

SENATE BILL NO. 604

October 24, 2019, Introduced by Senators HERTEL, SANTANA, POLEHANKI, BAYER, MCMORROW, WOJNO, BRINKS, MCCANN, ALEXANDER, GEISS, BULLOCK, IRWIN, MOSS, CHANG and HOLLIER and referred to the Committee on Government Operations.

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 2011 PA 269 and section 29 as amended by 2013 PA 146,
and by adding section 29a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 17. (1) The unemployment agency shall maintain in the
- 2 unemployment compensation fund a nonchargeable benefits account and
- 3 a separate experience account for each employer as provided in this

1 section. This act does not give an employer or individuals in the
2 employer's service prior claims or rights to the amount paid by the
3 employer to the unemployment compensation fund. All contributions
4 to that fund ~~shall~~**must** be pooled and available to pay benefits to
5 any individual entitled to the benefits under this act,
6 irrespective of the source of the contributions.

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

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

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

16 (c) The proceeds of the nonchargeable benefits component of
17 employers' contribution rates determined as provided in section
18 19(a) (5) .

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

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

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

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

29 (h) The amount of any benefit check, any employer refund

1 check, any claimant restitution refund check, or other payment duly
2 issued that has not been presented for payment within 1 year after
3 the date of issue.

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

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

8 (k) Amounts transferred from the contingent fund under section
9 10.

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

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

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

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

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

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

27 (f) The amounts received by the unemployment compensation fund
28 under section 903 of the social security act, 42 USC 1103, that may
29 be appropriated to the unemployment agency in accordance with

1 subsection (8).

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

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

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

14 (j) All benefits that become nonchargeable to an employer
15 under section 19(b) or (c), ~~29(1)(a)(ii) or (iii)~~ **29(1)(a)(i) to (iv)**
16 or (3), or 42a.

17 (k) For benefit years ~~beginning before October 1, 2000, with~~
18 ~~benefits allocated under section 20(e)(2) for a week of~~
19 ~~unemployment in which a claimant earns remuneration with a~~
20 ~~contributing employer that equals or exceeds the amount of benefits~~
21 ~~allocated to that contributing employer, and for benefit years~~
22 ~~beginning on or after October 1, 2000, with~~ benefits allocated
23 under section 20(f) for a week of unemployment in which a claimant
24 earns remuneration with a contributing employer that equals or
25 exceeds the amount of benefits allocated to that contributing
26 employer.

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

29 (m) Benefits otherwise chargeable to the account of an

1 employer when the benefits are payable solely on the basis of
2 combining wages paid by a Michigan employer with wages paid by a
3 non-Michigan employer under the interstate arrangement for
4 combining employment and wages under 20 CFR 616.1 to 616.11.

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

19 (5) If an employer who has ceased to be subject to this act,
20 and who has had a positive or negative balance transferred as
21 provided in subsection (2) or (3) from the employer's experience
22 account to the solvency or nonchargeable benefits account as of the
23 second computation date after the employer has ceased to be subject
24 to this act, becomes subject to this act again within 6 years after
25 that computation date, the unemployment agency shall transfer the
26 positive or negative balance, adjusted by the debits and credits
27 that are made after the date of transfer, to the employer's new
28 experience account.

29 (6) If an employer's status as a reimbursing employer is

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

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

17 (8) All money credited under section 903 of the social
 18 security act, 42 USC 1103, to the account of the state in the
 19 federal unemployment trust fund ~~shall must~~ immediately be credited
 20 by the unemployment agency to the fund's nonchargeable benefits
 21 account. There is authorized to be appropriated to the unemployment
 22 agency from the money credited to the nonchargeable benefits
 23 account under this subsection, an amount determined to be necessary
 24 for the proper and efficient administration by the unemployment
 25 agency of this act for purposes for which federal grants under
 26 title 3 of the social security act, 42 USC 501 to ~~504, 505~~, and the
 27 Wagner-Peyser act, 29 USC 49 to ~~491-2~~, are not available or are
 28 insufficient. The appropriation ~~shall expire expires~~ not more than
 29 2 years after the date of enactment and ~~shall must~~ provide that any

