

HOUSE BILL No. 4373

March 7, 1989, Introduced by Reps. Gnodtke, Stacey, Middaugh, Willis Bullard, Munsell, Dolan and Randall and referred to the Committee on Labor.

A bill to amend section 27 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 172 of the Public Acts of 1984, being section 421.27 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 27 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 172 of the
3 Public Acts of 1984, being section 421.27 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 27. (a)(1) When a determination, redetermination, or
6 decision is made that benefits are due an unemployed individual,
7 the benefits shall immediately become payable from the fund, and
8 continue to be payable to the unemployed individual, subject to
9 the limitations imposed by the individual's monetary entitlement,

1 as long as the individual continues to be unemployed and to file
2 claims for benefits, until the determination, redetermination, or
3 decision is reversed, a determination, redetermination, or deci-
4 sion on a new issue holding the individual disqualified or ineli-
5 gible is made, or a new separation issue arises resulting from
6 subsequent work.

7 (2) Benefits shall be paid in person or by mail through
8 employment offices, in accordance with rules promulgated by the
9 commission.

10 (b)(1) Subject to subsection (f), the weekly benefit rate
11 for an individual, with respect to benefit years beginning on or
12 after January 2, 1983, but before January 4, 1987, shall be 65%
13 of the individual's average after tax weekly wage, except that
14 the individual's weekly benefit rate shall not exceed 58% of the
15 state average weekly wage. However, the maximum weekly benefit
16 amount established under this subsection shall not exceed \$197.00
17 for weeks of unemployment beginning on or after January 2, 1983
18 through weeks of unemployment beginning prior to January 4,
19 1987. With respect to benefit years beginning on or after
20 January 4, 1987, the individual's weekly benefit rate shall be
21 70% of the individual's average after tax weekly wage, except
22 that the individual's weekly benefit rate shall not exceed 53% of
23 the state average weekly wage, and with respect to benefit years
24 beginning on or after January 3, 1988, the individual's weekly
25 benefit rate shall not exceed 55% of the state average weekly
26 wage, and with respect to benefit years beginning on or after
27 January 1, 1989, the individual's weekly benefit rate shall not

1 exceed 58% of the state average weekly wage. With respect to
2 benefit years beginning before October 2, 1983, the weekly bene-
3 fit rate shall be adjusted to the next higher multiple of \$1.00.
4 With respect to benefit years beginning on or after October 2,
5 1983, the weekly benefit rate shall be adjusted to the next lower
6 multiple of \$1.00.

7 (2) The state average weekly wage for a calendar year shall
8 be computed on the basis of the 12 months ending the June 30 pre-
9 ceding that calendar year. The commission shall prepare a table
10 of weekly benefit rates based on an "average after tax weekly
11 wage" calculated by subtracting, from an individual's average
12 weekly wage as determined in accordance with section 51, a rea-
13 sonable approximation of the weekly amount required to be with-
14 held by the employer from the remuneration of the individual
15 based on dependents and exemptions for income taxes under
16 chapter 24 of the internal revenue code and under section 351 of
17 Act No. 281 of the Public Acts of 1967, being section 206.351 of
18 the Michigan Compiled Laws, and for old age and survivor's dis-
19 ability insurance taxes under the federal insurance contributions
20 act, 26 U.S.C. 3101 to 3126. For purposes of applying the table
21 to an individual's claim, a dependent shall be as defined in
22 subdivision (3). The table applicable to an individual's claim
23 shall be the table reflecting the number of dependents claimed by
24 the individual under subdivision (3). The commission shall
25 adjust the tables based on changes in withholding schedules pub-
26 lished by the United States department of treasury, internal
27 revenue service, and by the department of treasury. The number

1 of dependents allowed shall be determined with respect to each
2 week of unemployment for which an individual is claiming
3 benefits.

