

**SUBSTITUTE FOR
HOUSE BILL NO. 4945**

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 3, 17, 20, and 64 (MCL 421.3, 421.17, 421.20, and 421.64), sections 3 and 20 as amended by 2002 PA 192, section 17 as amended by 1996 PA 535, and section 64 as amended by 1993 PA 275.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The bureau of worker's and unemployment
2 compensation shall establish policies in conformity with this act
3 to do all of the following:

4 (a) Reduce and prevent unemployment.

5 (b) Promote the reemployment of unemployed workers throughout
6 this state in every other way that may be feasible.

7 (c) Carry on and publish the results of investigations and
8 research studies.

1 (d) Investigate, recommend, advise, and assist in the
2 establishment and operation, by municipalities, counties, school
3 districts, and this state, of reserves for public works to be
4 used in times of business depression and unemployment.

5 (2) As used in this act:

6 (a) "Bureau", "commission", and "unemployment agency" mean
7 the bureau of worker's and unemployment compensation created in
8 section 5b.

9 (b) "Director" means the director of the bureau of worker's
10 and unemployment compensation.

11 (c) **"Experience account" means an account in the unemployment**
12 **compensation fund showing an employer's experience with respect**
13 **to contribution payments and benefit charges under this act,**
14 **determined and recorded in the manner provided in this act. A**
15 **reference in this act to an employer's "experience record" or**
16 **"rating account" shall be construed to include reference to the**
17 **employer's experience account.**

18 (d) **"Nonchargeable benefits account" and "solvency account"**
19 **mean the account in the unemployment compensation fund maintained**
20 **as provided in section 17(2) and (3).**

21 Sec. 17. (1) The ~~commission~~ **bureau** shall maintain in the
22 **unemployment compensation** fund a nonchargeable benefits account
23 ~~—~~ and a separate experience account for each employer as
24 provided in this section. ~~As used in this act, "experience~~
25 ~~account" means an account in the fund showing an employer's~~
26 ~~experience with respect to contribution payments and benefit~~
27 ~~charges under this act, determined and recorded in the manner~~

1 ~~provided in this act. "Nonchargeable benefits account" means the~~
2 ~~account in the fund maintained as provided in subsections (2) and~~
3 ~~(3). A reference in this act to the "solvency account" shall be~~
4 ~~construed to refer to the nonchargeable benefits account and a~~
5 ~~reference in this act to an employer's "experience record" or~~
6 ~~"rating account" shall be construed to include reference to the~~
7 ~~employer's experience account. But this act shall not be~~
8 ~~construed to grant~~ **This act does not give** an employer or
9 individuals in the employer's service prior claims or rights to
10 the amount paid by the employer to the unemployment compensation
11 fund. All contributions to that fund shall be pooled and
12 available to pay benefits to any individual entitled to the
13 benefits under this act, irrespective of the source of the
14 contributions.

15 (2) The nonchargeable benefits account shall be credited with
16 the following:

17 (a) All net earnings received on money, property, or
18 securities in the fund.

19 (b) Any positive balance remaining in the employer's
20 experience account as of the second June 30 computation date
21 occurring after the employer has ceased to be subject to this act
22 or after the employer has elected to change from a contributing
23 employer to a reimbursing employer.

24 (c) The proceeds of the nonchargeable benefits component of
25 employers' contribution rates determined as provided in section
26 19(a)(5).

27 (d) All reimbursements received under section 11(c).

1 (e) All amounts which may be paid or advanced by the federal
2 government under section 903 or section 1201 of the social
3 security act, 42 U.S.C. 1103 and 1321, to the account of the
4 state in the federal unemployment trust fund.

5 (f) All benefits improperly paid to claimants which have been
6 recovered and which were previously charged to an employer's
7 account.

8 (g) Any benefits forfeited by an individual by application of
9 section 62(b).

10 (h) The amount of any benefit check, any employer refund
11 check, or any claimant restitution refund check duly issued which
12 has not been presented for payment within 1 year after the date
13 of issue.

14 (i) Any other unemployment fund income not creditable to the
15 experience account of any employer.

16 (j) Any negative balance transferred to an employer's new
17 experience account pursuant to this section.

18 (k) Amounts transferred from the contingent fund pursuant to
19 section 10.

20 (3) The nonchargeable benefits account shall be charged with
21 the following:

22 (a) Any negative balance remaining in an employer's
23 experience account as of the second June 30 computation date
24 occurring after the employer has ceased to be subject to this act
25 or has elected to change from a contributing employer to a
26 reimbursing employer.

27 (b) Refunds of amounts erroneously collected due to the

1 nonchargeable benefits component of an employer's contribution
2 rate.

3 (c) All training benefits paid under section 27(g) not
4 reimbursable by the federal government and based on service with
5 a contributing employer.

6 (d) Any positive balance credited or transferred to an
7 employer's new experience account pursuant to this subsection.

