

# SENATE BILL No. 399

March 19, 2009, Introduced by Senator ALLEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 64 (MCL 421.64), as amended by 2003 PA 174.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 64. (1)(a) Payment of extended benefits under this  
2 section shall be made at the individual's weekly extended benefit  
3 rate, for any week of unemployment ~~which~~**THAT** begins in the  
4 individual's eligibility period, to each individual who is fully  
5 eligible and not disqualified under this act, who has exhausted all  
6 rights to regular benefits under this act, who is not seeking or  
7 receiving benefits with respect to that week under the unemployment  
8 compensation law of Canada, and who does not have rights to  
9 benefits under the unemployment compensation law of any other state  
10 or the United States or to compensation or allowances under any

1 other federal law, such as the trade expansion act, the automotive  
2 products trade act, or the railroad unemployment insurance act;  
3 however, if the individual is seeking benefits and the appropriate  
4 agency finally determines that the individual is not entitled to  
5 benefits under another law, the individual shall be considered to  
6 have exhausted the right to benefits. For the purpose of the  
7 preceding sentence, an individual shall have exhausted the right to  
8 regular benefits under this section with respect to any week of  
9 unemployment in the individual's eligibility period under either of  
10 the following circumstances:

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

15 (ii) When the right to the benefits has terminated before that  
16 week by reason of the expiration or termination of the benefit year  
17 with respect to which the right existed; and the individual has no,  
18 or insufficient, wages or employment to establish a new benefit  
19 year. However, for purposes of this subsection, an individual shall  
20 be considered to have exhausted the right to regular benefits with  
21 respect to any week of unemployment in his or her eligibility  
22 period when the individual may become entitled to regular benefits  
23 with respect to that week or future weeks, but the benefits are not  
24 payable at the time the individual claims extended benefits because  
25 final action on a pending redetermination or on an appeal has not  
26 yet been taken with respect to eligibility or qualification for the  
27 regular benefits or when the individual may be entitled to regular

1 benefits with respect to future weeks of unemployment, but regular  
2 benefits are not payable with respect to any week of unemployment  
3 in his or her eligibility period by reason of seasonal limitations  
4 in any state unemployment compensation law.

5 (b) Except where inconsistent with the provisions of this  
6 section, the terms and conditions of this act that apply to claims  
7 for regular benefits and to the payment of those benefits apply to  
8 claims for extended benefits and to the payment of those benefits.

9 (c) An individual shall not be paid additional compensation  
10 and extended compensation with respect to the same week. If an  
11 individual is potentially eligible for both types of compensation  
12 in this state with respect to the same week, the bureau may pay  
13 extended compensation instead of additional compensation with  
14 respect to the week. If an individual is potentially eligible for  
15 extended compensation in 1 state and potentially eligible for  
16 additional compensation for the same week in another state, the  
17 individual may elect which of the 2 types of compensation to claim.

18 (2) The bureau shall establish, for each eligible individual  
19 who files an application, an extended benefit account with respect  
20 to that individual's benefit year. The amount established in the  
21 account shall be determined as follows:

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

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

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

(b) With respect to a week beginning in a period in which the average rate of total unemployment as described in subsection (5)(c)(ii) equals or exceeds 8%, but no later than ~~December 27, 2003~~ **THE END OF THE WEEK IN WHICH EXTENDED BENEFITS PAYABLE UNDER THIS SECTION CEASE TO BE FUNDED UNDER SECTION 2005 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5**, whichever of the following is smaller:

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

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

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

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

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

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

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

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

(c) The period is at least 13 consecutive weeks long, and does not begin by reason of a Michigan "on" indicator before the fourteenth week after the close of a prior extended benefit period under this section. However, an extended benefit period terminates

1 with the week preceding the week for which no extended benefit  
 2 payments are considered to be shareable compensation under the  
 3 federal-state extended unemployment compensation act of 1970, title  
 4 ~~II of Public Law 91-373,~~ section 3304 nt of the internal revenue  
 5 code of 1986, 26 ~~U.S.C.~~ **USC** 3304 nt.

6 (4) An individual's "eligibility period" consists of the weeks  
 7 in his or her benefit year that begin in an extended benefit  
 8 period, and if his or her benefit year ends within the extended  
 9 benefit period, any weeks thereafter that begin in the period.

10 (5) (a) With respect to weeks beginning after September 25,  
 11 1982, a national "on" indicator for a week shall be determined by  
 12 the United States secretary of labor.

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

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

17 (i) The rate of insured unemployment under this act for the  
 18 period consisting of that week and the immediately preceding 12  
 19 weeks equaled or exceeded 120% of the average of the insured  
 20 unemployment rates for the corresponding 13-week period ending in  
 21 each of the preceding 2 calendar years, and equaled or exceeded 5%.

