

Act No. 174  
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**STATE OF MICHIGAN  
92ND LEGISLATURE  
REGULAR SESSION OF 2003**

Introduced by Reps. Farrah, Woronchak, Byrum, Elkins, Hopgood, Plakas, Tobocman, Accavitti, Gielegem, Phillips, Dennis, Condino, Bieda, Murphy, Meisner, Paletko, Stallworth, Wojno, Zelenko, Law, Lipsey, Gillard, Brown, Adamini, Gleason, Cheeks, Waters, Smith, Minore, Whitmer, Rivet, Kolb, Spade, McConico, Gaffney, Nofs, Ward, Moolenaar, Stakoe, Hunter, Sak, Vagnozzi, Daniels, Richardville, Julian, Anderson, Kooiman, Wenke, Stewart, Garfield, Ehardt, LaSata, Ruth Johnson, Hardman, O'Neil, Rocca, Woodward, Pappageorge, Jannick, DeRossett, Middaugh, Hager, Meyer, Hummel, Newell, Vander Veen, Howell, Caul, Pumford, Sheltroun, Shackleton, Pastor, LaJoy, Brandenburg, Acciavatti, Clack, Amos, Robertson, Caswell, Shaffer, Emmons, Nitz, Stahl, Huizenga, Farhat, Palsrok, Walker and Casperson

## **ENROLLED HOUSE BILL No. 4945**

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this 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:*

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

- (a) Reduce and prevent unemployment.
- (b) Promote the reemployment of unemployed workers throughout this state in every other way that may be feasible.
- (c) Carry on and publish the results of investigations and research studies.

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

(2) As used in this act:

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

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

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

(d) "Nonchargeable benefits account" and "solveny account" mean the account in the unemployment compensation fund maintained as provided in section 17(2) and (3).

Sec. 17. (1) The bureau shall maintain in the unemployment compensation fund a nonchargeable benefits account and a separate experience account for each employer as provided in this section. This act does not give an employer or individuals in the employer's service prior claims or rights to the amount paid by the employer to the unemployment compensation fund. All contributions to that fund shall be pooled and available to pay benefits to any individual entitled to the benefits under this act, irrespective of the source of the contributions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Refunds of amounts erroneously collected due to the nonchargeable benefits component of an employer's contribution rate.

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

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

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

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

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

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

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

(j) All benefits which become nonchargeable to an employer under section 29(3) or section 19(b) or (c).

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

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

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

(4) All contributions paid by an employer shall be credited to the unemployment compensation fund, and, except as otherwise provided with respect to the proceeds of the nonchargeable benefits component of employers' contribution rates by section 19(a)(5), to the employer's experience account, as of the date when paid. However, those contributions paid during any July shall be credited as of the immediately preceding June 30. Additional contributions paid by an employer as the result of a retroactive contribution rate adjustment, solely for the purpose of this subsection, shall be credited to the employer's experience account as if paid when due, if the payment is received within 30 days after the issuance of the initial assessment which results from the contribution rate adjustment and a written request for the application is filed by the employer during this period.

(5) If an employer who has ceased to be subject to this act, and who has had a positive balance transferred as provided in subsection (2) from the employer's experience account to the solvency or nonchargeable benefits account as of the second computation date after the employer has ceased to be subject to this act, becomes subject to this act again within 6 years after that computation date, the employer may apply, within 60 days after the bureau's determination that the employer is again subject to this act, to the bureau to have the positive balance, adjusted by the debits and credits as have been made subsequent to the date of transfer, credited to the employer's new experience account. If the application is timely, the bureau shall credit the positive balance to the employer's new experience account.

(6) If an employer's status as a reimbursing employer is terminated within 6 years after the date the employer's experience account as a prior contributing employer was transferred to the solvency or nonchargeable benefits account as provided in subsection (2) or (3) and the employer continues to be subject to this act as a contributing employer, any positive or negative balance in the employer's experience account as a prior contributing employer, which was transferred to the solvency or nonchargeable benefits account, shall be transferred to the employer's new experience account. However, an employer who is delinquent with respect to any reimbursement payments in lieu of contributions for which the employer may be liable shall not have a positive balance transferred during the delinquency.

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

(8) All money credited under section 903 of the social security act, 42 U.S.C. 1103, to the account of the state in the federal unemployment trust fund shall immediately be credited by the bureau to the fund's nonchargeable benefits account. There is authorized to be appropriated to the bureau from the money credited to the nonchargeable benefits account under this subsection, an amount determined to be necessary for the proper and efficient administration by the bureau of this act for purposes for which federal grants under Title 3 of the social security act, 42 U.S.C. 501 to 504, and the Wagner-Peyser national employment system act, 29 U.S.C. 49 to 49k, are not available or are insufficient. The appropriation shall expire not more than 2 years after the date of enactment and shall provide that any unexpended balance shall then be credited to the nonchargeable benefits account. An appropriation shall not be made under this subsection for an amount which exceeds the "adjusted balance" of the nonchargeable benefits account on the most recent computation date. Appropriations made under this subsection shall limit the total amount which may be obligated by the bureau during a fiscal year to an amount which does not exceed the amount by which the aggregate of the amounts credited to the nonchargeable benefits account under this subsection during the fiscal year and the 24 preceding fiscal years, exceeds the aggregate of the amounts obligated by the bureau pursuant to appropriation under this subsection and charged against the amounts thus credited to the nonchargeable benefits account during any of the 25 fiscal years and any amounts credited to the nonchargeable benefits account which have been used for the payment of benefits.