8 (e) Repayments to the federal government of amounts advanced
9 by it under section 1201 of the social security act, 42
10 U.S.C. 1321, to the unemployment compensation fund established by
11 this act.

12 (f) The amounts received by the **unemployment compensation**
13 fund under section 903 of the social security act, 42
14 U.S.C. 1103, that may be appropriated to the ~~commission~~ **bureau**
15 in accordance with subsection ~~-(9)-~~ **(8)**.

16 (g) All benefits determined to have been improperly paid to
17 claimants which have been credited to employers' accounts in
18 accordance with section 20(a).

19 (h) The amount of any substitute check issued to replace an
20 uncashed benefit check, employer refund check, or claimant
21 restitution refund check previously credited to this account.

22 (i) The amount of any benefit check issued which would be
23 chargeable to the experience account of an employer who has
24 ceased to be subject to this act, and who has had a balance
25 transferred from the employer's experience account to the
26 solvency or nonchargeable benefits account.

27 (j) All benefits which become nonchargeable to an employer

1 under section 29(3) or section 19(b) or (c).

2 (k) For benefit years beginning before the conversion date
3 prescribed in section 75, with benefits allocated under section
4 20(e)(2) for a week of unemployment in which a claimant earns
5 remuneration with a contributing employer which equals or exceeds
6 the amount of benefits allocated to that contributing employer,
7 and for benefit years beginning after the conversion date
8 prescribed in section 75, with benefits allocated under section
9 20(e)(3) for a week of unemployment in which a claimant earns
10 remuneration with a contributing employer which equals or exceeds
11 the amount of benefits allocated to that contributing employer.

12 (l) Benefits that are nonchargeable to an employer's account
13 in accordance with section 20(i).

14 **(m) The share of extended benefits otherwise charged to the**
15 **account of a contributing employer, but only during a period when**
16 **extended benefits are paid based on the average rate of total**
17 **unemployment in accordance with section 64(5)(c)(ii).**

18 (4) All contributions paid by an employer shall be credited
19 to the unemployment compensation fund, and, except as otherwise
20 provided with respect to the proceeds of the nonchargeable
21 benefits component of employers' contribution rates by section
22 19(a)(5), to the employer's experience account, as of the date
23 when paid. However, those contributions paid during any July
24 shall be credited as of the immediately preceding June 30.
25 Additional contributions paid by an employer as the result of a
26 retroactive contribution rate adjustment, solely for the purpose
27 of this subsection, shall be credited to the employer's

1 experience account as if paid when due, if the payment is
2 received within 30 days after the issuance of the initial
3 assessment which results from the contribution rate adjustment
4 and a written request for the application is filed by the
5 employer during this period.

6 (5) If an employer who has ceased to be subject to this act,
7 and who has had a positive balance transferred as provided in
8 subsection (2) from the employer's experience account to the
9 solvency or nonchargeable benefits account as of the second
10 computation date after the employer has ceased to be subject to
11 this act, ~~shall thereafter again become~~ **becomes** subject to this
12 act **again** within 6 years after that computation date, the
13 employer may apply, within 60 days after the ~~commission's~~
14 **bureau's** determination that the employer is again subject to this
15 act, to the ~~commission~~ **bureau** to have the positive balance,
16 adjusted by the debits and credits as have been made subsequent
17 to the date of transfer, credited to the employer's new
18 experience account. If the application is timely, the
19 ~~commission~~ **bureau** shall credit the positive balance to the
20 employer's new experience account.

21 (6) If an employer's status as a reimbursing employer is
22 terminated within 6 years after the date the employer's
23 experience account as a prior contributing employer was
24 transferred to the solvency or nonchargeable benefits account as
25 provided in subsection (2) or (3) and the employer continues to
26 be subject to this act as a contributing employer, any positive
27 or negative balance in the employer's experience account as a

1 prior contributing employer, which was transferred to the
2 solvency or nonchargeable benefits account, shall be transferred
3 to the employer's new experience account. However, an employer
4 who is delinquent with respect to any reimbursement payments in
5 lieu of contributions for which the employer may be liable shall
6 not have a positive balance transferred during the delinquency.

7 (7) If a balance is transferred to an employer's new account
8 under subsection (5) or (6), the employer shall not be
9 considered a "qualified employer" until the employer has again
10 been subject to this act for the period set forth in section
11 19(a)(1).

