

HOUSE BILL No. 5936

March 9, 2010, Introduced by Reps. Green, Walsh, Ball, Lori, Pearce and Stamas and referred to the Committee on Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 17 and 29 (MCL 421.17 and 421.29), section 17 as amended by 2009 PA 18 and section 29 as amended by 2008 PA 480.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

10 (c) The proceeds of the nonchargeable benefits component of
11 employers' contribution rates determined as provided in section
12 19(a) (5) .

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

14 (e) All amounts that may be paid or advanced by the federal
15 government under section 903 or section 1201 of the social security
16 act, 42 USC 1103 and 1321, to the account of the state in the
17 federal unemployment trust fund.

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

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

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

27 (i) Any other unemployment fund income not creditable to the

1 experience account of any employer.

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

4 (k) Amounts transferred from the contingent fund under section
5 10.

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

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

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

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

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

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

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

26 (g) All benefits determined to have been improperly paid to
27 claimants that have been credited to employers' accounts in

1 accordance with section 20(a).

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

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

10 (j) All benefits that become nonchargeable to an employer
11 under section 29(3) **OR (5)** or section 19(b) or (c).

12 (k) For benefit years beginning before October 1, 2000, with
13 benefits allocated under section 20(e)(2) for a week of
14 unemployment in which a claimant earns remuneration with a
15 contributing employer that equals or exceeds the amount of benefits
16 allocated to that contributing employer, and for benefit years
17 beginning on or after October 1, 2000, with benefits allocated
18 under section ~~20(e)(3)~~ **20(F)** for a week of unemployment in which a
19 claimant earns remuneration with a contributing employer that
20 equals or exceeds the amount of benefits allocated to that
21 contributing employer.

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

24 (4) All contributions paid by an employer shall be credited to
25 the unemployment compensation fund, and, except as otherwise
26 provided with respect to the proceeds of the nonchargeable benefits
27 component of employers' contribution rates by section 19(a)(5), to

1 the employer's experience account, as of the date when paid.
2 However, those contributions paid during any July shall be credited
3 as of the immediately preceding June 30. Additional contributions
4 paid by an employer as the result of a retroactive contribution
5 rate adjustment, solely for the purpose of this subsection, shall
6 be credited to the employer's experience account as if paid when
7 due, if the payment is received within 30 days after the issuance
8 of the initial assessment that results from the contribution rate
9 adjustment and a written request for the application is filed by
10 the employer during this period.

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

24 (6) If an employer's status as a reimbursing employer is
25 terminated within 6 years after the date the employer's experience
26 account as a prior contributing employer was transferred to the
27 solvency or nonchargeable benefits account as provided in

1 subsection (2) or (3) and the employer continues to be subject to
2 this act as a contributing employer, any positive or negative
3 balance in the employer's experience account as a prior
4 contributing employer, which was transferred to the solvency or
5 nonchargeable benefits account, shall be transferred to the
6 employer's new experience account. However, an employer who is
7 delinquent with respect to any reimbursement payments in lieu of
8 contributions for which the employer may be liable shall not have a
9 positive balance transferred during the delinquency.

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

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

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

14 Sec. 29. (1) Except as provided in subsection (5), an
15 individual is disqualified from receiving benefits if he or she:

16 (a) Left work voluntarily without good cause attributable to
17 the employer or employing unit. An individual who left work is
18 presumed to have left work voluntarily without good cause
19 attributable to the employer or employing unit. An individual
20 claiming benefits under this act has the burden of proof to
21 establish that he or she left work involuntarily or for good cause
22 that was attributable to the employer or employing unit. However,
23 if either of the following conditions is met, the leaving does not
24 disqualify the individual:

25 (i) The individual has an established benefit year in effect
26 and during that benefit year leaves unsuitable work within 60 days
27 after the beginning of that work.

1 (ii) The individual is the spouse of a full-time member of the
2 United States armed forces, and the leaving is due to the military
3 duty reassignment of that member of the United States armed forces
4 to a different geographic location.