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

Sec. 20. (a) Benefits paid shall be charged against the employer's account as of the quarter in which the payments are made. If the bureau determines that any benefits charged against an employer's account were improperly paid, an amount equal to the charge based on those benefits shall be credited to the employer's account and a corresponding charge shall be made to the nonchargeable benefits account as of the current period or, in the discretion of the bureau, as of the date of the charge. Benefits paid to an individual as a result of an employer's failure to provide the

unemployment agency with separation, employment, and wage data as required by section 32 shall be considered as benefits properly paid to the extent that the benefits are chargeable to the noncomplying employer.

(b) For benefit years established before the conversion date prescribed in section 75, benefits paid to an individual shall be based upon the credit weeks earned during the individual's base period and shall be charged against the experience accounts of the contributing employers or charged to the accounts of the reimbursing employers from whom the individual earned credit weeks. If the individual earned credit weeks from more than 1 employer, a separate determination shall be made of the amount and duration of benefits based upon the total credit weeks and wages earned with each employer. Benefits paid in accordance with the determinations shall be charged against the experience account of a contributing employer or charged to the account of a reimbursing employer beginning with the most recent employer first and thereafter as necessary against other base period employers in inverse order to that in which the claimant earned his or her last credit week with those employers. If there is any disqualifying act or discharge under section 29(1) with an employer, benefits based upon credit weeks earned from that employer before the disqualifying act or discharge shall be charged only after the exhaustion of charges as provided above. Benefits based upon those credit weeks shall be charged first against the experience account of the contributing employer involved or to the account of the reimbursing employer involved in the most recent disqualifying act or discharge and thereafter as necessary in similar inverse order against other base period employers involved in disqualifying acts or discharges. The order of charges determined as of the beginning date of a benefit year shall remain fixed during the benefit year. For benefit years established after the conversion date prescribed in section 75, the claimant's full weekly benefit rate shall be charged to the account or experience account of the claimant's most recent separating employer for each of the first 2 weeks of benefits payable to the claimant in the benefit year in accordance with the monetary determination issued pursuant to section 32. However, if the total sum of wages paid by an employer totals \$200.00 or less, those wages shall be used for purposes of benefit payment, but any benefit charges attributable to those wages shall be charged to the nonchargeable benefits account. Thereafter, remaining weeks of benefits payable in the benefit year shall be paid in accordance with the monetary determination and shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. However, if the claimant did not perform services for the most recent separating employer or employing entity and receive earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment with the employer or employing entity, then all weeks of benefits payable in the benefit year shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. If the claimant performed services for the most recent separating employing entity and received earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment for the employing entity but the separating employing entity was not a liable employer, the first 2 weeks of benefits payable to the claimant shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46a, the charges for regular benefits to any reimbursing employer or to any contributing employer's experience account shall not exceed the weekly benefit rate multiplied by 3/4 the number of credit weeks earned by the individual during his or her base period from that employer. If the resultant product is not an even multiple of 1/2 the weekly benefit rate, the amount shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and in the case of an individual who was employed by only 1 employer in his or her base period and who earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate.

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

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

(1) When an individual has multiemployer credit weeks in his or her base period, and when it becomes necessary to use those credit weeks as a basis for benefit payments, a single determination shall be made of the individual's weekly benefit rate and maximum amount of benefits based on the individual's multiemployer credit weeks and the wages earned in those credit weeks. Each employer involved in the individual's multiemployer credit weeks shall be an

interested party to the determination. The proviso in section 29(2) shall not be applicable to multiemployer credit weeks, nor shall the reduction provision of section 29(4) apply to benefit entitlement based upon those credit weeks.

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

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

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

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

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

(2) Training benefits and extended benefits, to the extent that they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to that employer's experience account.

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

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

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

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

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Except as provided in section 17(3)(m), extended benefits paid and based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to that employer's experience account.

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

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

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

(j) If a reimbursing employer is charged for extended benefits during a period when extended benefits are paid based on the average rate of total unemployment, in accordance with section 64(5)(c)(ii), the bureau shall credit the account of the reimbursing employer for the full amount of those extended benefits. The bureau shall charge the contingent fund created under section 10(6) for amounts so credited to reimbursing employers. This subsection is effective with respect to benefit charges for extended benefits paid for weeks of unemployment beginning the week after the week in which this subsection becomes effective and ending the week ending January 17, 2004.