4 (3) A dependent means any of the following persons who is
5 receiving and for at least 90 consecutive days immediately pre-
6 ceding the week for which benefits are claimed, or, in the case
7 of a dependent husband, wife, or child, for the duration of the
8 marital or parental relationship, if the relationship has existed
9 less than 90 days, has received more than half the cost of his or
10 her support from the individual claiming benefits:

11 (a) A child, including stepchild, adopted child, or grand-
12 child of the individual who is under 18 years of age, or 18 years
13 of age and over if, because of physical or mental infirmity, the
14 child is unable to engage in a gainful occupation, or is a
15 full-time student as defined by the particular educational insti-
16 tution, at a high school, vocational school, community or junior
17 college, or college or university and has not attained the age of
18 22.

19 (b) The husband or wife of the individual.

20 (c) The legal father or mother of the individual if that
21 parent is either more than 65 years of age or is permanently dis-
22 abled from engaging in a gainful occupation.

23 (d) A brother or sister of the individual if the brother or
24 sister is orphaned or the living parents are dependent parents of
25 an individual, and the brother or sister is under 18 years of
26 age, or 18 years of age and over if, because of physical or
27 mental infirmity, the brother or sister is unable to engage in a

1 gainful occupation, or is a full-time student as defined by the
2 particular educational institution, at a high school, vocational
3 school, community or junior college, or college or university and
4 is less than 22 years of age.

5 (4) Dependency status of a dependent, child or otherwise,
6 once established or fixed in favor of an individual, shall con-
7 tinue during the individual's benefit year until terminated.
8 Dependency status of a dependent shall terminate at the end of
9 the week in which the dependent ceases to be an individual
10 described in subdivision (3)(a), (b), (c), or (d) because of age,
11 death, or divorce.

12 (5) If an individual is assigned to a dependency class with
13 respect to a week by reason of having 1 or more dependents, and
14 any of those dependents files an application for benefits for
15 that week, that dependent shall be assigned to dependency class
16 "0" for that week.

17 (6) Failure on the part of an individual, due to misinforma-
18 tion or lack of information, to furnish all information material
19 for determination of the individual's dependency class when the
20 individual files a claim for benefits with respect to a week,
21 shall be considered good cause for the issuance of a redetermina-
22 tion as to the amount of benefits based on the individual's
23 dependency class as of the beginning date of that week.
24 Dependency status of a dependent, child or otherwise, once estab-
25 lished or fixed in favor of a person, shall not be transferable
26 to or used by another person with respect to the same week.

1 (c) Subject to subsection (f), each eligible individual
2 shall be paid a weekly benefit rate with respect to the week for
3 which the individual earns or receives no remuneration or remuneration equal to less than $1/2$ the individual's weekly benefit
4 rate, or shall be paid $1/2$ his or her weekly benefit rate with
5 respect to the week for which the individual earns or receives
6 remuneration equal to at least $1/2$ but less than the individual's
7 weekly benefit rate. Notwithstanding the definition of week as
8 contained in section 50, if within 2 consecutive weeks in which
9 an individual was not unemployed within the meaning of section 48
10 there was a period of 7 or more consecutive days for which the
11 individual did not earn or receive remuneration, that period
12 shall be considered a week for benefit purposes under this act,
13 if a claim for benefits for that period is filed not later than
14 30 days subsequent to the end of the period. All remuneration
15 for work performed during a shift which terminates on 1 day but
16 which began on the day preceding, shall be deemed to have been
17 earned on the preceding day.

19 (d) Subject to subsection (f) and this subsection, the
20 amount of benefits to which an individual who is otherwise eligible shall be entitled during a benefit year from an employer with
21 respect to employment during the base period, is the amount
22 obtained by multiplying the weekly benefit rate with respect to
23 that employment by $3/4$ of the number of credit weeks earned in
24 the employment. For the purpose of this subsection and section
25 20(c), should the resultant product not be an even multiple of
26 $1/2$ the weekly benefit rate, the product shall be raised to an