5 (b) Was suspended or discharged for misconduct connected with
6 the individual's work or for intoxication while at work.

7 (c) Failed without good cause to apply for available suitable
8 work after receiving from the employment office or the commission
9 notice of the availability of that work.

10 (d) Failed without good cause while unemployed to report to
11 the individual's former employer or employing unit within a
12 reasonable time after that employer or employing unit provided
13 notice of the availability of an interview concerning available
14 suitable work with the former employer or employing unit.

15 (e) Failed without good cause to accept suitable work offered
16 to the individual or to return to the individual's customary self-
17 employment, if any, when directed by the employment office or the
18 commission. An employer that receives a monetary determination
19 under section 32 may notify the unemployment agency regarding the
20 availability of suitable work with the employer on the monetary
21 determination or other form provided by the unemployment agency.
22 Upon receipt of the notice of the availability of suitable work,
23 the unemployment agency shall notify the claimant of the
24 availability of suitable work.

25 (f) Lost his or her job due to absence from work resulting
26 from a violation of law for which the individual was convicted and
27 sentenced to jail or prison. This subdivision does not apply if

1 conviction of an individual results in a sentence to county jail
2 under conditions of day parole as provided in 1962 PA 60, MCL
3 801.251 to 801.258, or if the conviction was for a traffic
4 violation that resulted in an absence of less than 10 consecutive
5 work days from the individual's place of employment.

6 (g) Is discharged, whether or not the discharge is
7 subsequently reduced to a disciplinary layoff or suspension, for
8 participation in either of the following:

9 (i) A strike or other concerted action in violation of an
10 applicable collective bargaining agreement that results in
11 curtailment of work or restriction of or interference with
12 production.

13 (ii) A wildcat strike or other concerted action not authorized
14 by the individual's recognized bargaining representative.

15 (h) Was discharged for an act of assault and battery connected
16 with the individual's work.

17 (i) Was discharged for theft connected with the individual's
18 work.

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

21 (k) Committed a theft after receiving notice of a layoff or
22 discharge, but before the effective date of the layoff or
23 discharge, resulting in loss or damage to the employer who would
24 otherwise be chargeable for the benefits, regardless of whether the
25 individual qualified for the benefits before the theft.

26 (l) Was employed by a temporary help firm, which as used in
27 this section means an employer whose primary business is to provide

1 a client with the temporary services of 1 or more individuals under
2 contract with the employer, to perform services for a client of
3 that firm if each of the following conditions is met:

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

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

10 (B) That a failure to provide the temporary help firm with
11 notice of the employee's completion of services pursuant to sub-
12 subparagraph (A) constitutes a voluntary quit that will affect the
13 employee's eligibility for unemployment compensation should the
14 employee seek unemployment compensation following completion of
15 those services.

16 (ii) The employee did not provide the temporary help firm with
17 notice that the employee had completed his or her services for the
18 client within 7 days after completion of his or her services for
19 the client.

20 (m) Was discharged for illegally ingesting, injecting,
21 inhaling, or possessing a controlled substance on the premises of
22 the employer; refusing to submit to a drug test that was required
23 to be administered in a nondiscriminatory manner; or testing
24 positive on a drug test, if the test was administered in a
25 nondiscriminatory manner. If the worker disputes the result of the
26 testing, a generally accepted confirmatory test shall be
27 administered and shall also indicate a positive result for the

1 presence of a controlled substance before a disqualification of the
2 worker under this subdivision. As used in this subdivision:

3 (i) "Controlled substance" means that term as defined in
4 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

5 (ii) "Drug test" means a test designed to detect the illegal
6 use of a controlled substance.

7 (iii) "Nondiscriminatory manner" means administered impartially
8 and objectively in accordance with a collective bargaining
9 agreement, rule, policy, a verbal or written notice, or a labor-
10 management contract.