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

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

18 (a) Left work voluntarily without good cause attributable to
 19 the employer or employing unit. An individual who left work is
 20 presumed to have left work voluntarily without good cause
 21 attributable to the employer or employing unit. An individual who
 22 is absent from work for a period of 3 consecutive work days or more
 23 without contacting the employer in a manner acceptable to the
 24 employer and of which the individual was informed at the time of
 25 hire ~~shall be~~ **is** considered to have voluntarily left work without
 26 good cause attributable to the employer. An individual who becomes
 27 unemployed as a result of negligently losing a requirement for the
 28 job of which he or she was informed at the time of hire ~~shall be~~ **is**
 29 considered to have voluntarily left work without good cause

1 attributable to the employer. An individual claiming benefits under
2 this act has the burden of proof to establish that he or she left
3 work involuntarily or for good cause that was attributable to the
4 employer or employing unit. An individual claiming to have left
5 work involuntarily for medical reasons must have done all of the
6 following before the leaving: secured a statement from a medical
7 professional that continuing in the individual's current job would
8 be harmful to the individual's physical or mental health;
9 unsuccessfully attempted to secure alternative work with the
10 employer; and unsuccessfully attempted to be placed on a leave of
11 absence with the employer to last until the individual's mental or
12 physical health would no longer be harmed by the current job.
13 However, if any of the following conditions ~~is~~**are** met, the leaving
14 does not disqualify the individual:

15 (i) The individual has an established benefit year in effect
16 and during that benefit year leaves unsuitable work within 60 days
17 after the beginning of that work. Benefits paid after a leaving
18 under this subparagraph ~~shall~~**must** not be charged to the experience
19 account of the employer the individual left, but ~~shall~~**must** be
20 charged instead to the nonchargeable benefits account.

21 (ii) The individual is the spouse of a full-time member of the
22 United States ~~armed forces~~, **Armed Forces**, and the leaving is due to
23 the military duty reassignment of that member of the United States
24 ~~armed forces~~ **Armed Forces** to a different geographic location.
25 Benefits paid after a leaving under this subparagraph ~~shall~~**must**
26 not be charged to the experience account of the employer the
27 individual left, but ~~shall~~**must** be charged instead to the
28 nonchargeable benefits account.

29 (iii) The individual is concurrently working part-time for an

1 employer or employing unit and for another employer or employing
2 unit and voluntarily leaves the part-time work while continuing
3 work with the other employer. The portion of the benefits paid in
4 accordance with this subparagraph that would otherwise be charged
5 to the experience account of the part-time employer that the
6 individual left ~~shall~~**must** not be charged to the account of that
7 employer, but ~~shall~~**must** be charged instead to the nonchargeable
8 benefits account.

9 **(iv) The individual is a victim of domestic violence who meets**
10 **the requirements in section 29a. Benefits paid after a leaving**
11 **under this subparagraph must not be charged to the experience**
12 **account of the employer the individual left, but must be charged**
13 **instead to the nonchargeable benefits account.**

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

16 (c) Failed without good cause to apply diligently for
17 available suitable work after receiving notice from the
18 unemployment agency of the availability of that work or failed to
19 apply for work with employers that could reasonably be expected to
20 have suitable work available.

21 (d) Failed without good cause while unemployed to report to
22 the individual's former employer or employing unit within a
23 reasonable time after that employer or employing unit provided
24 notice of the availability of an interview concerning available
25 suitable work with the former employer or employing unit.

26 (e) Failed without good cause to accept suitable work offered
27 to the individual or to return to the individual's customary self-
28 employment, if any, when directed by the employment office or the
29 unemployment agency. An employer that receives a monetary

determination under section 32 may notify the unemployment agency regarding the availability of suitable work with the employer on the monetary determination or other form provided by the unemployment agency. Upon receipt of the notice of the availability of suitable work, the unemployment agency shall notify the claimant of the availability of suitable work. ~~Until 1 year after the effective date of the amendatory act that added this sentence, an individual is considered to have refused an offer of suitable work if the prospective employer requires as a condition of the offer a drug test that is subject to the same terms and conditions as a drug test administered under subdivision (m), and the employer withdraws the conditional offer after either of the following:~~

~~(i) The individual tests positive for a controlled substance and lacks a valid, documented prescription, as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708, for the controlled substance issued to the individual by his or her treating physician.~~

~~(ii) The individual refuses without good cause to submit to the drug test.~~

(f) Lost his or her job due to absence from work resulting from a violation of law for which the individual was convicted and sentenced to jail or prison. This subdivision does not apply if conviction of an individual results in a sentence to county jail under conditions of day parole as provided in 1962 PA 60, MCL 801.251 to 801.258, or if the conviction was for a traffic violation that resulted in an absence of less than 10 consecutive work days from the individual's place of employment.