12 (8) All money credited under section 903 of the social
13 security act, 42 U.S.C. 1103, to the account of the state in the
14 federal unemployment trust fund shall immediately be credited by
15 the ~~commission~~ **bureau** to the fund's nonchargeable benefits
16 account. There is authorized to be appropriated to the
17 ~~commission~~ **bureau** from the money credited to the nonchargeable
18 benefits account under this subsection, ~~sums found~~ **an amount**
19 **determined to be** necessary for the proper and efficient
20 administration by the ~~commission~~ **bureau** of this act for
21 purposes for which federal grants under Title 3 of the social
22 security act, 42 U.S.C. 501 to 504, and the Wagner-Peyser
23 national employment system act, 29 U.S.C. 49 to 49k, are not
24 available or are insufficient. The appropriation shall expire
25 not more than 2 years after the date of enactment and shall
26 provide that any unexpended balance shall then be credited to the
27 nonchargeable benefits account. An appropriation shall not be

1 made under this subsection for an amount which exceeds the
2 "adjusted balance" of the nonchargeable benefits account on the
3 most recent computation date. Appropriations made under this
4 subsection shall limit the total amount which may be obligated by
5 the ~~commission~~ **bureau** during a fiscal year to an amount which
6 does not exceed the amount by which the aggregate of the amounts
7 credited to the nonchargeable benefits account under this
8 subsection during the fiscal year and the 24 preceding fiscal
9 years, exceeds the aggregate of the amounts obligated by the
10 ~~commission~~ **bureau** pursuant to appropriation under this
11 subsection and charged against the amounts thus credited to the
12 nonchargeable benefits account during any of the 25 fiscal years
13 and any amounts credited to the nonchargeable benefits account
14 which have been used for the payment of benefits.

15 **(9) Section 17(3)(m) is effective with respect to benefit**
16 **charges for extended benefits paid for weeks of unemployment**
17 **beginning the week after the week in which this subsection is**
18 **effective and ending the week ending January 17, 2004.**

19 Sec. 20. (a) Benefits paid shall be charged against the
20 employer's account as of the quarter in which the payments are
21 made. If the ~~unemployment agency~~ **bureau** determines that any
22 benefits charged against an employer's account were improperly
23 paid, an amount equal to the charge based on those benefits shall
24 be credited to the employer's account and a corresponding charge
25 shall be made to the nonchargeable benefits account as of the
26 current period or, in the discretion of the ~~unemployment agency~~
27 **bureau**, as of the date of the charge. Benefits paid to an

1 individual as a result of an employer's failure to provide the
2 unemployment agency with separation, employment, and wage data as
3 required by section 32 shall be considered as benefits properly
4 paid to the extent that the benefits are chargeable to the
5 noncomplying employer.

6 (b) For benefit years established before the conversion date
7 prescribed in section 75, benefits paid to an individual shall be
8 based upon the credit weeks earned during the individual's base
9 period and shall be charged against the experience accounts of
10 the contributing employers or charged to the accounts of the
11 reimbursing employers from whom the individual earned credit
12 weeks. If the individual earned credit weeks from more than 1
13 employer, a separate determination shall be made of the amount
14 and duration of benefits based upon the total credit weeks and
15 wages earned with each employer. Benefits paid in accordance
16 with the determinations shall be charged against the experience
17 account of a contributing employer or charged to the account of a
18 reimbursing employer beginning with the most recent employer
19 first and thereafter as necessary against other base period
20 employers in inverse order to that in which the claimant earned
21 his or her last credit week with those employers. If there is
22 any disqualifying act or discharge under section 29(1) with an
23 employer, benefits based upon credit weeks earned from that
24 employer before the disqualifying act or discharge shall be
25 charged only after the exhaustion of charges as provided above.
26 Benefits based upon those credit weeks shall be charged first
27 against the experience account of the contributing employer

1 involved or to the account of the reimbursing employer involved
2 in the most recent disqualifying act or discharge and thereafter
3 as necessary in similar inverse order against other base period
4 employers involved in disqualifying acts or discharges. The
5 order of charges determined as of the beginning date of a benefit
6 year shall remain fixed during the benefit year. For benefit
7 years established after the conversion date prescribed in
8 section 75, the claimant's full weekly benefit rate shall be
9 charged to the account or experience account of the claimant's
10 most recent separating employer for each of the first 2 weeks of
11 benefits payable to the claimant in the benefit year in
12 accordance with the monetary determination issued pursuant to
13 section 32. However, if the total sum of wages paid by an
14 employer totals \$200.00 or less, those wages shall be used for
15 purposes of benefit payment, but any benefit charges attributable
16 to those wages shall be charged to the nonchargeable benefits
17 account. Thereafter, remaining weeks of benefits payable in the
18 benefit year shall be paid in accordance with the monetary
19 determination and shall be charged proportionally to all base
20 period employers, with the charge to each base period employer
21 being made on the basis of the ratio that total wages paid by the
22 employer in the base period bears to total wages paid by all
23 employers in the base period. However, if the claimant did not
24 perform services for the most recent separating employer or
25 employing entity and receive earnings for performing the services
26 of at least the amount a claimant must earn, in the manner
27 prescribed in section 29(3), to requalify for benefits following

1 a disqualification under section 29(1)(a), (b), (i), or (k)
2 during the claimant's most recent period of employment with the
3 employer or employing entity, then all weeks of benefits payable
4 in the benefit year shall be charged proportionally to all base
5 period employers, with the charge to each base period employer
6 being made on the basis of the ratio that total wages paid by the
7 employer in the base period bears to total wages paid by all
8 employers in the base period. If the claimant performed services
9 for the most recent separating employing entity and received
10 earnings for performing the services of at least the amount a
11 claimant must earn, in the manner prescribed in section 29(3), to
12 requalify for benefits following a disqualification under
13 section 29(1)(a), (b), (i), or (k) during the claimant's most
14 recent period of employment for the employing entity but the
15 separating employing entity was not a liable employer, the first
16 2 weeks of benefits payable to the claimant shall be charged
17 proportionally to all base period employers, with the charge to
18 each base period employer being made on the basis of the ratio
19 that total wages paid by the employer in the base period bears to
20 total wages paid by all employers in the base period. The
21 "separating employer" is the employer that caused the individual
22 to be unemployed as defined in section 48.