22 (ii) For weeks beginning after the week ~~in which this~~  
 23 ~~subparagraph becomes effective~~ **OF AUGUST 14, 2003** and ending ~~on or~~  
 24 ~~before December 27, 2003~~ **AT THE END OF THE WEEK IN WHICH EXTENDED**  
 25 **BENEFITS PAYABLE UNDER THIS SECTION CEASE TO BE FUNDED UNDER**  
 26 **SECTION 2005 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,**  
 27 **PUBLIC LAW 111-5,** the average rate of total unemployment in this

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

5 (A) Six and one-half percent.

6 (B) One hundred ten percent of the average rate of total  
7 unemployment in this state, seasonally adjusted, for the period  
8 consisting of the corresponding 3-month period in either or both of  
9 the preceding 2 calendar years.

10 (d) There is a Michigan "off" indicator for a week if, for the  
11 period consisting of that week and the immediately preceding 12  
12 weeks, either subdivision (c) (i) or (c) (ii) was not satisfied.

13 Notwithstanding any other provision of this act, if this state is  
14 in a period in which temporary extended unemployment compensation  
15 is payable in this state under title II of the ~~jobs~~**JOB** creation  
16 and worker assistance act of 2002, Public Law 107-147, or another  
17 similar federal law, and if the governor has the authority under  
18 ~~this~~**THAT** federal act or another similar federal law, then the  
19 governor may elect to trigger "off" the Michigan indicator for  
20 extended benefits under this act only for a period in which  
21 temporary extended unemployment compensation is payable in this  
22 state, if the election by the governor would not result in a  
23 decrease in the number of weeks of unemployment benefits payable to  
24 an individual under this act or under federal law.

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

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

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

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

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

12 (g) Calculations under subdivisions (c) and (d) shall be made  
13 by the bureau and shall conform to regulations, if any, prescribed  
14 by the United States secretary of labor under authority of the  
15 federal-state extended unemployment compensation act of 1970 title  
16 II of Public Law 91-373, section 3304 nt of the internal revenue  
17 code of 1986, 26 U.S.C.—USC 3304 nt.

18 (h) An "on" indicator under subdivision (c)(ii) applies to  
19 claimants who qualify ~~on or after the week ending May 24, 2003 and~~  
20 ~~before the week ending December 27, 2003~~ for benefits payable  
21 beginning the week after ~~the effective date of this subdivision~~  
22 **AUGUST 14, 2003 AND ENDING THE LAST WEEK EXTENDED BENEFITS UNDER**  
23 **THIS SECTION ARE FUNDED UNDER SECTION 2005 OF THE AMERICAN RECOVERY**  
24 **AND REINVESTMENT ACT OF 2009, PUBLIC ACT 111-5.**

25 (6) As used in this section:

26 (a) "Regular benefits" means benefits payable to an individual  
27 under this act and, unless otherwise expressly provided, under any

1 other state unemployment compensation law, including unemployment  
2 benefits payable pursuant to ~~sections 8501 to 8525 of title 5 of~~  
3 ~~the United States Code, 5 U.S.C. USC~~ 8501 to 8525, other than  
4 extended benefits, and other than additional benefits which  
5 includes training benefits under section 27(g).

6 (b) "Extended benefits" means benefits, including additional  
7 benefits and unemployment benefits payable pursuant to ~~sections~~  
8 ~~8501 to 8525 of title 5 of the United States Code, 5 U.S.C. USC~~  
9 8501 to 8525, payable for weeks of unemployment beginning in an  
10 extended benefit period to an individual as provided under this  
11 section.

12 (c) "Additional benefits" means benefits totally financed by a  
13 state and payable to exhaustees by reason of conditions of high  
14 unemployment or by reason of other special factors under the  
15 provisions of any state law as well as training benefits paid under  
16 section 27(g) with respect to an extended benefit period.

17 (d) "Weekly extended benefit rate" means an amount equal to  
18 the amount of regular benefits payable under this act to an  
19 individual within the individual's benefit year for a week of total  
20 unemployment, unless the individual had more than 1 weekly extended  
21 benefit rate within that benefit year, in which case the  
22 individual's weekly extended benefit rate shall be computed by  
23 dividing the maximum amount of regular benefits payable under this  
24 act within that benefit year by the number of weeks for which  
25 benefits were payable, adjusted to the next lower multiple of  
26 \$1.00.

27 (e) "Benefits payable" includes all benefits computed in

1 accordance with section 27(d), irrespective of whether the  
2 individual was otherwise eligible for the benefits within his or  
3 her current benefit year and irrespective of any benefit reduction  
4 by reason of a disqualification ~~which~~**THAT** required a reduction.

5 (7) (a) Notwithstanding the provisions of subsection (1)(b),  
6 an individual shall be ineligible for payment of extended benefits  
7 for any week of unemployment if the bureau finds that during that  
8 period either of the following occurred:

9 (i) The individual failed to accept any offer of suitable work  
10 or failed to apply for any suitable work to which the individual  
11 was referred by the bureau.

12 (ii) The individual failed to actively engage in seeking work  
13 as described in subdivision (f).

14 (b) Any individual who has been found ineligible for extended  
15 benefits under subdivision (a) shall also be denied benefits  
16 beginning with the first day of the week following the week in  
17 which the failure occurred and until the individual has been  
18 employed in each of 4 subsequent weeks, whether or not consecutive,  
19 and has earned remuneration equal to not less than 4 times the  
20 extended weekly benefit amount, as determined under subsection (2).