(g) Is discharged, whether or not the discharge is subsequently reduced to a disciplinary layoff or suspension, for

1 participation in either of the following:

2 (i) A strike or other concerted action in violation of an
3 applicable collective bargaining agreement that results in
4 curtailment of work or restriction of or interference with
5 production.

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

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

10 (i) Was discharged for theft connected with the individual's
11 work.

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

14 (k) Committed a theft after receiving notice of a layoff or
15 discharge, but before the effective date of the layoff or
16 discharge, resulting in loss or damage to the employer who would
17 otherwise be chargeable for the benefits, regardless of whether the
18 individual qualified for the benefits before the theft.

19 (l) Was employed by a temporary help firm, which as used in
20 this section means an employer whose primary business is to provide
21 a client with the temporary services of 1 or more individuals under
22 contract with the employer, to perform services for a client of
23 that firm if each of the following conditions is met:

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

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

1 (B) That a failure to provide the temporary help firm with
2 notice of the employee's completion of services pursuant to sub-
3 subparagraph (A) constitutes a voluntary quit that will affect the
4 employee's eligibility for unemployment compensation ~~should-if~~ the
5 employee ~~seek~~**seeks** unemployment compensation following completion
6 of those services.

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

11 (m) Was discharged for illegally ingesting, injecting,
12 inhaling, or possessing a controlled substance on the premises of
13 the employer; refusing to submit to a drug test that was required
14 to be administered in a nondiscriminatory manner; or testing
15 positive on a drug test, if the test was administered in a
16 nondiscriminatory manner. If the worker disputes the result of the
17 testing, and if a generally accepted confirmatory test has not been
18 administered on the same sample previously tested, then a generally
19 accepted confirmatory test ~~shall-must~~ be administered on that
20 sample. If the confirmatory test also indicates a positive result
21 for the presence of a controlled substance, the worker who is
22 discharged as a result of the test result will be disqualified
23 under this subdivision. A report by a drug testing facility showing
24 a positive result for the presence of a controlled substance is
25 conclusive unless there is substantial evidence to the contrary. As
26 used in this subdivision:~~and subdivision (e):~~

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

29 (ii) "Drug test" means a test designed to detect the illegal

1 use of a controlled substance.

2 (iii) "Nondiscriminatory manner" means administered impartially
3 and objectively in accordance with a collective bargaining
4 agreement, rule, policy, a verbal or written notice, or a labor-
5 management contract.

6 (n) Theft from the employer that resulted in the employee's
7 conviction, within 2 years of the date of the discharge, of theft
8 or a lesser included offense.

9 (2) A disqualification under subsection (1) begins the week in
10 which the act or discharge that caused the disqualification occurs
11 and continues until the disqualified individual requalifies under
12 subsection (3).

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

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

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

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

29 (iii) Receives a benefit payment based on credit weeks

1 subsequent to the disqualifying act or discharge.

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

14 (c) For benefit years established before October 1, 2000, a
15 benefit payable to an individual disqualified under subsection
16 (1)(a) or (b) ~~shall~~**must** be charged to the nonchargeable benefits
17 account, and not to the account of the employer with whom the
18 individual was involved in the disqualification.

19 (d) For benefit years beginning on or after October 1, 2000,
20 after the week in which the disqualifying act or discharge
21 occurred, an individual ~~shall~~**must** complete 13 requalifying weeks
22 if he or she was disqualified under subsection (1)(c), (d), (e),
23 (f), (g), or (l), or 26 requalifying weeks if he or she was
24 disqualified under subsection (1)(h), (i), (j), (k), (m), or (n). A
25 requalifying week required under this subdivision is each week in
26 which the individual does any of the following:

27 (i) Earns or receives remuneration in an amount equal to at
28 least 1/13 of the minimum amount needed in a calendar quarter of
29 the base period for an individual to qualify for benefits, rounded

1 down to the nearest whole dollar.