23 (c) For benefit years established before the conversion date
24 prescribed in section 75, and except as otherwise provided in
25 section 11(d) or (g) or section 46a, the charges for regular
26 benefits to any reimbursing employer or to any contributing
27 employer's experience account shall not exceed the weekly benefit

1 rate multiplied by $\frac{3}{4}$ the number of credit weeks earned by the
2 individual during his or her base period from that employer. If
3 the resultant product is not an even multiple of $\frac{1}{2}$ the weekly
4 benefit rate, the amount shall be raised to an amount equal to
5 the next higher multiple of $\frac{1}{2}$ the weekly benefit rate, and in
6 the case of an individual who was employed by only 1 employer in
7 his or her base period and who earned 34 credit weeks with that
8 employer, the product shall be raised to the next higher multiple
9 of the weekly benefit rate.

10 (d) For benefit years beginning after the conversion date
11 prescribed in section 75, and except as otherwise provided in
12 section 11(d) or (g) or section 46, the charges for regular
13 benefits to any reimbursing employer's account or to any
14 contributing employer's experience account shall not exceed
15 either the amount derived by multiplying by 2 the weekly benefit
16 rate chargeable to the employer in accordance with subsection (b)
17 if the employer is the separating employer and is chargeable for
18 the first 2 weeks of benefits, or the amount derived from the
19 percentage of the weekly benefit rate chargeable to the employer
20 in accordance with subsection (b), multiplied by the number of
21 weeks of benefits chargeable to base period employers based on
22 base period wages, to which the individual is entitled as
23 provided in section 27(d), if the employer is a base period
24 employer, or both of these amounts if the employer was both the
25 chargeable separating employer and a base period employer.

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

1 (1) When an individual has multiemployer credit weeks in his
2 or her base period, and when it becomes necessary to use those
3 credit weeks as a basis for benefit payments, a single
4 determination shall be made of the individual's weekly benefit
5 rate and maximum amount of benefits based on the individual's
6 multiemployer credit weeks and the wages earned in those credit
7 weeks. Each employer involved in the individual's multiemployer
8 credit weeks shall be an interested party to the determination.
9 The proviso in section 29(2) shall not be applicable to
10 multiemployer credit weeks, nor shall the reduction provision of
11 section 29(4) apply to benefit entitlement based upon those
12 credit weeks.

13 (2) The charge for benefits based on multiemployer credit
14 weeks shall be allocated to each employer involved on the basis
15 of the ratio that the total wages earned during the total
16 multiemployer credit weeks counted under section 50(b) with the
17 employer bears to the total amount of wages earned during the
18 total multiemployer credit weeks counted under section 50(b) with
19 all such employers, computed to the nearest cent. However, if an
20 adjusted weekly benefit rate is determined in accordance with
21 section 27(f), the charge to the employer who has contributed to
22 the financing of the retirement plan shall be reduced by the same
23 amount by which the weekly benefit rate was adjusted under
24 section 27(f). Benefits for a week of unemployment allocated
25 under this subsection to a contributing employer shall be charged
26 to the nonchargeable benefits account if the claimant during that
27 week earns remuneration with that employer that equals or exceeds

1 the amount of benefits allocated to that employer.

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

20 (f) For benefit years beginning after the conversion date
21 prescribed in section 75, if benefits for a week of unemployment
22 are charged to 2 or more base period employers, the share of the
23 benefits allocated and charged under this section to a
24 contributing employer shall be charged to the nonchargeable
25 benefits account if the claimant during that week earns
26 remuneration with that employer that equals or exceeds the amount
27 of benefits charged to that employer.

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

3 (1) Training benefits as provided in section 27(g), and
4 extended benefits as provided in section 64, shall be allocated
5 to each reimbursing employer involved in the individual's base
6 period of the claim to which the benefits are related, on the
7 basis of the ratio that the total wages earned during the total
8 credit weeks counted under section 50(b) with a reimbursing
9 employer bears to the total amount of wages earned during the
10 total credit weeks counted under section 50(b) with all
11 employers.

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

24 (3) If the training benefits or extended benefits are
25 chargeable only to a single reimbursing employer, the benefits
26 shall be charged in accordance with subsection (a). If the
27 training benefits or extended benefits are chargeable to more

1 than 1 reimbursing employer, or to 1 or more reimbursing
2 employers and the nonchargeable benefits account, the benefits
3 shall be charged as of the quarter in which the payments are
4 made.