Sec. 64. (1)(a) Payment of extended benefits under this section shall be made at the individual's weekly extended benefit rate, for any week of unemployment which begins in the individual's eligibility period, to each individual who is fully eligible and not disqualified under this act, who has exhausted all rights to regular benefits under this act, who is not seeking or receiving benefits with respect to that week under the unemployment compensation law of Canada, and who does not have rights to benefits under the unemployment compensation law of any other state or the United States or to compensation or allowances under any other federal law, such as the trade expansion act, the automotive products trade act, or the railroad unemployment insurance act; however, if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to benefits under another law, the individual shall be considered to have exhausted the right to benefits. For the purpose of the preceding sentence, an individual shall have exhausted the right to regular benefits under this section with respect to any week of unemployment in the individual's eligibility period under either of the following circumstances:

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

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

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

(c) An individual shall not be paid additional compensation and extended compensation with respect to the same week. If an individual is potentially eligible for both types of compensation in this state with respect to the same week,

the bureau may pay extended compensation instead of additional compensation with respect to the week. If an individual is potentially eligible for extended compensation in 1 state and potentially eligible for additional compensation for the same week in another state, the individual may elect which of the 2 types of compensation to claim.

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

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

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

(ii) Thirteen times the individual's weekly extended benefit 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, 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 with the week preceding the week for which no extended benefit payments are considered to be shareable compensation under the federal-state extended unemployment compensation act of 1970, title II of Public Law 91-373, section 3304 nt of the internal revenue code of 1986, 26 U.S.C. 3304 nt.

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

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

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

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

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

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

(A) Six and one-half percent.

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

(d) There is a Michigan "off" indicator for a week if, for the period consisting of that week and the immediately preceding 12 weeks, either subdivision (c)(i) or (c)(ii) was not satisfied. Notwithstanding any other provision of this act, if this state is in a period in which temporary extended unemployment compensation is payable in this state under title II of the jobs creation and worker assistance act of 2002, Public Law 107-147, or another similar federal law, and if the governor has the authority under this federal act or another similar federal law, then the governor may elect to trigger "off" the Michigan indicator for extended benefits under this act only for a period in which temporary extended unemployment compensation is payable in this state, if the election by the governor would not result in a decrease in the number of weeks of unemployment benefits payable to an individual under this act or under federal law.

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

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

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

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

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

(h) An “on” indicator under subdivision (c)(ii) applies to claimants who qualify 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.

(6) As used in this section:

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

(b) “Extended benefits” means benefits, including additional benefits and unemployment benefits payable pursuant to sections 8501 to 8525 of title 5 of the United States Code, 5 U.S.C. 8501 to 8525, payable for weeks of unemployment beginning in an extended benefit period to an individual as provided under this section.

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

(d) “Weekly extended benefit rate” means an amount equal to the amount of regular benefits payable under this act to an individual within the individual’s benefit year for a week of total unemployment, unless the individual had more than 1 weekly extended benefit rate within that benefit year, in which case the individual’s weekly extended benefit rate shall be computed by dividing the maximum amount of regular benefits payable under this act within that benefit year by the number of weeks for which benefits were payable, adjusted to the next lower multiple of \$1.00.

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

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

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

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

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

(c) As used in this subsection, “suitable work” means, with respect to any individual, any work which is within that individual’s capabilities, if both of the following apply:

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

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

(B) The amount, if any, of supplemental unemployment compensation benefits, as defined in section 501(c)(7)(D) of the internal revenue code of 1986, payable to the individual for that week.

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

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

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

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

(iii) The individual furnishes satisfactory evidence to the bureau that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If that evidence is deemed satisfactory for this



purpose, the determination of whether any work is suitable with respect to that individual shall be made in accordance with the definition of suitable work in section 29(6) without regard to the definition specified by subdivision (c).

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

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

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

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

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

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

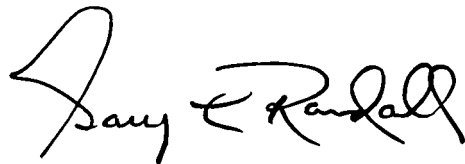
(8)(a) Except as provided in subdivision (b), payment of extended benefits shall not be made to any individual for any week of unemployment that otherwise would have been payable pursuant to an interstate claim filed in any state under the interstate benefit payment plan, if an extended benefit period is not in effect for the week in the state in which the interstate claim is filed.

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

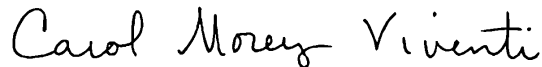
(9) Notwithstanding the provisions of subsection (1)(b), an individual who established a benefit year under section 46a on or after January 2, 1983, shall be eligible to receive extended benefits only if the individual earned wages in an amount exceeding 40 times the individual's most recent weekly benefit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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved .....

.....  
Governor