1 amount equal to the next higher multiple of $1/2$ the weekly
2 benefit rate, and, when an individual who was employed by only 1
3 employer in the individual's base period and earned 34 credit
4 weeks with that employer, the product shall be raised to the next
5 higher multiple of the weekly benefit rate. The maximum amount
6 of benefits payable to an individual, within a benefit year, with
7 respect to employment by an employer shall not exceed 26 times
8 the weekly benefit rate with respect to that employment. The
9 maximum amount of benefits payable to an individual within a ben-
10 efit year shall not exceed the amount to which the individual
11 would be entitled for 26 weeks of unemployment in which remunera-
12 tion was not earned or received. The limitation of total bene-
13 fits set forth in this subsection shall not apply to claimants
14 declared eligible for training benefits in accordance with sub-
15 section (g).

16 (e) When a claimant dies, or is judicially declared insane,
17 or mentally incompetent, unemployment compensation benefits
18 accrued and payable to that person for weeks of unemployment
19 before death, insanity, or incompetency, but not paid, shall by
20 operation of this section become due and payable to the person
21 who is the legal heir or guardian of the claimant, or to any
22 other person found by the commission to be equitably entitled to
23 the benefits by reason of having incurred expense in behalf of
24 the claimant for the claimant's burial or other necessary
25 expenses.

26 (f)(1) Notwithstanding any inconsistent provisions of this
27 act, the weekly benefit rate of each individual who is receiving

1 or will receive a "retirement benefit", as defined in subdivision
2 (4), shall be adjusted as provided in subparagraphs (a), (b), and
3 (c). However, an individual's extended benefit account and an
4 individual's weekly extended benefit rate under section 64 shall
5 be established without reduction under this subsection, unless
6 subdivision (5) is in effect. Except as otherwise provided in
7 this subsection, all the other provisions of this act shall con-
8 tinue to be applicable in connection with the benefit claims of
9 those retired persons.

10 (a) If and to the extent that unemployment benefits payable
11 under this act would be chargeable to an employer who has con-
12 tributed to the financing of a retirement plan under which the
13 claimant is receiving or will receive a retirement benefit yield-
14 ing a pro rata weekly amount equal to or larger than the
15 claimant's weekly benefit rate as otherwise established under
16 this act, the claimant shall not receive unemployment benefits
17 which would be chargeable to the employer under this act.

18 (b) If and to the extent that unemployment benefits payable
19 under this act would be chargeable to an employer who has con-
20 tributed to the financing of a retirement plan under which the
21 claimant is receiving or will receive a retirement benefit yield-
22 ing a pro rata weekly amount less than the claimant's weekly ben-
23 efit rate as otherwise established under this act, then the
24 weekly benefit rate otherwise payable to the claimant and charge-
25 able to the employer under this act shall be reduced by an amount
26 equal to the pro rata weekly amount, adjusted to the next lower

1 multiple of \$1.00, which the claimant is receiving or will
2 receive as a retirement benefit.

3 (c) If the unemployment benefit payable under this act would
4 be chargeable to an employer who has not contributed to the
5 financing of a retirement plan under which the claimant is
6 receiving or will receive a retirement benefit, then the weekly
7 benefit rate of the claimant as otherwise established under this
8 act shall not be reduced due to receipt of a retirement benefit.

9 (d) If the unemployment benefit payable under this act is
10 computed on the basis of multiemployer credit weeks and a portion
11 of the benefit is allocable under section 20(d) to an employer
12 who has contributed to the financing of a retirement plan under
13 which the claimant is receiving or will receive a retirement ben-
14 efit, the adjustments required by subparagraph (a) or (b) shall
15 be applied only to that portion of the weekly benefit rate which
16 would otherwise be allocable and chargeable to the employer.

17 (2) If an individual's weekly benefit rate under this act
18 was established before the period for which the individual first
19 receives a retirement benefit, any benefits received after a
20 retirement benefit becomes payable shall be determined in accord-
21 ance with the formula stated in this subsection.