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

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

26 (1) Training benefits as provided in section 27(g), and
27 extended benefits as provided in section 64, shall be charged to

1 each reimbursing employer in the base period of the claim to
2 which the benefits are related, on the basis of the ratio that
3 the total wages paid by a reimbursing employer during the base
4 period bears to the total wages paid by all reimbursing employers
5 in the base period.

6 (2) Training benefits, and extended benefits to the extent
7 they are not reimbursable by the federal government and have been
8 allocated to a reimbursing employer, shall be charged to that
9 reimbursing employer. A contributing employer's experience
10 account shall not be charged with training benefits. Training
11 benefits based on service with a contributing employer, to the
12 extent they are not reimbursable by the federal government, shall
13 be charged to the nonchargeable benefits account. ~~Extended~~
14 **Except as provided in section 17(3)(m), extended** benefits paid
15 and based on service with a contributing employer, to the extent
16 they are not reimbursable by the federal government, shall be
17 charged to that employer's experience account.

18 (3) If the training benefits or extended benefits are
19 chargeable only to a single reimbursing employer, the benefits
20 shall be charged in accordance with subsection (a). If the
21 training benefits or extended benefits are chargeable to more
22 than 1 reimbursing employer, or to 1 or more reimbursing
23 employers and the nonchargeable benefits account, the benefits
24 shall be charged as of the quarter in which the payments are
25 made.

26 (4) Notice of charges made under this subsection shall be
27 given to each employer by means of a current listing of charges,

1 at least weekly, and subsequently by a quarterly summary
2 statement of charges. The listing shall specify the name and
3 social security number of each claimant paid benefits in the
4 week, the weeks for which the benefits were paid, and the amount
5 of benefits chargeable to that employer paid for each week. The
6 quarterly summary statement of charges shall list each claimant
7 by name and social security number and shall show total benefit
8 payments chargeable to that employer and made to each claimant
9 during the calendar quarter. The listing shall be considered to
10 satisfy the requirements of sections 21(a) and 32(d) that
11 notification be given to each employer of benefits charged
12 against that employer's account by means of a listing of the
13 benefit check. All protest and appeal rights applicable to
14 benefit check listings shall also be applicable to the notice of
15 charges. If an employer receives both a current listing of
16 charges and a quarterly summary statement of charges under this
17 subsection, all protest and appeal rights shall only be
18 applicable to the first notice given.

19 (i) If a benefit year is established after the conversion
20 date prescribed in section 75, the portion of benefits paid in
21 that benefit year that are based on wages used to establish the
22 immediately preceding benefit year that began before the
23 conversion date shall not be charged to the employer or employers
24 who paid those wages but shall be charged instead to the
25 nonchargeable benefits account.

26 (j) **If a reimbursing employer is charged for extended**
27 **benefits during a period when extended benefits are paid based on**

1 the average rate of total unemployment, in accordance with
2 section 64(5)(c)(ii), the bureau shall credit the account of the
3 reimbursing employer for the full amount of those extended
4 benefits. The bureau shall charge the contingent fund created
5 under section 10(6) for amounts so credited to reimbursing
6 employers. This subsection is effective with respect to benefit
7 charges for extended benefits paid for weeks of unemployment
8 beginning the week after the week in which this subsection
9 becomes effective and ending the week ending January 17, 2004.

10 Sec. 64. (1)(a) Payment of extended benefits under this
11 section shall be made at the individual's weekly extended benefit
12 rate, ~~as defined in subsection (6)(d),~~ for any week of
13 unemployment which begins in the individual's eligibility period,
14 to each individual who is fully eligible and not disqualified
15 under this act, who has exhausted all rights to regular benefits
16 under this act, ~~and~~ who is not seeking or receiving benefits
17 with respect to that week under the unemployment compensation law
18 of Canada, and who does not have rights to benefits under the
19 unemployment compensation law of any other state or the United
20 States or to compensation or allowances under any other federal
21 law, such as the trade expansion act, ~~or~~ the automotive
22 products trade act, or the railroad unemployment insurance act;
23 however, if the individual is seeking benefits and the
24 appropriate agency finally determines that the individual is not
25 entitled to benefits under another law, the individual shall be
26 considered to have exhausted the right to benefits. For the
27 purpose of the preceding sentence, an individual shall have

1 exhausted the right to regular benefits under this section with
2 respect to any week of unemployment in the individual's
3 eligibility period **under either of the following circumstances:**

4 (i) When payments of regular benefits may not be made for
5 that week because the individual has received all regular
6 benefits available based on his or her employment or wages during
7 the base period for the current benefit year. ~~—, or~~

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

27 (b) Except where inconsistent with the provisions of this

1 section, the terms and conditions of this act ~~which~~ **that** apply
2 to claims for regular benefits and to the payment of those
3 benefits ~~shall~~ apply to claims for extended benefits and to the
4 payment of those benefits.

