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## TAX REFUNDS: DEDUCT MESC OVERPAYMENTS

House Bills 4150 and 4151 as introduced  
First Analysis (2-22-95)

Sponsor: Rep. Walter J. DeLange  
Committee: Human Resources and Labor

### ***THE APPARENT PROBLEM:***

Currently, the Michigan Employment Security Act allows the Michigan Employment Security Commission (MESC) to recover overpayment of unemployment benefits in one of two ways: either by deducting the overpayment from any future unemployment benefits to which the claimant was entitled (though such deductions are limited to no more than 20 percent of the claimant's weekly benefit check) or through payment by the claimant to the commission. The commission also may waive recovery of improperly paid benefits if the overpayment wasn't the claimant's fault and if repayment "would be contrary to equity and good conscience."

However, because the two existing statutory methods of recovering overpayments (which generally are determined through an appeals process) lack effective enforcement sanctions, the Department of Labor estimates that it currently is able to collect only \$18.8 million of an estimated \$57 million in outstanding unemployment benefit overpayments. At the suggestion of MESC staff, legislation has been proposed that would enable a greater portion of these outstanding funds to be recovered.

### ***THE CONTENT OF THE BILLS:***

The bills would allow the Michigan Employment Security Commission to request that unemployment benefit overpayments be recovered through deductions from claimants' state income tax refunds.

House Bill 4150 would amend the Michigan Employment Security Act (MCL 421.62) to allow the Michigan Employment Security Commission to recover improperly paid unemployment benefits by a deduction from the claimant's state income tax refund.

House Bill 4151 would amend the state income tax act (MCL 205.30a) to allow the change proposed in House Bill 4150 to take place by adding to the list of taxpayer liabilities to which a taxpayer's income tax refund may be applied deductions to pay unemployment benefit overpayments.

More specifically, the act lists the order in which liabilities are to be deducted from state tax refunds as follows: (1) other taxes owed to the state by the taxpayer; (2) any other payments the taxpayer owes to the state, including child support payments "if the right to receive the support has been assigned to the state and the liability is the basis of a request for tax refund offset from the office of child support"; (3) other support payments that are the basis of requests for tax refund offset from the Office of Child Support; (4) court-ordered garnishments; and (5) federal Internal Revenue Service levies. The bill would add a sixth item to this list, namely, repayment of unemployment benefits to which the taxpayer was not entitled ("upon a request for tax refund offset from the Michigan Employment Security Commission").

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, House Bill 4150 should result in an indeterminate decrease in costs to the state through recovery of payments of unemployment benefits to individuals not entitled to them. (2-17-95)

### ***ARGUMENTS:***

#### ***For:***

The bills would give the MESC another method of recovering outstanding unemployment benefit overpayments in addition to the two existing recovery methods. Although existing law allows the

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MESC to request that claimants repay any unemployment benefits that, say, an appeals process has determined they weren't entitled to, there basically is no enforcement mechanism, so the commission may request repayments but whether or not claimants actually comply with such requests is up to them. The only other method of recovering overpayments depends on whether or not a claimant makes any further claims, at which point the MESC can deduct 20 percent of the new benefit checks to recover earlier overpayments. By allowing the commission to ask the treasury department to withhold overpayments from claimants' tax refunds, the bills would provide an additional -- and effective -- way to recover these overpayments. And to the extent that Michigan recovers these overpayments, it gives the state a larger reserve against which it can draw in the eventuality of future possible economic downturns, thereby reducing the state's potential need to borrow from the federal government for unemployment benefit payments to individuals.

***POSITIONS:***

According to a spokesperson for the Department of Labor, the administration supports the bills. (2-21-95)

The National Federation of Independent Businesses supports the bills. (2-22-95)

The Department of Treasury has not yet taken a position on the bills. (2-21-95)