22 (3) When necessary to assure prompt payment of benefits, the
23 commission shall determine the pro rata weekly amount yielded by
24 an individual's retirement benefit based on the best information
25 currently available to it. In the absence of fraud, a determina-
26 tion shall not be reconsidered unless it is established that the
27 individual's actual retirement benefit in fact differs from the

1 amount determined by \$2.00 or more per week. The reconsideration
2 shall apply only to benefits as may be claimed after the informa-
3 tion on which the reconsideration is based was received by the
4 commission.

5 (4)(a) As used in this subdivision, "retirement benefit"
6 means a benefit or annuity or pension of any type or that part
7 thereof which is described in subparagraph (b) which is:

8 (i) Provided as an incident of employment under an estab-
9 lished retirement plan, policy, or agreement, including federal
10 social security if subdivision (5) is in effect.

11 (ii) Payable to an individual because the individual has
12 qualified on the basis of attained age, length of service, or
13 disability, whether or not the individual retired or was retired
14 from employment. Amounts paid to individuals in the course of
15 liquidation of a private pension or retirement fund because of
16 termination of the business or of a plant or department of the
17 business of the employer involved shall not be considered to be
18 retirement benefits.

19 (b) If a benefit such as described in subparagraph (a) is
20 payable or paid to the individual under a plan to which the indi-
21 vidual has contributed:

22 (i) Less than half of the cost of the benefit, then only
23 half of the benefit shall be treated as a retirement benefit.

24 (ii) Half or more of the cost of the benefit, then none of
25 the benefit shall be treated as a retirement benefit.

26 (c) The burden of establishing the extent of an individual's
27 contribution to the cost of his or her retirement benefit for the

1 purpose of subparagraph (b) shall be upon the employer who has
2 contributed to the plan under which a benefit is provided.

3 (5) Notwithstanding any other provision of this subsection,
4 for any week which begins after March 31, 1980, and with respect
5 to which an individual is receiving a governmental or other pen-
6 sion and claiming unemployment compensation, the weekly benefit
7 amount payable to the individual for those weeks shall be
8 reduced, but not below zero, by the entire prorated weekly amount
9 of any governmental or other pension, retirement or retired pay,
10 annuity, or any other similar payment which is based on any pre-
11 vious work of the individual. This reduction shall be made only
12 if it is required as a condition for full tax credit against the
13 tax imposed by the federal unemployment tax act, 26 U.S.C. 3301
14 to 3311.

15 (g) Notwithstanding any other provision of this act, an
16 individual pursuing vocational training or retraining pursuant to
17 section 28(2) who has exhausted all benefits available under sub-
18 section (d) may be paid, for each week of approved vocational
19 training pursued beyond the date of exhaustion, a benefit amount
20 in accordance with subsection (c), but not in excess of the
21 individual's most recent weekly benefit rate. However, an indi-
22 vidual shall not be paid training benefits totaling more than 18
23 times the individual's most recent weekly benefit rate. The
24 expiration or termination of a benefit year shall not stop or
25 interrupt payment of training benefits if the training for which
26 the benefits were granted began before expiration or termination
27 of the benefit year.

1 (h) A payment of accrued unemployment benefits shall not be
2 made to an eligible individual, or in behalf of that individual
3 as provided in subsection (e), more than 6 years after the ending
4 date of the benefit year covering the payment or 2 calendar years
5 after the calendar year in which there is final disposition of a
6 contested case, whichever is later.

7 (i) Benefits based on service in employment described in
8 section 42(8), (9), and (10) shall be payable in the same amount,
9 on the same terms, and subject to the same conditions as compen-
10 sation payable on the basis of other service subject to this act,
11 except that:

12 (1) With respect to service performed in an instructional,
13 research, or principal administrative capacity for an institution
14 of higher education as defined in section 53(2), or for an educa-
15 tional institution other than an institution of higher education
16 as defined in section 53(3), benefits shall not be paid to an
17 individual based on those services for any week of unemployment
18 beginning after December 31, 1977 that commences during the
19 period between 2 successive academic years, or during a similar
20 period between 2 regular terms, whether or not successive, or
21 during a period of paid sabbatical leave provided for in the
22 individual's contract, to an individual if the individual per-
23 forms the service in the first of the academic years or terms and
24 if there is a contract or a reasonable assurance that the indi-
25 vidual will perform service in an instructional, research, or
26 principal administrative capacity for an educational institution

1 in the second of the academic years or terms, whether or not the
2 terms are successive.