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

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

20 (a) **If subdivision (b) does not apply,** whichever of the
21 following is ~~the lesser~~ **smaller:**

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

25 (ii) ~~(b)~~ Thirteen times the individual's weekly extended
26 benefit rate.

27 (b) **With respect to a week beginning in a period in which the**

House Bill No. 4945 as amended July 15, 2003

1 average rate of total unemployment as described in subsection

2 (5)(c)(ii) equals or exceeds 8%, [but no later than December 27, 2003,]
 whichever of the following is

3 smaller:

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

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

9 ~~In case any~~ If an amount determined under ~~subdivision (a)~~
 10 ~~or (b) of~~ this subsection is not an exact multiple of 1/2 of the
 11 individual's weekly extended benefit rate, the amount shall be
 12 decreased to the next lower such multiple.

13 (3) ~~An~~ All of the following apply to an extended benefit
 14 period:

15 (a) ~~Shall begin~~ The period begins with the third week after
 16 whichever of the following weeks first occurs:

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

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

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

23 (c) ~~Shall not last for a period of less than~~ The period is
 24 at least 13 consecutive weeks long, and ~~shall~~ does not begin by
 25 reason of a Michigan "on" indicator before the fourteenth week
 26 after the close of a prior extended benefit period under this
 27 section. ~~, as amended.~~ However, an extended benefit period

1 ~~shall terminate~~ **terminates** with the week preceding the week for
 2 which no extended benefit payments are considered to be shareable
 3 compensation under the federal-state extended unemployment
 4 compensation act of 1970, **title II of Public Law 91-373, section**
 5 **3304 nt of the internal revenue code of 1986**, 26 U.S.C. ~~section~~
 6 3304 nt.

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

12 (5)(a) With respect to weeks beginning after September 25,
 13 1982, a national "on" indicator for a week shall be determined by
 14 the United States secretary of labor.

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

17 (c) There is a Michigan "on" indicator for a week if ~~the~~ 1
 18 **or both of the following apply:**

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

25 ~~(ii) Equaled or exceeded 4% for weeks beginning before~~
 26 ~~September 26, 1982, or 5% for weeks beginning after September 25,~~
 27 ~~1982.~~

1 (ii) For weeks beginning after the week in which this
 2 subparagraph becomes effective and ending on or before December
 3 27, 2003, the average rate of total unemployment in this state,
 4 seasonally adjusted, as determined by the United States secretary
 5 of labor, for the period consisting of the most recent 3 months
 6 for which data for all states are published before the close of
 7 the week equaled or exceeded both of the following:

8 (A) Six and one-half percent.

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

13 (d) There is a Michigan "off" indicator for a week if, for
 14 the period consisting of that week and the immediately preceding
 15 12 weeks, either subdivision (c)(i) or (c)(ii) was not
 16 satisfied. Notwithstanding any other provision of this act, if
 17 ~~Michigan~~ **this state** is in a period in which ~~emergency~~
 18 **temporary extended** unemployment compensation is payable in
 19 ~~Michigan~~ **this state** under ~~section 102 of the emergency~~
 20 ~~unemployment compensation act of 1991, Public Law 102-164~~ **title**
 21 **II of the jobs creation and worker assistance act of 2002, Public**
 22 **Law 107-147**, or another similar federal law, and if the governor
 23 has the authority under this federal act or another similar
 24 federal law, then the governor may elect to trigger "off" the
 25 Michigan indicator for extended benefits under this act only for
 26 a period in which ~~emergency~~ **temporary extended** unemployment
 27 compensation is payable in ~~Michigan~~ **this state**, if the election

1 by the governor would not result in a decrease in the number of
 2 weeks of unemployment benefits payable to an individual under
 3 this act or under federal law.

4 (e) For purposes of subdivisions (c) and (d), the rate of
 5 insured unemployment for any 13-week period shall be determined
 6 by reference to the average monthly covered employment under this
 7 act for the first 4 of the most recent 6 calendar quarters ending
 8 before the close of that period.

9 (f) ~~For purposes of~~ **As used in** this subsection, ~~the term~~
 10 "rate of insured unemployment" means the percentage ~~arrived at~~
 11 **determined** by dividing:

12 (i) The average weekly number of individuals filing claims
 13 for regular benefits for weeks of unemployment with respect to
 14 the specified period ~~—~~ as determined on the basis of the
 15 reports made by all state agencies ~~—~~ or, in the case of
 16 subdivisions (c) and (d), by the ~~commission~~ **bureau**, to the
 17 federal government; by

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

21 (g) Calculations under subdivisions (c) and (d) shall be made
 22 by the ~~commission~~ **bureau** and shall conform to regulations, if
 23 any, prescribed by the United States secretary of labor under
 24 authority of the federal-state extended unemployment compensation
 25 act of 1970 ~~—, as amended—~~ **title II of Public Law 91-373, section**
 26 **3304 nt of the internal revenue code of 1986, 26 U.S.C. 3304 nt.**

