain, makes an illegal disclo-
26 sure of confidential information obtained under section 13(2), he

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1 or she is guilty of a felony, punishable by imprisonment for not
2 more than 1 year and 1 day.

3 (e) A person who, without proper authority from the commis-
4 sion, represents himself or herself to be an employee of the com-
5 mission to an employing unit or person for the purpose of secur-
6 ing information regarding the unemployment or employment record
7 of an individual is guilty of a misdemeanor and upon conviction
8 shall be punished by imprisonment for not more than 90 days, or
9 by a fine of not more than \$1,000.00, or both.

10 (f) A person associated with a college, university, or
11 public agency of this state who makes use of any information
12 obtained from the commission in connection with a research
13 project of a public service nature, in ~~such~~ a manner as to
14 reveal the identity of any individual or employing unit from or
15 concerning whom the information was obtained by the commission,
16 or for any purpose other than use in connection with ~~such a~~
17 THAT research project, is guilty of a misdemeanor and upon con-
18 viction shall be punished by imprisonment for not more than 90
19 days, or by a fine of not more than \$1,000.00, or both.

20 (g) As used in this section, "person" includes an individu-
21 al, copartnership, joint venture, corporation, receiver, or
22 trustee in bankruptcy.

23 (h) This section shall apply even if the amount obtained or
24 withheld from payment has been reported or reported and paid by
25 an individual involved in a violation of subsection (a) or (b).

26 (i) If a determination is made that an individual has
27 violated this section, the individual is subject to the penalty

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1 provisions of this section and, where applicable, the
2 requirements of section 62.

3 (j) Amounts recovered by the commission ~~pursuant to~~ UNDER
4 subsection (a) or (b) shall be credited first to the unemployment
5 compensation fund and thereafter amounts recovered that are in
6 excess of the amounts obtained or withheld as a result of the
7 violation of subsection (a) and (b) shall be credited to the pen-
8 alty and interest account of the contingent fund. Fines and pen-
9 alties recovered by the commission ~~pursuant to~~ UNDER
10 subsections (c), (d), (e), and (f) shall be credited to the pen-
11 alty and interest account of the contingent fund in accordance
12 with section 10(6).

13 (k) The revisions in the penalties in subsections (a) and
14 (b) provided by the 1991 amendatory act that added this subsec-
15 tion shall apply to conduct that began before April 1, 1992, but
16 that continued on or after April 1, 1992, and to conduct that
17 began on or after April 1, 1992.

18 Sec. 54c. (1) An employing unit or an officer or agent of
19 an employing unit, a claimant for unemployment benefits, an
20 employee of the commission, or a third party that has knowingly
21 or willfully appropriated or converted to his, her, or its own
22 use money to be used for the payment of benefits under this act
23 or money received as the payment of contribution liability under
24 this act is guilty of embezzlement punishable as follows:

25 (a) If the amount obtained as a result of the knowing or
26 willful appropriation or conversion of money is less than
27 ~~-\$1,000.00-~~ \$500.00, the commission may recover the amount

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1 obtained as a result of the knowing or willful appropriation or
2 conversion of money and may also recover damages equal to 2 times
3 that amount.

4 (b) If the amount obtained as a result of the knowing or
5 willful appropriation or conversion of money is ~~-\$1,000.00-~~
6 \$500.00 or more, the commission ~~may~~ SHALL ATTEMPT TO recover
7 the amount obtained as a result of the knowing or willful appro-
8 priation or conversion of money and may also recover damages
9 equal to ~~-3-~~ 4 times that amount. The commission may refer the
10 matter to the prosecuting attorney of the county in which the
11 alleged violation occurred for prosecution. If the commission
12 has not made its own determination under this subdivision, the
13 penalty sought by the prosecutor shall include the amount
14 described in this subdivision and shall also include 1 of the
15 following applicable penalties IF THE AMOUNT OBTAINED IS
16 \$1,000.00 OR MORE:

17 (i) If the amount obtained or withheld from payment as a
18 result of the knowing or willful appropriation or conversion of
19 money is \$1,000.00 or more but less than \$25,000.00, then 1 of
20 the following:

21 (A) Imprisonment for not more than 1 year.

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

24 (C) A combination of (A) and (B) that does not exceed 1
25 year.

26 (ii) If the amount obtained or withheld from payment as a
27 result of the knowing or willful appropriation or conversion of

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1 money is \$25,000.00 or more but less than \$100,000.00, then 1 of
2 the following:

3 (A) Imprisonment for not more than 2 years.

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

6 (C) A combination of (A) and (B) that does not exceed 2
7 years.

8 (iii) If the amount obtained or withheld from payment as a
9 result of the knowing or willful appropriation or conversion of
10 money is \$100,000.00 or more, then 1 of the following:

11 (A) Imprisonment for not more than 5 years.

12 (B) The performance of community service of not more than 5
13 years but not to exceed 10,400 hours.

14 (C) A combination of (A) and (B) that does not exceed 5
15 years.

16 (iv) If the knowing or willful appropriation or conversion
17 of money made to obtain or withhold an amount from payment does
18 not result in a loss to the commission, then a penalty shall be
19 sought equal to 3 times the amount that would have been obtained
20 by the knowing or willful appropriation or conversion of money,
21 but not less than \$1,000.00, and 1 of the following:

22 (A) Imprisonment for not more than 2 years.

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

25 (C) A combination of (A) and (B) that does not exceed 2
26 years.

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1 (2) This section shall apply even if the amount obtained or
2 withheld from payment has been reported or reported and paid by
3 an individual involved in the embezzlement.

4 (3) This section applies to conduct that began before
5 April 1, 1992 but that continued on or after April 1, 1992 and to
6 conduct that began on or after April 1, 1992.

7 (4) The penalties provided in this section shall be in addi-
8 tion to any penalty provided in this act for a late filing.

9 (5) If a determination is made that an individual has vio-
10 lated this section, the individual is subject to the penalty pro-
11 visions of this section and, where applicable, the requirements
12 of section 62.

13 (6) The amount recovered by the commission pursuant to
14 subsection (1)(a) or (b) shall be credited first to the unemploy-
15 ment compensation fund and thereafter amounts recovered that are
16 in excess of the amounts obtained as a result of the embezzlement
17 shall be credited to the penalty and interest account of the con-
18 tingent fund.

19 (7) This section shall take effect April 1, 1992.

20 Enacting section 1. Section 3b of the Michigan employment
21 security act, 1936 (Ex Sess) PA 1, MCL 421.3b, is repealed.