3 (2) With respect to service performed in other than an
4 instructional, research, or principal administrative capacity for
5 an institution of higher education as defined in section 53(2) or
6 for an educational institution other than an institution of
7 higher education as defined in section 53(3), benefits shall not
8 be paid based on those services for any week of unemployment
9 beginning after December 31, 1977 which commences during the
10 period between 2 successive academic years or terms to any indi-
11 vidual if that individual performs the service in the first of
12 the academic years or terms and if there is a reasonable assur-
13 ance that the individual will perform the service for an institu-
14 tion of higher education or an educational institution other than
15 an institution of higher education in the second of the academic
16 years or terms.

17 (3) With respect to any service described in subdivision (1)
18 or (2), benefits shall not be paid to an individual based upon
19 service for any week of unemployment which commences during an
20 established and customary vacation period or holiday recess if
21 the individual performs the service in the period immediately
22 before the vacation period or holiday recess and there is a con-
23 tract or reasonable assurance that the individual will perform
24 the service in the period immediately following the vacation
25 period or holiday recess.

26 (4) If benefits are denied to an individual for any week
27 solely as a result of subdivision (2) and the individual was not

1 offered an opportunity to perform in the second academic year or
2 term the service for which reasonable assurance had been given,
3 the individual shall be entitled to a retroactive payment of ben-
4 efits for each week for which the individual had previously filed
5 a timely claim for benefits. An individual entitled to benefits
6 under this subdivision may apply for those benefits by mail in
7 accordance with R 421.210 as promulgated by the commission.

8 (5) The amendments to subdivision (2) made by Act No. 219 of
9 the Public Acts of 1983 apply to all claims for unemployment com-
10 pensation which are filed on and after October 31, 1983.
11 However, the amendments shall be retroactive to September 5, 1982
12 only if, as a condition for full tax credit against the tax
13 imposed by the federal unemployment tax act, 26 U.S.C. 3301 to
14 3311, the United States secretary of labor determines that retro-
15 activity is required by federal law.

16 (6) Notwithstanding subdivision (2), on and after April 1,
17 1984 benefits based upon services in other than an instructional,
18 research, or principal administrative capacity for an institution
19 of higher education shall not be denied for any week of unemploy-
20 ment commencing during the period between 2 successive academic
21 years or terms solely because the individual had performed the
22 service in the first of the academic years or terms and there is
23 reasonable assurance that the individual will perform the service
24 for an institution of higher education or an educational institu-
25 tion other than an institution of higher education in the second
26 of the academic years or terms, unless such denial is required as

1 a condition for full tax credit against the tax imposed by the
2 federal unemployment tax act, 26 U.S.C. 3301 to 3311.

3 (7) Notwithstanding subdivisions (1), (2), and (3), the
4 denial of benefits shall not prevent an individual from complet-
5 ing requalifying weeks in accordance with section 29(3) nor shall
6 the denial prevent an individual from receiving benefits based on
7 service with an employer other than an educational institution
8 for any week of unemployment occurring between academic years or
9 terms, whether or not successive, or during an established and
10 customary vacation period or holiday recess, even though the
11 employer is not the most recent chargeable employer in the
12 individual's base period. However, in that case section 20(b)
13 shall apply to the sequence of benefit charging, except for the
14 employment with the educational institution, and section 50(b)
15 shall apply to the calculation of credit weeks. When a denial of
16 benefits under subdivision (1) is no longer applicable, benefits
17 shall be charged in accordance with the normal sequence of charg-
18 ing as provided in section 20(b).