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

5 (e) For benefit years beginning on or after October 1, 2000
6 and beginning before April 26, 2002, if the individual is
7 disqualified under subsection (1)(a) or (b), he or she ~~shall~~**must**
8 requalify, after the week in which the disqualifying act or
9 discharge occurred by earning in employment for an employer liable
10 under this act or the unemployment compensation law of another
11 state at least the lesser of the following:

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

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

14 (f) For benefit years beginning on or after April 26, 2002, if
15 the individual is disqualified under subsection (1)(a), he or she
16 ~~shall~~**must** requalify, after the week in which the disqualifying act
17 or discharge occurred by earning in employment for an employer
18 liable under this act or the unemployment compensation law of
19 another state at least 12 times the individual's weekly benefit
20 rate.

21 (g) For benefit years beginning on or after April 26, 2002, if
22 the individual is disqualified under subsection (1)(b), he or she
23 ~~shall~~**must** requalify, after the week in which the disqualifying act
24 or discharge occurred by earning in employment for an employer
25 liable under this act or the unemployment compensation law of
26 another state at least 17 times the individual's weekly benefit
27 rate.

28 (h) A benefit payable to the individual disqualified or
29 separated under disqualifying circumstances under subsection (1)(a)

1 or (b), ~~shall~~**must** be charged to the nonchargeable benefits
2 account, and not to the account of the employer with whom the
3 individual was involved in the separation. Benefits payable to an
4 individual determined by the unemployment agency to be separated
5 under disqualifying circumstances ~~shall~~**must** not be charged to the
6 account of the employer involved in the disqualification for any
7 period after the employer notifies the unemployment agency of the
8 claimant's possible ineligibility or disqualification. However, an
9 individual filing a new claim for benefits who reports the reason
10 for separation from a base period employer as a voluntary leaving
11 ~~shall be~~**is** presumed to have voluntarily left without good cause
12 attributable to the employer and ~~shall be~~**is** disqualified unless
13 the individual provides substantial evidence to rebut the
14 presumption. If a disqualifying act or discharge occurs during the
15 individual's benefit year, any benefits that may become payable to
16 the individual in a later benefit year based on employment with the
17 employer involved in the disqualification ~~shall~~**must** be charged to
18 the nonchargeable benefits account.

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

22 (a) For benefit years established before October 1, 2000, if
23 the individual is disqualified under subsection (1)(c), (d), (e),
24 (f), (g), or (l) and the maximum amount of benefits is based on
25 wages and credit weeks earned from an employer before an act or
26 discharge involving that employer, the amount ~~shall~~**must** be reduced
27 by an amount equal to the individual's weekly benefit rate as to
28 that employer multiplied by the lesser of either of the following:

29 (i) The number of requalifying weeks required of the individual

1 under this section.

2 (ii) The number of weeks of benefit entitlement remaining with
3 that employer.

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

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

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

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

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

23 (e), (f), (g), or (l), the maximum number of weeks otherwise
24 applicable in calculating benefits for the individual under section
25 27(d) ~~shall~~**must** be reduced by the lesser of the following:

26 (i) The number of requalifying weeks required of the individual
27 under this section.

28 (ii) The number of weeks of benefit entitlement remaining on
29 the claim.

1 (g) For benefit years beginning on or after October 1, 2000,
2 the benefits of an individual disqualified under subsection (1)(h),
3 (i), (j), (k), (m), or (n) ~~shall~~**must** be reduced by 13 weeks and
4 any weekly benefit payments made to the claimant thereafter ~~shall~~
5 **must** be reduced by the portion of the payment attributable to base
6 period wages paid by the base period employer involved in a
7 disqualification under subsection (1)(h), (i), (j), (k), (m), or
8 (n).

9 (5) If an individual leaves work to accept permanent full-time
10 work with another employer or to accept a referral to another
11 employer from the individual's union hiring hall and performs
12 services for that employer, or if an individual leaves work to
13 accept a recall from a former employer, all of the following apply:

14 (a) Subsection (1) does not apply.

15 (b) Wages earned with the employer whom the individual last
16 left, including wages previously transferred under this subsection
17 to the last employer, for the purpose of computing and charging
18 benefits, are wages earned from the employer with whom the
19 individual accepted work or recall, and benefits paid based upon
20 those wages ~~shall~~**must** be charged to that employer.

21 (c) When issuing a determination covering the period of
22 employment with a new or former employer described in this
23 subsection, the unemployment agency shall advise the chargeable
24 employer of the name and address of the other employer, the period
25 covered by the employment, and the extent of the benefits that may
26 be charged to the account of the chargeable employer.