21 (c) As used in this subsection, "suitable work" means, with  
22 respect to any individual, any work ~~which~~**THAT** is within that  
23 individual's capabilities, if both of the following apply:

24 (i) The gross weekly remuneration payable for the work exceeds  
25 the sum of the following:

26 (A) The individual's extended weekly benefit amount as  
27 determined under subsection (2).

1 (B) The amount, if any, of supplemental unemployment  
2 compensation benefits, as defined in section ~~501(e)(7)(D)~~  
3 **501(C)(17)(D)** of the internal revenue code of 1986, **26 USC**  
4 **501(C)(17)(D)**, payable to the individual for that week.

5 (ii) The employer pays wages not less than the higher of the  
6 minimum wage provided by section 6(a)(1) of the fair labor  
7 standards act of 1938, ~~chapter 676, 52 Stat. 1062, 29 U.S.C. USC~~  
8 206(a)(1), without regard to any exemption, or the applicable state  
9 or local minimum wage.

10 (d) An individual shall not be denied extended benefits for  
11 failure to accept an offer of, or apply for, any job ~~which~~ **THAT**  
12 meets the definition of ~~suitability~~ **SUITABLE WORK** as described in  
13 subdivision (c) if 1 or more of the following are true:

14 (i) The position was not offered to the individual in writing  
15 and was not listed with the state employment service.

16 (ii) The failure could not result in a denial of benefits under  
17 the definition of suitable work in section 29(6) to the extent that  
18 the criteria of suitability in that section are not inconsistent  
19 with the provisions of subdivision (c).

20 (iii) The individual furnishes satisfactory evidence to the  
21 bureau that his or her prospects for obtaining work in his or her  
22 customary occupation within a reasonably short period are good. If  
23 that evidence is deemed satisfactory for this purpose, the  
24 determination of whether any work is suitable with respect to that  
25 individual shall be made in accordance with the definition of  
26 suitable work in section 29(6) without regard to the definition  
27 specified by subdivision (c).

1 (e) Notwithstanding subsection (1)(b), work shall not be  
2 considered suitable work for an individual if the work does not  
3 meet the labor standard provisions required by section 3304(a)(5)  
4 of the internal revenue code and section 29(7).

5 (f) For the purposes of subdivision (a)(ii), an individual is  
6 actively engaged in seeking work during any week if both of the  
7 following are true:

8 (i) The individual has engaged in a systematic and sustained  
9 effort to obtain work during that week.

10 (ii) The individual furnishes tangible evidence to the bureau  
11 that he or she has engaged in a systematic and sustained effort  
12 during that week.

13 (g) The bureau shall refer any applicant for extended benefits  
14 to any suitable work ~~which~~**THAT** meets the criteria prescribed in  
15 subdivisions (c) and (d).

16 (h) An individual is not eligible to receive extended benefits  
17 with respect to any week of unemployment in his or her eligibility  
18 period if that individual has been disqualified for benefits under  
19 this act because he or she voluntarily left work, was discharged  
20 for misconduct, or failed to accept an offer of or apply for  
21 suitable work unless the individual requalified in accordance with  
22 a specific provision of this act requiring that the individual be  
23 employed subsequent to the week in which the act or discharge  
24 occurred ~~which~~**THAT** caused the disqualification.

25 (8) (a) Except as provided in subdivision (b), payment of  
26 extended benefits shall not be made to any individual for any week  
27 of unemployment that otherwise would have been payable pursuant to

1 an interstate claim filed in any state under the interstate benefit  
2 payment plan, if an extended benefit period is not in effect for  
3 the week in the state in which the interstate claim is filed.

4 (b) Subdivision (a) does not apply with respect to the first 2  
5 weeks for which extended benefits are payable, pursuant to an  
6 interstate claim, to the individual from the extended benefit  
7 account established for the individual.

8 (9) Notwithstanding the provisions of subsection (1)(b), an  
9 individual who established a benefit year under section 46a on or  
10 after January 2, 1983, shall be eligible to receive extended  
11 benefits only if the individual earned wages in an amount exceeding  
12 40 times the individual's most recent weekly benefit rate during  
13 the base period of the benefit year ~~which~~ **THAT** is used to establish  
14 the individual's extended benefit account under subsection (2).

15 (10) This subsection ~~shall be~~ **IS** effective for weeks of  
16 unemployment beginning after October 30, 1982. Notwithstanding any  
17 other provision of this section, an individual's extended benefit  
18 entitlement, with respect to weeks of unemployment beginning after  
19 the end of the benefit year, shall be reduced, but not below zero,  
20 by the product of the number of weeks for which the individual  
21 received any amounts of trade readjustment allowances, paid under  
22 the trade act of 1974, Public Law 93-618, ~~88 Stat. 1978,~~ within  
23 that benefit year, multiplied by the individual's weekly benefit  
24 amount for extended benefits.