19 (8) For the purposes of this subsection, "academic year"
20 means that period, as defined by the educational institution,
21 when classes are in session for that length of time required for
22 students to receive sufficient instruction or earn sufficient
23 credit to complete academic requirements for a particular grade
24 level or to complete instruction in a noncredit course.

25 (9) Benefits shall be denied, as provided in subdivisions
26 (1), (2), and (3), for any week of unemployment beginning on and
27 after April 1, 1984, to an individual who performed those

1 services in an educational institution while in the employ of an
2 educational service agency. For the purpose of this subdivision,
3 "educational service agency" means a governmental agency or gov-
4 ernmental entity that is established and operated exclusively for
5 the purpose of providing the services to 1 or more educational
6 institutions.

7 (j) For weeks of unemployment beginning after December 31,
8 1977, benefits shall not be paid to an individual on the basis of
9 any base period services, substantially all of which consist of
10 participating in sports or athletic events or training or prepar-
11 ing to so participate, for a week which commences during the
12 period between 2 successive sport seasons or similar periods, if
13 the individual performed the services in the first of the seasons
14 or similar periods and there is a reasonable assurance that the
15 individual will perform the services in the later of the seasons
16 or similar periods.

17 (k)(1) For weeks of unemployment beginning after
18 December 31, 1977, benefits shall not be payable on the basis of
19 services performed by an alien unless the alien is an individual
20 who was lawfully admitted for permanent residence at the time the
21 services were performed, was lawfully present for the purpose of
22 performing the services, or was permanently residing in the
23 United States under color of law at the time the services were
24 performed, including an alien who was lawfully present in the
25 United States under section 203(a)(7) or section 212(d)(5) of the
26 immigration and nationality act, 8 U.S.C. 1153 or 1182.

1 (2) Any data or information required of individuals applying
2 for benefits, to determine whether benefits are payable because
3 of their alien status, shall be uniformly required from all
4 applicants for benefits.

5 (3) Where an individual whose application for benefits would
6 otherwise be approved, a determination that benefits to such an
7 individual are not payable because of the individual's alien
8 status shall not be made except upon a preponderance of the
9 evidence.

10 (m)(1) An individual filing a new claim for unemployment
11 compensation under this act after September 30, 1982 shall, at
12 the time of filing the claim, disclose whether the individual
13 owes child support obligations as defined in this subsection. If
14 an individual discloses that he or she owes child support obliga-
15 tions, and is determined to be eligible for unemployment compen-
16 sation, the commission shall notify the state or local child sup-
17 port enforcement agency enforcing the obligation that the indi-
18 vidual has been determined to be eligible for unemployment
19 compensation.

20 (2) Notwithstanding section 30, the commission shall deduct
21 and withhold from any unemployment compensation payable to an
22 individual who owes child support obligations by 1 of the follow-
23 ing methods:

24 (a) The amount, if any, specified by the individual to be
25 deducted and withheld under this subdivision, if neither
26 subparagraph (b) nor (c) is applicable.

1 (b) The amount, if any, determined pursuant to an agreement
2 submitted to the commission under section ~~454(20)(b)(i)~~
3 454(19)(B)(i) of the social security act, 42 U.S.C.

4 ~~654(20)(b)(i)~~ 654(19)(B)(i), by the state or local child sup-
5 port enforcement agency, unless subparagraph (c) is applicable.

6 (c) Any amount otherwise required to be so deducted and
7 withheld from unemployment compensation pursuant to legal pro-
8 cess, as that term is defined in section 462(e) of the social
9 security act, 42 U.S.C. 662(e), properly served upon the
10 commission.

11 (3) The amount of unemployment compensation subject to
12 deduction under subdivision (2) shall be that portion that
13 remains payable to the individual after application of the
14 recoupment provisions of section 62(a) and the reduction provi-
15 sions of subsections (c) and (f).