27 ~~(h) Notwithstanding subdivisions (c) and (d), but subject to~~

House Bill No. 4945 as amended July 15, 2003

1 ~~subsection (3)(c), for weeks of unemployment beginning after~~
 2 ~~March 30, 1977 and before September 26, 1982, there is a Michigan~~
 3 ~~"on" indicator for a week if the rate of insured unemployment~~
 4 ~~under this act for the period consisting of that week and the~~
 5 ~~immediately preceding 12 weeks equaled or exceeded 5%; and for~~
 6 ~~weeks beginning after September 25, 1982, there is a Michigan~~
 7 ~~"on" indicator for a week if the rate of insured unemployment~~
 8 ~~under this act for the period consisting of that week and the~~
 9 ~~immediately preceding 12 weeks equaled or exceeded 6%. However,~~
 10 ~~any week for which there would otherwise be a Michigan "on"~~
 11 ~~indicator shall continue to be such a week and shall not be~~
 12 ~~determined to be a week for which there is a Michigan "off"~~
 13 ~~indicator.~~

14 (h) An "on" indicator under subdivision (c)(ii) **[applies to claimants**
 15 **who qualify**

16

17

18

19 **] on or after the week ending May 24, 2003 [and before the**
week ending December 27, 2003 for benefits payable beginning the week
after the effective date of this subdivision].

20 (6) ~~For purposes of~~ **As used in** this section:

21 (a) "Regular benefits" means benefits payable to an
 22 individual under this act and, unless otherwise expressly
 23 provided, under any other state unemployment compensation law,
 24 including unemployment benefits payable pursuant to **sections 8501**
 25 **to 8525 of title 5 of the United States code**, 5 U.S.C. 8501 to
 26 8525, other than extended benefits, and other than additional
 27 benefits which includes training benefits under section 27(g).

1 (b) "Extended benefits" means benefits, including additional
2 benefits and unemployment benefits payable pursuant to **sections**
3 **8501 to 8525 of title 5 of the United States code**, 5 U.S.C. 8501
4 to 8525, payable for weeks of unemployment beginning in an
5 extended benefit period to an individual as provided under this
6 section.

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

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

22 (e) "Benefits payable" includes all benefits computed in
23 accordance with section 27(d), irrespective of whether the
24 individual was otherwise eligible for the benefits within his or
25 her current benefit year and irrespective of any benefit
26 reduction by reason of a disqualification which required a
27 reduction.

1 ~~(7)(a) An extended benefit period on the basis of a national~~
 2 ~~"on" indicator may not begin with a calendar week starting before~~
 3 ~~January 1, 1972.~~

4 ~~—— (b) With respect to calendar weeks beginning before~~
 5 ~~January 1, 1972, an extended benefit period under this section~~
 6 ~~shall be determined solely by reference to the Michigan "on"~~
 7 ~~indicator and the Michigan "off" indicator, however an extended~~
 8 ~~benefit period established on the basis of a Michigan "on"~~
 9 ~~indicator may not begin with a week earlier than 60 days after~~
 10 ~~the date of the enactment of the federal state extended~~
 11 ~~unemployment compensation act of 1970, as amended.~~

12 ~~(7)(a) —(8)(a)~~ Notwithstanding the provisions of subsection
 13 (1)(b), an individual shall be ineligible for payment of extended
 14 benefits for any week of unemployment ~~beginning after March 31,~~
 15 ~~1981 in the individual's eligibility period if the commission if~~
 16 **the bureau** finds that during that period **either of the following**
 17 **occurred:**

18 (i) The individual failed to accept any offer of suitable
 19 work ~~, as defined in subdivision (e),~~ or failed to apply for
 20 any suitable work ~~, as defined in subdivision (e),~~ to which the
 21 individual was referred by the ~~commission; or~~ **bureau.**

22 (ii) The individual failed to actively engage in seeking work
 23 as ~~prescribed~~ **described** in subdivision (f).

24 (b) Any individual who has been found ineligible for extended
 25 benefits ~~pursuant to~~ **under** subdivision (a) shall also be denied
 26 benefits beginning with the first day of the week following the
 27 week in which the failure occurred and until the individual has

1 been employed in each of 4 subsequent weeks, whether or not
 2 consecutive, and has earned remuneration equal to not less than 4
 3 times the extended weekly benefit amount, as determined under
 4 subsection (2).