11 (2) A disqualification under subsection (1) begins the week in
12 which the act or discharge that caused the disqualification occurs
13 and continues until the disqualified individual requalifies under
14 subsection (3), except that for benefit years beginning before
15 October 1, 2000, the disqualification does not prevent the payment
16 of benefits if there are credit weeks, other than multiemployer
17 credit weeks, after the most recent disqualifying act or discharge.

18 (3) After the week in which the disqualifying act or discharge
19 described in subsection (1) occurs, an individual who seeks to
20 requalify for benefits is subject to all of the following:

21 (a) For benefit years established before October 1, 2000, the
22 individual shall complete 6 requalifying weeks if he or she was
23 disqualified under subsection (1)(c), (d), (e), (f), (g), or (l), or
24 13 requalifying weeks if he or she was disqualified under
25 subsection (1)(h), (i), (j), (k), or (m). A requalifying week
26 required under this subdivision is each week in which the
27 individual does any of the following:

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

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

7 (iii) Receives a benefit payment based on credit weeks
8 subsequent to the disqualifying act or discharge.

9 (b) For benefit years established before October 1, 2000, if
10 the individual is disqualified under subsection (1)(a) or (b), he
11 or she shall requalify, after the week in which the disqualifying
12 discharge occurred by earning in employment for an employer liable
13 under this act or the unemployment compensation act of another
14 state an amount equal to, or in excess of, 7 times the individual's
15 potential weekly benefit rate, calculated on the basis of
16 employment with the employer involved in the disqualification, or
17 by earning in employment for an employer liable under this act or
18 the unemployment compensation act of another state an amount equal
19 to, or in excess of, 40 times the state minimum hourly wage times
20 7, whichever is the lesser amount.

21 (c) For benefit years established before October 1, 2000, a
22 benefit payable to an individual disqualified under subsection
23 (1)(a) or (b) shall be charged to the nonchargeable benefits
24 account, and not to the account of the employer with whom the
25 individual was involved in the disqualification.

26 (d) For benefit years beginning on or after October 1, 2000,
27 after the week in which the disqualifying act or discharge

1 occurred, an individual shall complete 13 requalifying weeks if he
2 or she was disqualified under subsection (1)(c), (d), (e), (f),
3 (g), or (l), or 26 requalifying weeks if he or she was disqualified
4 under subsection (1)(h), (i), (j), (k), or (m). A requalifying week
5 required under this subdivision is each week in which the
6 individual does any of the following:

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

11 (ii) Otherwise meets all of the requirements of this act to
12 receive a benefit payment if the individual was not disqualified
13 under subsection (1).

14 (e) For benefit years beginning on or after October 1, 2000
15 and beginning before April 26, 2002, if the individual is
16 disqualified under subsection (1)(a) or (b), he or she shall
17 requalify, after the week in which the disqualifying act or
18 discharge occurred by earning in employment for an employer liable
19 under this act or the unemployment compensation law of another
20 state at least the lesser of the following:

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

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

23 (f) For benefit years beginning on or after April 26, 2002, if
24 the individual is disqualified under subsection (1)(a), he or she
25 shall requalify, after the week in which the disqualifying act or
26 discharge occurred by earning in employment for an employer liable
27 under this act or the unemployment compensation law of another

1 state at least 12 times the individual's weekly benefit rate.

2 (g) For benefit years beginning on or after April 26, 2002, if
3 the individual is disqualified under subsection (1)(b), he or she
4 shall requalify, after the week in which the disqualifying act or
5 discharge occurred by earning in employment for an employer liable
6 under this act or the unemployment compensation law of another
7 state at least 17 times the individual's weekly benefit rate.