27 (6) In determining whether work is suitable for an individual,
28 the unemployment agency shall consider the degree of risk involved
29 to the individual's health, safety, and morals, the individual's

1 physical fitness and prior training, the individual's length of
2 unemployment and prospects for securing local work in the
3 individual's customary occupation, and the distance of the
4 available work from the individual's residence. Additionally, the
5 unemployment agency shall consider the individual's experience and
6 prior earnings, but an unemployed individual who refuses an offer
7 of work determined to be suitable under this section ~~shall~~**must** be
8 denied benefits if the pay rate for that work is at least 70% of
9 the gross pay rate he or she received immediately before becoming
10 unemployed. Beginning January 15, 2012, after an individual has
11 received benefits for 50% of the benefit weeks in the individual's
12 benefit year, work ~~shall~~**is** not ~~be~~ considered unsuitable because it
13 is outside of the individual's training or experience or unsuitable
14 as to pay rate if the pay rate for that work meets or exceeds the
15 minimum wage; is at least the prevailing mean wage for similar work
16 in the locality for the most recent full calendar year for which
17 data are available as published by the department of technology,
18 management, and budget as "wages by job title", by standard
19 metropolitan statistical area; and is 120% or more of the
20 individual's weekly benefit amount.

21 (7) Work is not suitable and benefits ~~shall~~**must** not be denied
22 under this act to an otherwise eligible individual for refusing to
23 accept new work under any of the following conditions:

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

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

29 (c) If as a condition of being employed, the individual would

1 be required to join a company union or to resign from or refrain
2 from joining a bona fide labor organization.

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

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

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

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

16 (b) An individual's disqualification imposed or imposable
17 under this subsection is terminated if the individual performs
18 services in employment with an employer in at least 2 consecutive
19 weeks falling wholly within the period of the individual's total or
20 partial unemployment due to the labor dispute, and in addition
21 earns wages in each of those weeks in an amount equal to or greater
22 than the individual's actual or potential weekly benefit rate.

23 (c) An individual is not disqualified under this subsection if
24 the individual is not directly involved in the labor dispute. An
25 individual is not directly involved in a labor dispute unless any
26 of the following are established:

27 (i) At the time or in the course of a labor dispute in the
28 establishment in which the individual was then employed, the
29 individual in concert with 1 or more other employees voluntarily

1 stopped working other than at the direction of the individual's
2 employing unit.

3 (ii) The individual is participating in, financing, or directly
4 interested in the labor dispute that causes the individual's total
5 or partial unemployment. The payment of regular union dues, in
6 amounts and for purposes established before the inception of the
7 labor dispute, is not financing a labor dispute within the meaning
8 of this subparagraph.

9 (iii) At any time a labor dispute in the establishment or
10 department in which the individual was employed does not exist, and
11 the individual voluntarily stops working, other than at the
12 direction of the individual's employing unit, in sympathy with
13 employees in some other establishment or department in which a
14 labor dispute is in progress.

15 (iv) The individual's total or partial unemployment is due to a
16 labor dispute that was or is in progress in a department, unit, or
17 group of workers in the same establishment.

18 (d) As used in this subsection, "directly interested" ~~shall~~
19 **must** be construed and applied so as not to disqualify individuals
20 unemployed as a result of a labor dispute the resolution of which
21 may not reasonably be expected to affect their wages, hours, or
22 other conditions of employment, and to disqualify individuals whose
23 wages, hours, or conditions of employment may reasonably be
24 expected to be affected by the resolution of the labor dispute. A
25 "reasonable expectation" of an effect on an individual's wages,
26 hours, or other conditions of employment exists, in the absence of
27 a substantial preponderance of evidence to the contrary, in any of
28 the following situations:

29 (i) If it is established that there is in the particular

1 establishment or employing unit a practice, custom, or contractual
2 obligation to extend within a reasonable period to members of the
3 individual's grade or class of workers in the establishment in
4 which the individual is or was last employed changes in terms and
5 conditions of employment that are substantially similar or related
6 to some or all of the changes in terms and conditions of employment
7 that are made for the workers among whom there exists the labor
8 dispute that has caused the individual's total or partial
9 unemployment.

10 (ii) If it is established that 1 of the issues in or purposes
11 of the labor dispute is to obtain a change in the terms and
12 conditions of employment for members of the individual's grade or
13 class of workers in the establishment in which the individual is or
14 was last employed.