16 (4) Any amount deducted and withheld under subdivision (2)
17 shall be paid by the commission to the appropriate state or local
18 child support enforcement agency.

19 (5) Any amount deducted and withheld under subdivision (2)
20 shall for all purposes be treated as if it were paid to the indi-
21 vidual as unemployment compensation and paid by the individual to
22 the state or local child support enforcement agency in satisfac-
23 tion of the individual's child support obligations.

24 (6) This subsection applies only if the state or local child
25 support enforcement agency agrees in writing to reimburse the
26 commission, and in fact reimburses the commission, for the
27 administrative costs incurred by the commission under this

1 subsection which are attributable to child support obligations
2 being enforced by the state or local child support enforcement
3 agency. The administrative costs incurred shall be determined by
4 the commission. The commission may, in its discretion, require
5 payment of administrative costs in advance.

6 (7) As used in this subsection:

7 (a) "Unemployment compensation", for purposes of
8 subdivisions (1) through (5), means any compensation payable
9 under this act, including amounts payable by the commission pur-
10 suant to an agreement under any federal law providing for compen-
11 sation, assistance, or allowances with respect to unemployment.

12 (b) "Child support obligations" includes only obligations
13 which are being enforced pursuant to a plan described in
14 section 454 of the social security act, 42 U.S.C. 654, which has
15 been approved by the secretary of health and human services under
16 part d of title IV of the social security act, 42 U.S.C. 651 to
17 ~~664~~ 667.

18 (c) "State or local child support enforcement agency" means
19 any agency of this state or a political subdivision of this state
20 operating pursuant to a plan described in subparagraph (b).

21 (n) The provisions of subsection (i)(2) shall be applicable
22 to services performed by school bus drivers employed by a private
23 contributing employer holding a contractual relationship with an
24 educational institution, but only if at least 75% of the
25 individual's base period wages with that employer are attribut-
26 able to services performed as a school bus driver.

1 (O) FOR WEEKS OF UNEMPLOYMENT BEGINNING AFTER DECEMBER 31,
2 1989, BENEFITS FOR SEASONAL EMPLOYMENT IN A FRUIT OR VEGETABLE
3 FOOD PROCESSING OPERATION SHALL ONLY BE PAYABLE FOR WEEKS OF
4 UNEMPLOYMENT WHICH OCCUR DURING THE NORMAL SEASONAL PERIOD OF
5 WORK IN THE OPERATION IN WHICH THE INDIVIDUAL WAS EMPLOYED.
6 BENEFITS SHALL NOT BE PAID FOR SEASONAL EMPLOYMENT IN A FRUIT OR
7 VEGETABLE FOOD PROCESSING OPERATION FOR ANY WEEK OF UNEMPLOYMENT
8 BEGINNING AFTER DECEMBER 31, 1989 WHICH COMMENCES DURING THE
9 PERIOD BETWEEN 2 SUCCESSIVE NORMAL SEASONAL WORK PERIODS TO ANY
10 INDIVIDUAL IF THAT INDIVIDUAL PERFORMS THE SERVICE IN THE FIRST
11 OF THE NORMAL SEASONAL WORK PERIODS AND IF THERE IS A REASONABLE
12 ASSURANCE THAT THE INDIVIDUAL WILL PERFORM THE SERVICE FOR A SEA-
13 SONAL EMPLOYER IN THE SECOND OF THE NORMAL SEASONAL WORK
14 PERIODS. IF BENEFITS ARE DENIED TO AN INDIVIDUAL FOR ANY WEEK
15 SOLELY AS A RESULT OF THIS SUBSECTION AND THE INDIVIDUAL WAS NOT
16 OFFERED AN OPPORTUNITY TO PERFORM IN THE SECOND NORMAL SEASONAL
17 WORK PERIOD THE EMPLOYMENT FOR WHICH REASONABLE ASSURANCE HAD
18 BEEN GIVEN, THE INDIVIDUAL SHALL BE ENTITLED TO A RETROACTIVE
19 PAYMENT OF BENEFITS FOR EACH WEEK FOR WHICH THE INDIVIDUAL HAD
20 PREVIOUSLY FILED A TIMELY CLAIM FOR BENEFITS. AN INDIVIDUAL
21 ENTITLED TO BENEFITS UNDER THIS SUBSECTION MAY APPLY FOR THOSE
22 BENEFITS BY MAIL IN ACCORDANCE WITH R 421.210 AS PROMULGATED BY
23 THE COMMISSION.