8 (h) A benefit payable to the individual disqualified or
9 separated under disqualifying circumstances under subsection (1)(a)
10 or (b), shall be charged to the nonchargeable benefits account, and
11 not to the account of the employer with whom the individual was
12 involved in the separation. Benefits payable to an individual
13 determined by the commission to be separated under disqualifying
14 circumstances shall not be charged to the account of the employer
15 involved in the disqualification for any period after the employer
16 notifies the commission of the claimant's possible ineligibility or
17 disqualification. If a disqualifying act or discharge occurs during
18 the individual's benefit year, any benefits that may become payable
19 to the individual in a later benefit year based on employment with
20 the employer involved in the disqualification shall be charged to
21 the nonchargeable benefits account.

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

25 (a) For benefit years established before October 1, 2000, if
26 the individual is disqualified under subsection (1)(c), (d), (e),
27 (f), (g), or (l) and the maximum amount of benefits is based on

1 wages and credit weeks earned from an employer before an act or
2 discharge involving that employer, the amount shall be reduced by
3 an amount equal to the individual's weekly benefit rate as to that
4 employer multiplied by the lesser of either of the following:

5 (i) The number of requalifying weeks required of the individual
6 under this section.

7 (ii) The number of weeks of benefit entitlement remaining with
8 that employer.

9 (b) If the individual has insufficient or no potential benefit
10 entitlement remaining with the employer involved in the
11 disqualification in the benefit year in existence on the date of
12 the disqualifying determination, a reduction of benefits described
13 in this subsection applies in a succeeding benefit year with
14 respect to any benefit entitlement based upon credit weeks earned
15 with the employer before the disqualifying act or discharge.

16 (c) For benefit years established before October 1, 2000, an
17 individual disqualified under subsection (1)(h), (i), (j), (k), or
18 (m) is not entitled to benefits based on wages and credit weeks
19 earned before the disqualifying act or discharge with the employer
20 involved in the disqualification.

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

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

26 (f) For benefit years established on or after October 1, 2000,
27 if the individual is disqualified under subsection (1)(c), (d),

1 (e), (f), (g), or (l), the maximum number of weeks otherwise
 2 applicable in calculating benefits for the individual under section
 3 27(d) shall be reduced by the lesser of the following:

4 (i) The number of requalifying weeks required of the individual
 5 under this section.

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

8 (g) For benefit years beginning on or after October 1, 2000,
 9 the benefits of an individual disqualified under subsection (1)(h),
 10 (i), (j), (k), or (m) shall be reduced by 13 weeks and any weekly
 11 benefit payments made to the claimant thereafter shall be reduced
 12 by the portion of the payment attributable to base period wages
 13 paid by the base period employer involved in a disqualification
 14 under subsection (1)(h), (i), (j), (k), or (m).

15 (5) If an individual leaves work to accept permanent full-time
 16 work with another employer and performs services for that employer;
 17 ~~or~~ if an individual leaves work to accept a recall from a former
 18 employer; ~~OR IF AN INDIVIDUAL IS EMPLOYED CONCURRENTLY BY 2~~
 19 ~~EMPLOYERS AND VOLUNTARILY, WITHOUT GOOD CAUSE ATTRIBUTABLE TO THE~~
 20 ~~EMPLOYER, LEAVES EMPLOYMENT WITH A PART-TIME EMPLOYER AND PERFORMS~~
 21 ~~FULL-TIME EMPLOYMENT WITH THE OTHER EMPLOYER,~~ all of the following
 22 apply:

23 (a) ~~Subsection (1) THE DISQUALIFICATION FOR LEAVING EMPLOYMENT~~
 24 ~~VOLUNTARILY UNDER SUBSECTION (1)(A)~~ does not apply.