5 (c) ~~For purposes of this subsection, the term~~ **As used in**
 6 **this subsection**, "suitable work" means, with respect to any
 7 individual, any work which is within that individual's
 8 capabilities, if ~~the~~ **both of the following apply:**

9 (i) **The** gross weekly remuneration payable for the work
 10 exceeds the sum of **the following:**

11 (A) ~~(i)~~ The individual's extended weekly benefit amount as
 12 determined under subsection (2). ~~, plus~~

13 (B) ~~(ii)~~ The amount, if any, of supplemental unemployment
 14 compensation benefits, as defined in section ~~501(c)(17)(d)~~
 15 **501(c)(7)(D)** of the internal revenue code **of 1986**, payable to the
 16 individual for that week. ~~; and further,~~

17 (ii) ~~(iii) That the~~ **The** employer pays wages not less than
 18 the higher of the minimum wage provided by section 6(a)(1) of the
 19 fair labor standards act of 1938, **chapter 676, 52 Stat. 1062,** 29
 20 U.S.C. 206(a)(1), without regard to any exemption, or the
 21 applicable state or local minimum wage.

22 (d) An individual shall not be denied extended benefits for
 23 failure to accept an offer of, or apply for, any job which meets
 24 the definition of suitability as described in subdivision (c) if
 25 **1 or more of the following are true:**

26 (i) The position was not offered to the individual in writing
 27 and was not listed with the state employment service. ~~; or~~

1 (ii) The failure could not result in a denial of benefits
2 under the definition of suitable work in section 29(6) to the
3 extent that the criteria of suitability in that section are not
4 inconsistent with the provisions of subdivision (c). ~~—or~~

5 (iii) The individual furnishes satisfactory evidence to the
6 ~~commission~~ **bureau** that his or her prospects for obtaining work
7 in his or her customary occupation within a reasonably short
8 period are good. If that evidence is deemed satisfactory for
9 this purpose, the determination of whether any work is suitable
10 with respect to that individual shall be made in accordance with
11 the definition of suitable work in section 29(6) without regard
12 to the definition specified by subdivision (c).

13 (e) Notwithstanding subsection (1)(b), work shall not be
14 considered suitable work for an individual ~~which~~ **if the work**
15 does not meet the labor standard provisions required by section
16 3304(a)(5) of the internal revenue code and section 29(7). ~~of~~
17 ~~this act.~~

18 (f) For the purposes of subdivision (a)(ii), an individual
19 ~~shall be treated as~~ **is** actively engaged in seeking work during
20 any week if **both of the following are true:**

21 (i) The individual has engaged in a systematic and sustained
22 effort to obtain work during that week. ~~—and~~

23 (ii) The individual furnishes tangible evidence to the
24 ~~commission~~ **bureau** that he or she has engaged in a systematic
25 and sustained effort during that week.

26 (g) The ~~commission~~ **bureau** shall refer any applicant for
27 extended benefits to any suitable work which meets the criteria

1 prescribed in subdivisions (c) and (d).

2 (h) ~~With respect to initial extended benefit claims filed~~
 3 ~~after March 31, 1981, an~~ **An** individual ~~shall not be~~ **is not**
 4 eligible to receive extended benefits with respect to any week of
 5 unemployment in his or her eligibility period if that individual
 6 has been disqualified for benefits under this act because he or
 7 she voluntarily left work, was discharged for misconduct, or
 8 failed to accept an offer of or apply for suitable work unless
 9 the individual requalified in accordance with a specific
 10 provision of this act requiring that the individual be employed
 11 subsequent to the week in which the act or discharge occurred
 12 which caused the disqualification.

13 ~~(i) For weeks of unemployment beginning on or after March 7,~~
 14 ~~1993 and before January 1, 1995, subsection (8) shall not be~~
 15 ~~considered in determining the eligibility of an individual for~~
 16 ~~the payment of extended benefits. This subdivision shall take~~
 17 ~~effect for weeks of unemployment beginning on or after March 7,~~
 18 ~~1993 and before January 1, 1995.~~

19 **(8)(a)** ~~(9)(a)~~ Except as provided in subdivision (b),
 20 payment of extended benefits shall not be made to any individual
 21 for any week of unemployment ~~, beginning on or after June 1,~~
 22 ~~1981, which~~ **that** otherwise would have been payable pursuant to
 23 an interstate claim filed in any state under the interstate
 24 benefit payment plan, if an extended benefit period is not in
 25 effect for ~~such~~ **the** week in the state in which the interstate
 26 claim is filed.

27 (b) Subdivision (a) ~~shall~~ **does** not apply with respect to

House Bill No. 4945 as amended July 15, 2003

1 the first 2 weeks for which extended benefits are payable,
2 pursuant to an interstate claim, to the individual from the
3 extended benefit account established for the individual.

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

12 [(10) ~~(11)~~ This subsection shall be effective for weeks of
13 unemployment beginning after October 30, 1982.] Notwithstanding
14 any other provision of this section, an individual's extended
15 benefit entitlement, with respect to weeks of unemployment
16 beginning after the end of the benefit year, shall be reduced,
17 but not below zero, by the product of the number of weeks for
18 which the individual received any amounts of trade readjustment
19 allowances, paid under the trade act of 1974, ~~as amended, 19~~
20 ~~U.S.C. 2101 to 2487,~~ **Public Law 93-618, 88 Stat. 1978**, within
21 that benefit year, multiplied by the individual's weekly benefit
22 amount for extended benefits.