24 AN EMPLOYER DOING BUSINESS AS A FRUIT OR VEGETABLE PROCESS-
25 ING OPERATION, OR BOTH, MAY FILE A WRITTEN APPLICATION WITH THE
26 COMMISSION TO BE DESIGNATED AS A SEASONAL EMPLOYER NOT LESS THAN
27 20 DAYS BEFORE THE ESTIMATED BEGINNING DATE OF THE NORMAL

1 SEASONAL WORK PERIOD. AT THE TIME OF FILING THE APPLICATION, THE
2 EMPLOYER SHALL CONSPICUOUSLY DISPLAY ON THE EMPLOYER'S PREMISES,
3 IN A SUFFICIENT NUMBER OF PLACES, A COPY OF THE APPLICATION. THE
4 COMMISSION SHALL PROMPTLY DETERMINE IF THE EMPLOYER IS A SEASONAL
5 EMPLOYER. IF THE EMPLOYER IS DETERMINED TO BE A SEASONAL EMPLOY-
6 ER, THE EMPLOYER SHALL CONSPICUOUSLY DISPLAY NOTICES TO BE FUR-
7 NISHED BY THE COMMISSION ON ITS PREMISES IN A SUFFICIENT NUMBER
8 OF PLACES TO NOTIFY ITS EMPLOYEES OF THE DETERMINATION AND THE
9 ESTIMATED BEGINNING AND ENDING DATES OF ITS NORMAL SEASONAL WORK
10 PERIOD. A SUCCESSOR OF A SEASONAL EMPLOYER SHALL BE CONSIDERED
11 TO BE A SEASONAL EMPLOYER UNLESS THE SUCCESSOR WITHIN 120 DAYS
12 AFTER ACQUIRING THE BUSINESS, REQUESTS CANCELLATION OF THE DETER-
13 MINATION IN WRITING TO THE COMMISSION. A DETERMINATION ISSUED
14 UNDER THIS SUBSECTION SHALL BE SUBJECT TO REVIEW IN THE SAME
15 MANNER AND TO THE SAME EXTENT AS OTHER DETERMINATIONS UNDER THIS
16 ACT.

17 AS USED IN THIS SUBSECTION:

18 (A) "FRUIT OR VEGETABLE FOOD PROCESSING OPERATION" MEANS
19 THOSE SERVICES PERFORMED IN CONNECTION WITH COMMERCIAL CANNING OR
20 COMMERCIAL FREEZING OF FRUITS OR VEGETABLES.

21 (B) "SEASONAL EMPLOYMENT" OR "SEASONAL EMPLOYER" MEANS A
22 FRUIT OR VEGETABLE FOOD PROCESSING OPERATION, OR BOTH, IN WHICH,
23 BECAUSE OF CLIMATIC CONDITIONS OR OTHER PARTICULAR CONDITIONS OF
24 THE EMPLOYMENT, IT IS CUSTOMARY TO OPERATE ONLY DURING A REGU-
25 LARLY RECURRING PERIOD OR PERIODS OF LESS THAN 26 WEEKS IN A CAL-
26 ENDAR YEAR.

1 (C) "NORMAL SEASONAL WORK PERIOD" MEANS THAT PERIOD OR
2 PERIODS OF TIME DETERMINED PURSUANT TO RULES PROMULGATED BY THE
3 COMMISSION DURING WHICH AN INDIVIDUAL IS EMPLOYED IN SEASONAL
4 EMPLOYMENT.