25 (b) Wages earned with the employer whom the individual last
 26 left, including wages previously transferred under this subsection
 27 to the last employer, for the purpose of computing and charging

1 benefits, are wages earned from the employer with whom the
2 individual accepted work or recall, and benefits paid based upon
3 those wages shall be charged to that employer. **HOWEVER, IF AN**
4 **INDIVIDUAL WAS EMPLOYED CONCURRENTLY BY 2 EMPLOYERS AS DESCRIBED IN**
5 **THIS SUBSECTION, BENEFITS THAT WOULD OTHERWISE BE CHARGED TO THE**
6 **ACCOUNT OF THE FULL-TIME EMPLOYER BASED ON WAGES TRANSFERRED FROM**
7 **THE PART-TIME EMPLOYER SHALL, INSTEAD, BE CHARGED TO THE**
8 **NONCHARGEABLE BENEFITS ACCOUNT.**

9 (c) When issuing a determination covering the period of
10 employment with a new, **CONTINUING**, or former employer described in
11 this subsection, the commission shall advise the chargeable
12 employer of the name and address of the other employer, the period
13 covered by the employment, and the extent of the benefits that may
14 be charged to the account of the chargeable employer.

15 (6) In determining whether work is suitable for an individual,
16 the commission shall consider the degree of risk involved to the
17 individual's health, safety, and morals, the individual's physical
18 fitness and prior training, the individual's length of unemployment
19 and prospects for securing local work in the individual's customary
20 occupation, and the distance of the available work from the
21 individual's residence. Additionally, the commission shall consider
22 the individual's experience and prior earnings, but an unemployed
23 individual who refuses an offer of work determined to be suitable
24 under this section shall be denied benefits if the pay rate for
25 that work is at least 70% of the gross pay rate he or she received
26 immediately before becoming unemployed.

27 (7) Work is not suitable and benefits shall not be denied

1 under this act to an otherwise eligible individual for refusing to
2 accept new work under any of the following conditions:

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

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

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

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

13 (a) An individual is disqualified from receiving benefits for
14 a week in which the individual's total or partial unemployment is
15 due to either of the following:

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

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

24 (b) An individual's disqualification imposed or imposable
25 under this subsection is terminated if the individual performs
26 services in employment with an employer in at least 2 consecutive
27 weeks falling wholly within the period of the individual's total or

1 partial unemployment due to the labor dispute, and in addition
2 earns wages in each of those weeks in an amount equal to or greater
3 than the individual's actual or potential weekly benefit rate with
4 respect to those weeks based on the individual's employment with
5 the employer involved in the labor dispute.

6 (c) An individual is not disqualified under this subsection if
7 the individual is not directly involved in the labor dispute. An
8 individual is not directly involved in a labor dispute unless any
9 of the following are established:

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

15 (ii) The individual is participating in, financing, or directly
16 interested in the labor dispute that causes the individual's total
17 or partial unemployment. The payment of regular union dues, in
18 amounts and for purposes established before the inception of the
19 labor dispute, is not financing a labor dispute within the meaning
20 of this subparagraph.

21 (iii) At any time a labor dispute in the establishment or
22 department in which the individual was employed does not exist, and
23 the individual voluntarily stops working, other than at the
24 direction of the individual's employing unit, in sympathy with
25 employees in some other establishment or department in which a
26 labor dispute is in progress.

27 (iv) The individual's total or partial unemployment is due to a

1 labor dispute that was or is in progress in a department, unit, or
2 group of workers in the same establishment.

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

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

24 (ii) If it is established that 1 of the issues in or purposes
25 of the labor dispute is to obtain a change in the terms and
26 conditions of employment for members of the individual's grade or
27 class of workers in the establishment in which the individual is or

1 was last employed.

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

10 (e) In determining the scope of the grade or class of workers,
11 evidence of the following is relevant:

12 (i) Representation of the workers by the same national or
13 international organization or by local affiliates of that national
14 or international organization.

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

17 (iii) Whether the workers are or within the past 6 months have
18 been covered by a common master collective bargaining agreement
19 that sets forth all or any part of the terms and conditions of the
20 workers' employment, or by separate agreements that are or have
21 been bargained as a part of the same negotiations.

22 (iv) Any functional integration of the work performed by those
23 workers.

24 (v) Whether the resolution of those issues involved in the
25 labor dispute as to some of the workers could directly or
26 indirectly affect the advancement, negotiation, or settlement of
27 the same or similar issues in respect to the remaining workers.

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

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

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

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