15 (iii) If a collective bargaining agreement covers both the
16 individual's grade or class of workers in the establishment in
17 which the individual is or was last employed and the workers in
18 another establishment of the same employing unit who are actively
19 participating in the labor dispute, and that collective bargaining
20 agreement is subject by its terms to modification, supplementation,
21 or replacement, or has expired or been opened by mutual consent at
22 the time of the labor dispute.

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

25 (i) Representation of the workers by the same national or
26 international organization or by local affiliates of that national
27 or international organization.

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

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

6 (iv) Any functional integration of the work performed by those
7 workers.

8 (v) Whether the resolution of those issues involved in the
9 labor dispute as to some of the workers could directly or
10 indirectly affect the advancement, negotiation, or settlement of
11 the same or similar issues in respect to the remaining workers.

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

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

20 (9) Notwithstanding subsections (1) to (8), if the employing
21 unit submits notice to the unemployment agency of possible
22 ineligibility or disqualification beyond the time limits prescribed
23 by unemployment agency rule and the unemployment agency concludes
24 that benefits should not have been paid, the claimant shall repay
25 the benefits paid during the entire period of ineligibility or
26 disqualification. The unemployment agency shall not charge interest
27 on repayments required under this subsection.

28 (10) An individual is disqualified from receiving benefits for
29 any week or part of a week in which the individual has received, is

1 receiving, or is seeking unemployment benefits under an
2 unemployment compensation law of another state or of the United
3 States. If the appropriate agency of the other state or of the
4 United States finally determines that the individual is not
5 entitled to unemployment benefits, the disqualification described
6 in this subsection does not apply.

7 **Sec. 29a. (1) Notwithstanding any other provision of this act,**
8 **an otherwise eligible individual, as described in section**
9 **29(1) (a) (iv), is not disqualified from receiving benefits if the**
10 **individual demonstrates to the commission that the reason for the**
11 **individual's leaving work is due to domestic violence, including 1**
12 **or more of the following:**

13 (b) The individual's reasonable fear of future domestic
14 violence at or en route to or from the individual's place of
15 employment.

16 (b) The individual's need to relocate to another geographic
17 area to avoid future domestic violence.

18 (c) The individual's need to address the physical,
19 psychological, or legal effects of domestic violence.

20 (d) The individual's need to leave employment as a condition
21 of receiving services or shelter from an agency that provides
22 support services or shelter to victims of domestic violence.

23 (e) The individual's reasonable belief that termination of
24 employment is necessary for the future safety of the individual or
25 the individual's family because of domestic violence.

26 (2) An individual may demonstrate to the unemployment agency
27 the existence of domestic violence by providing 1 or more
28 documents, including, but not limited to, the following:

29 (a) A restraining order or other documentation of equitable

1 relief issued by a court of competent jurisdiction in a domestic
2 violence case.

3 (b) A police record documenting domestic violence.

4 (c) Documentation that the perpetrator of the domestic
5 violence against the individual making a claim for benefits under
6 this act has been convicted of a crime involving domestic violence.

7 (d) Medical documentation of domestic violence.

8 (e) A statement provided on business or organization
9 letterhead by a counselor, social worker, health worker, member of
10 the clergy, shelter worker, attorney, or other professional who has
11 assisted the individual in addressing the effects of the domestic
12 violence on the individual or the individual's family.

13 (3) The unemployment agency shall not disclose evidence of
14 domestic violence experienced by an individual, including the
15 individual's statement or corroborating evidence.

16 (4) As used in this section:

17 (a) "Domestic violence" means any of the following that are
18 not acts of self-defense:

19 (i) Causing or attempting to cause physical or mental harm to a
20 family or household member.

21 (ii) Placing a family or household member in fear of physical
22 or mental harm.

23 (iii) Causing or attempting to cause a family or household
24 member to engage in involuntary sexual activity by force, threat of
25 force, or duress.

26 (iv) Engaging in activity toward a family or household member
27 that would cause a reasonable person to feel terrorized,
28 frightened, intimidated, threatened, harassed, or molested.

29 (b) "Family or household member" includes any of the

1 following:

2 (i) A spouse or former spouse.

3 (ii) An individual with whom the person resides or has resided.

4 (iii) An individual with whom the person has or has had a dating
5 relationship.

6 (iv) An individual with whom the person is or has engaged in a
7 sexual relationship.

8 (v) An individual to whom the person is related or was
9 formerly related by marriage.

10 (vi) An individual with whom the person has a child in common.

11 (vii) The minor child of an individual described in
12 subparagraphs (i) to (vi).

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.